

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 2016–17 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 1 and 2 March 2017, the committee heard evidence from Senator the Hon Mathias Cormann, Minister for Finance, Senator the Hon James McGrath, Assistant Minister to the Prime Minister, and Senator the Hon Arthur Sinodinos, Minister for Industry, Innovation and Science, along with officers from the Department of the Treasury (Treasury) and agencies of the Treasury portfolio, including:

- Australian Charities and Not-for-profits Commission;
- Australian Competition and Consumer Commission and the Australian Energy Regulator;
- Productivity Commission;
- Australian Office of Financial Management;
- Australian Bureau of Statistics;
- Inspector-General of Taxation;
- Australian Securities and Investments Commission;
- Australian Prudential Regulation Authority; and
- Australian Small Business and Family Enterprise Ombudsman.

2.3 Senators present over the course of the two days of hearings included Senator Hume (Chair), Senator Ketter (Deputy Chair), Senators Bushby, Di Natale, Gallagher, Leyonhjelm, Lines, Ian Macdonald, McAllister, Moore, O'Neill, Rice, Roberts, Siewert, Watt, Whish-Wilson, Williams, and Xenophon.

Macroeconomic Group and Corporate Group

Departmental Secretary

2.4 The opening statement made by Mr John A Fraser, Secretary of the Treasury, covered a wide range of topics including the global economy, commodity prices, the new US administration, the Australian September quarter results, labour market conditions, the budget deficit, Australia's taxation system, housing affordability, investment in infrastructure projects, Treasury's resourcing constraints and its new Structural Reform Group.

2.5 Mr Fraser reflected on the current state of the Australian economy, noting that it was continuing to 'perform reasonably well' despite its transition away from the

mining boom. He indicated that the global economy was showing positive signs for Australia early in 2017, particularly drawing the committee's attention to strong growth of the GDPs of both China and the United States of America.

2.6 The Secretary commented in detail on the results of the September quarter noting that:

Domestically, the September quarter results show that our economy remains sensitive to shocks. The Australian economy contracted by 0.5 per cent in the September quarter. There were some factors that were likely to be of a one-off nature, such as the weather-related disruptions in the construction sector. However, there is no denying that it was a very weak quarter. We do not believe that this represents the underlying pulse of the economy and anticipate a rebound over the forecast period. We will be in a better position to judge the very near-term outlook when national accounts for the December quarter are released later today. Market economists are expecting them to show a rebound.¹

2.7 The Secretary concluded his remarks noting that Australia needed to work towards preparing the country for 'whatever the future may hold, both the good times and the bad'.²

AAA credit rating

2.8 The committee sought information on Australia's AAA credit rating and its importance in relation to the Federal Budget. Mr Fraser noted that the three major credit rating agencies were unanimous in pointing to the federal debt as the principle source of instability in relation the credit rating. Mr Fraser went further noted that the loss of the Australia's AAA credit rating would pose a problem for the country's borrowing power.

2.9 Mr Fraser elaborated:

The precise impact in terms of interest rates either for our 10- or 30-year bonds, or even shorter-term bonds, is hard to judge because—I know it sounds trite—it depends on what is happening elsewhere in the world. But the bottom line is: if we lose it then our relative advantage, which you alluded to, at the moment would diminish, and that would not be a good thing for the economy. We would all pay a price. I think we would pay a greater price, the greater the interest rate levels are. We have seen a very clear message coming out of the United States, including overnight, that it looks as though interests rates may increase a tad more quickly in the United States than certainly was expected three or four months ago. In an environment of uncertainty, as I said earlier, the credit rating is a very useful advantage to have.³

1 *Proof Estimates Hansard*, 1 March 2017, p. 6.

2 *Proof Estimates Hansard*, 1 March 2017, p. 8.

3 *Proof Estimates Hansard*, 1 March 2017, p. 9.

Housing affordability

2.10 The topic of housing affordability was a recurring issue throughout the two days of hearings, with the committee directing questions not only to Treasury, but a number of its agencies as well.

2.11 In its examination of the Macroeconomic Group, the committee discussed what the government was doing to address some of the issues relating to rising house prices, especially in Sydney and Melbourne, and the supply and demand for housing. Mr Fraser noted that the affordable housing taskforce that Treasury chairs is working with the States and Territories to address issues, with particular focus on land supply, regulation, land taxation, and infrastructure.⁴

2.12 The committee also raised the issue of data collection in relation to individuals' decision making when it comes to renting, saving, needs and expectations. Mr Fraser commented that this type of data was difficult to obtain, but that Treasury was consulting widely in order to fill the gaps in the available data.⁵

Fair Work Decision

2.13 The committee discussed the Fair Work Commission's decision in relation to penalty rate cuts with Treasury and a number of its agencies.

2.14 The committee inquired as to whether Treasury had done any modelling based on the outcome of the decision. Mr Fraser responded that no modelling had taken place. Senator Cormann further noted that the job of the Fair Work Commission, in putting together its report, was to 'assess the economic impacts as part of the overall assessment.'⁶

Markets Group

Structural Reform Group

2.15 The committee discussed the new Structural Reform Group with officers of the Markets Group, noting that Ms Meghan Quinn, currently Acting Deputy Secretary of Treasury's Markets Group, would become the new Deputy Secretary of the Structural Reform Group.

2.16 The composition of this new group was also considered, with Ms Quinn noting that staff for the new group would be sourced from within Treasury and re-allocated to the structural reform area, but that any particular expertise would be sourced from outside Treasury, as is the current practice for Treasury.

2.17 The committee also discussed what the functions of the new group would be. Ms Quinn informed the committee that the final list of functions was still in flux, however was able to disclose that the group would draw elements from the five

4 *Proof Estimates Hansard*, 1 March 2017, p. 16.

5 *Proof Estimates Hansard*, 1 March 2017, p. 18.

6 *Proof Estimates Hansard*, 1 March 2017, p. 23.

existing Treasury Groups. Ms Quinn further explained that the Structural Reform Group would include:

infrastructure; competition policy; industry policy; labour market elements; energy; policy; regional development; industry development; and regulatory reform—that is off the top of my head. It is things to do with structural economic reform around the changes in the economy and the way things work going forwards. Elements from fiscal group and elements from markets group are coming together to do cross-cutting themes.⁷

2.18 Ms Quinn advised that the Structural Reform Group was due to commence operation on the following Monday (6 March 2017).⁸

Foreign Investment Review Board

2.19 The committee discussed rates of foreign land ownership in Australia with representatives from the Foreign Investment Review Board (FIRB). This included not only the ownership of residential real estate, but also of other commercial and agricultural land.

2.20 FIRB officers confirmed that, currently, 13 per cent of agricultural land in Australia is foreign owned. Officers also noted that the government has recently released an initial version of the foreign investment in agricultural land register which will be functional from 1 July 2017.⁹

2.21 The committee requested information on the process for acquisition of Australian rural and metropolitan property. FIRB commented that the processes differed based on the type of property being sought for acquisition: residential, agricultural or commercial. FIRB provided significant detail on the process, explaining:

For residential property, an applicant will need to apply to the ATO. They can do that through an online system. They provide information, which allows the ATO to do some checks about the investor, their eligibility to purchase the property and about the property itself. They pay a fee and, assuming the ATO runs all of its checks and finds that the individual is eligible for that purchase, they will be granted approval. The statutory period for that, along with the statutory period for all FIRB approvals, is 30 days from the receipt of payment of the application fee. The ATO, in the vast majority of residential cases, does much better than that 30-day time period. In a simple case it may even be as quick as a couple of days.

For agricultural property, as part of the same set of reforms we have been discussing, the government dropped the threshold for agricultural property from \$252 million to \$15 million. That is a cumulative threshold, so if you already own \$14 million of property and you want to buy a \$3 million property, you still need to come and seek approval because at the end of the

7 *Proof Estimates Hansard*, 1 March 2017, p. 32.

8 *Proof Estimates Hansard*, 1 March 2017, p. 32.

9 *Proof Estimates Hansard*, 1 March 2017, pp. 42–43.

process you will have holdings in excess of the \$15 million threshold. Again, there is an online application process. The investor submits details about themselves and the property. That is assessed by a team in my division in the Treasury. Again, we go through a series of checks and in the event that we find that the purchase is in the national interest, then we can issue an approval, or the Treasurer does, depending on the various size and other national interest considerations that are involved.

Commercial property is quite similar to agriculture property in its process. There are some differences in threshold and the like in terms of what investors need to apply.¹⁰

2.22 The committee also sought details relating to the number of unsuccessful applications. FIRB noted some difficulty in providing this figure due to the fact that some applications are rejected and others are withdrawn, but endeavoured to provide what information they were able.

Revenue Group with the Australian Taxation Office

Commissioner's opening statement

2.23 The Commissioner of Taxation, Mr Chris Jordan AO, highlighted a number of the ATO's activities in his opening statement, including the 2015–16 tax time, the Tax Avoidance Taskforce, and the website failures of the ATO portal.

2.24 The Commissioner gave a detailed explanation of the website failures that the ATO suffered in December 2016 and February 2017. Mr Jordan reflected on how the impact of the outages has highlighted society's reliance on technology and digital services. He noted that:

It does demonstrate how important it is to have some form of business continuity and contingency plans—what do you do when the system goes down, the power goes off, a telco is shut down or the bank is off-line? We all need to be able to turn our efforts to alternative and legitimate productive work at the same time as business resumption. In essence, it means we all should have some form of business continuity plans for when there is some kind of outage.¹¹

2.25 Mr Jordan also noted that he had commissioned a review of the outages, to be conducted by PricewaterhouseCoopers, and that Hewlett-Packard is conducting their own review into the cause of the failures.

Multinational Anti-Avoidance Law

2.26 The committee requested an update on the Multinational Anti-Avoidance Law (MAAL). Treasury officers noted that 70 companies had been identified as requiring further investigation. Treasury also noted that the MAAL had already had a significant impact, with 25 companies having already changed their models to ensure compliance with Australian tax laws.

10 *Proof Estimates Hansard*, 1 March 2017, pp. 43–44.

11 *Proof Estimates Hansard*, 1 March 2017, p. 50.

2.27 The committee asked the Revenue Group if any Australian companies previously identified as not paying tax in Australia would now start paying tax because of the MAAL.

2.28 Treasury officers responded noting that:

There will be an effect on the published tax data as a result of the MAAL. The companies which are already on the list are those companies which have disclosed income in Australia historically of more than \$100 million or \$200 million. So those companies have already acknowledged a taxable presence in Australia. What the MAAL will do is that some of these companies which have not previously acknowledged a taxable presence in Australia will now be incorporating Australian subsidiaries, returning the income in Australia and will now start appearing on that list.¹²

Australian Charities and Not-for Profits Commission

Australian Consumer Law review

2.29 The committee sought information from the Australian Charities and Not-for-profits Commission (ACNC) in relation to its involvement in the review of the Australian Consumer Law (ACL review), currently being undertaken by Consumer Affairs Australia and New Zealand (CAANZ).

2.30 The ACNC responded that they had made a submission to the inquiry, noting that their submission supported the review. The ACNC further commented that the review would provide a basis for updating the regulations around fundraising in Australia.

2.31 The committee asked the ACNC for data regarding the number of charities that were currently compliant with the appropriate regulations for fundraising. ACNC stated that it did not have the figures, however, presumed that the rate of non-compliance was high, indicating that in Queensland alone of the 10 500 charities on their register, only 2500 have fundraising licenses, leaving up to 8000 charities potentially carrying out fundraising activities without the appropriate licence. ACNC noted that the results for other states appeared to be similar.

2.32 The committee discussed with ACNC the possibility of the agency taking up some of the proposals suggested by the ACL review. ACNC responded that:

If this were to be taken up, it would lead to a very significant reduction in red tape for charities. And we think that the ACL would enable state regulators to be able to address issues of abuse in fundraising successfully as well. But they would not have to rely upon the licensing and reporting regime that is in place at the moment that causes so much of the headache and red tape.¹³

12 *Proof Estimates Hansard*, 1 March 2017, p. 69–70.

13 *Proof Estimates Hansard*, 1 March 2017, p. 76.

Fiscal Group

Housing bond aggregator taskforce

2.33 The committee discussed the Federal Government's involvement in finding a solution to the issue of housing affordability with Fiscal Group. Fiscal Group noted that the Council on Federal Financial Relations (CFFR) had resolved to use the bond aggregator model, similar to that used in the United Kingdom which is designed to be a 'financial intermediary which would assist with developing a bit of a scale for community housing providers to access debt markets'.¹⁴

2.34 Fiscal Group gave the committee detail surrounding the establishment of the housing bond aggregator taskforce stating that it is designed to 'look more specifically at how a proof of concept of this bond aggregator model could be developed, along with an implementation road map'.¹⁵

2.35 The committee noted the topic of housing affordability is one that has been recurring for many years, and discussed the Federal Government's relationship with the States and Territories on this issue. Fiscal Group noted that:

The predominant forms of support from the Commonwealth to the states are under the National Affordable Housing Agreement. There is a national affordable housing specific-purpose payment which is currently around \$1.3 billion a year, and that is to support social and affordable housing. There is also a national partnership payment under the National Partnership Agreement on Homelessness, and that is \$115 million, which is currently funded through to the end of June 2018. Together, those payments form the main basis of support from the Commonwealth to the states for social and affordable housing and homelessness.¹⁶

Australian Competition and Consumer Commission and the Australian Energy Regulator

Australian gas market

2.36 The committee sought information on the nature of the issues currently facing the Australian gas market. The Australian Competition and Consumer Commission (ACCC) commented that 'the Australian gas market is short of gas' and that Australia is heading for a potential gas shortage from the year 2019. ACCC highlighted that many Australian manufacturing and industrial companies are dependent on gas:

[T]he current issues in the gas industry, particularly the very high prices and the difficulty of getting gas, are going to cause manufacturing a very big problem.¹⁷

14 *Proof Estimates Hansard*, 1 March 2017, p. 85.

15 *Proof Estimates Hansard*, 1 March 2017, p. 85.

16 *Proof Estimates Hansard*, 1 March 2017, p. 85.

17 *Proof Estimates Hansard*, 1 March 2017, p. 107.

2.37 ACCC did note, however, that the forecast of a potential gas shortage by 2019 relied upon a number of assumptions that had not yet come to fruition, that is, some projects involving gas usage had not gone ahead.

2.38 The committee did not pursue this topic any further.

National Electricity Market

2.39 The committee discussed the National Electricity Market (NEM), noting the recent problems in South Australia. The committee requested details on electricity prices in Australian states and whether other market forces, such as renewable energy, would have an effect on electricity prices. The Australian Energy Regulator (AER) responded that South Australia had the highest wholesale prices for electricity in the 2016–17 year to date, at \$124 a megawatt hour, and also noted that the introduction of renewable energy into the market should put further downward pressure on the wholesale price of electricity.

2.40 The committee also discussed the possibility of anti-competitive conduct in the NEM. The AER responded indicating that they had recently been given a new function that requires the regulator to report on competitiveness of the wholesale market. AER commented that one of the initial cases they will consider is the closure of the Hazelwood power station. AER clarified that they will make biannual reports to the COAG Energy Council.¹⁸

Australian Securities and Investments Commission

Chairman's opening statement

2.41 The Australia and Securities and Investments Commission (ASIC) Chairman, Mr Greg Medcraft's opening statement to the committee highlighted three particular areas: financial literacy, small business and whistle-blower reform.¹⁹

2.42 Mr Medcraft noted that the MoneySmart teaching program is being implemented in over 50 per cent of Australian Schools and that the website is now being accessed by six million people each year. He noted that the site was also encouraging people to take action in relation to their finances.

2.43 Mr Medcraft commented that there are two million Australian companies registered with ASIC, the majority of which are small businesses. Mr Medcraft advised the committee that, in response to this large number, ASIC would establish an office of small business.

2.44 The Chairman also addressed the issue of whistle-blower reform and the work that ASIC had done in that area, highlighting five key recommendations:

One is broadening the definition of whistleblowers to include companies' former employees, officers and contractors but also company directors and others. The second is extending the protections of whistleblowers to anonymous disclosures and ensuring whistleblower identity be subject to

18 *Proof Estimates Hansard*, 1 March 2017, p. 109.

19 *Proof Estimates Hansard*, 2 March 2017, p. 5.

absolute confidentiality. The third is replacing good faith requirement with an objective test that should be sufficient for information disclosed to simply show wrongdoing has occurred. The fourth is a suggestion that a reward system be deferred until higher monetary penalties have been introduced—possibly following the review of our penalties regime. The fifth is an overhaul of whistleblower compensation to ensure better access and to better define the nature of damages, including a loss of lifetime earnings on which a whistleblower may claim compensation.²⁰

2.45 The committee canvassed a broad range of topics with ASIC including the Cash Converters case, the mortgage broker remuneration review, ASIC's capability review, the review of ASIC's penalty regime, ASIC's investigations into mortgage lending practices by Westpac, the insurance market, and remuneration of ASIC's senior executives.²¹

Australian Prudential Regulation Authority

2.46 The committee sought information on the Australian Prudential Regulation Authority's (APRA) role in advising government on private health insurers' annual premium increases. APRA responded that their role is to collect and assemble data on this issue, and explained that APRA does not give the government explicit advice:

Our concern is whether those increases create any prudential concerns for the viability of the insurers, but we do not pass a judgement as to whether we think those increases are, for example, too high.

[...]

We collect the data because we are the mechanism and the agency to do that. It is then up to the Department of Health to analyse that data and form a judgement on the appropriateness of those increases.²²

2.47 The committee also asked APRA whether it had been tasked with considering any changes to private health insurance regulations. APRA indicated that it had not, however, did note that APRA was making a number of changes in the areas of risk management, governance and capital. APRA specified that these three elements would be looked at in three separate tranches of industry consultations.

2.48 The committee also discussed a number of other issues with APRA including the profitability of superannuation funds and carbon risk disclosure.

Other topics raised

2.49 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:

- Wage growth disparity across Australia

20 *Proof Estimates Hansard*, 2 March 2017, p. 5.

21 *Proof Estimates Hansard*, 2 March 2017, p. 5–23.

22 *Proof Estimates Hansard*, 2 March 2017, p. 26.

- Levels of household debt
- Mining investment
- Corporate taxation rates and potential rate cuts
- Progressing women initiatives within the Department of the Treasury
- Credit card reform (in the context of the government response to the Economics Committee's inquiry report tabled in December 2015)
- 'Get out of the City' initiative
- Petroleum Resources Rent Tax (PRRT)
- Diverted profits tax and multinational tax avoidance
- Goods and Services Tax (GST) as it applies to salads
- Capital gains tax
- Income and allowance of Federal Members of Parliament
- Australia's gas and electricity markets
- ACCC's dairy market study
- Poker machine regulations
- Productivity Commission's timeline for reviews, including the pension system review
- 2016 Census: implementation and results
- ATO portal failures
- Whistleblowing framework (ASIC)
- ASIC's mortgage broker remuneration review
- Cash converters (pay day lending) case
- Reforms relating to liquidators/administrators
- Profitability of superannuation funds
- Recommendations of the Small Business loans inquiry