

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Securities and Investment Commission

Question No: 90

Topic: Australian Financial Complaints Authority

Reference: Hansard page 24-25 (31 May 2017)

Senator: McAllister, Jenny

Question:

Senator McALLISTER: I want to ask quickly about the new Australian Financial Complaints Authority. Were you consulted in the development of the proposal to integrate these three entities?

[...]

Senator McALLISTER: Yes, but my question is: are there are additional powers you can point to beyond those that are already vested in the three schemes that are being merged? I understand that you are not seeking to diminish the powers available to the Superannuation Complaints Tribunal. Are there additional powers?

Mr Kirk: We could take it on notice. Nothing comes to mind as an additional power.

Answer:

The recommendation to establish the new AFCA arose out of the Ramsay review of the dispute resolution framework.

ASIC made 3 public submissions to the Ramsay Review. In these submissions, ASIC supported consolidation of CIO and FOS, and recommended cutting red tape by removing the legislative requirement that credit representatives (in addition to their authorising credit licensees) must join an approved EDR scheme. ASIC also argued that reform was needed to the SCT to improve dispute resolution outcomes for superannuation members.

The Ramsay Panel made its own independent recommendations which were then accepted by Government.

Treasury released a draft Bill and regulations for consultation in May 2017. ASIC has provided feedback to Treasury on the draft Bill and regulations, however the legislation has not been finalised.

Based on the draft legislative package, the powers given to AFCA across financial services/credit and superannuation are not significantly different from the current 3 scheme model. We note ASIC did not identify – in our submissions – key additional powers that were needed by EDR schemes to perform their core functions. The Government is however consulting on substantially increasing monetary limits for AFCA (for non-superannuation disputes) to \$1m with \$500,000 compensation cap. This would be up from the current \$500,000 limit and \$309,000 cap that applies to FOS and CIO.

The draft legislative package also imposes important new accountability measures on AFCA, including:

- Giving ASIC directions powers where AFCA has failed to comply with authorisation standards
- Giving ASIC powers to issue guidance by way of legislative instrument relating to scheme performance
- That AFCA must appoint an independent assessor to review how disputes are handled
- Enhanced systemic issues reporting by AFCA in relation to superannuation disputes

The draft Bill also provides for firms who are members of AFCA to report information about their internal dispute resolution (IDR) activities to ASIC. This will greatly enhance transparency about IDR performance across all financial services, credit and superannuation. ASIC is seeking explicit powers to be able to publish this information.