

2/11/2018
Committee Secretary
Senate Committee on Economics
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PO Box 6100
Parliament House
Canberra ACT

Dear Committee Secretary,

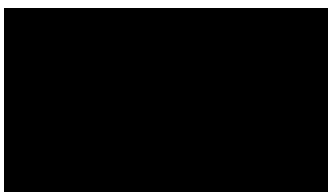
I want to thank the Committee for the opportunity to appear before it on 1/11/2018.

Having reviewed the draft Hansard, there appears to be a lack of clarity around whether a non-target market determination was part of a legislative drafting and appeared in the first draft or not.

To clarify my testimony and for benefit of doubt, ISA was consulted on how a non-target market determination may operate as recently as approximately 31/1/2018 as part of a round of selective consultations with Treasury. The non-target market determination was also originally consulted on in 2016. It was therefore part of the original proposal which this current drafting has drifted away from.

A non-target market determination is not a negative regime as characterised by Treasury before the committee and is not philosophically different. A non-target market determination places a positive obligation on the product issuer to determine when situations for use of that product are inappropriate. The current Exposure Draft asks issuers to determine the reasonableness of their target market determination. This will be difficult to determine with a broad target market and scalable testing and record keeping. It is doubtful that ASIC regulatory guidance will be able to bridge this problem.

I would be happy to assist the Committee in undertaking actual examples of product testing with and without a target market to demonstrate this significance of this point if the Committee wishes.



Dr. Nick Coates
Head of Research and Campaigns