

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Inquiry into Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 [Provisions]

Department: Department of the Treasury
Topic: Section 850B changes
Reference: Written
Senator: Andrew Bragg

Question:

1. Has the Government ever instituted regulations under s 850B(1)(c) of the Corporations Act to allow an institutional investor to have voting power in ASX Limited in excess of 15% or any other prescribed limits for the purpose of s 850b of the Act?
 - a. Please list the occasions (dates and applicants).
2. If regulations under s 850B(1)(c) have never been deployed, then what's the issue here? Why change it to Ministerial Approval instead of disallowable regulation?
3. The ASX have said that they haven't advocated for this change when consulting on the Bill. Who has requested this change?
4. Has the Government ever engaged with superannuation funds regarding this change to section 850B?

Answer:

1. No.
2. The treatment of Australian Stock Exchange (ASX) under section 850B of the *Corporations Act 2001* originated from its demutualisation in 1998. At that time, the ASX was involved in its own regulation, which raised concerns about a conflict of interest in its decision making. However, following the transfer of responsibility for market supervision to the Australian Securities and Investments Commission (ASIC) in 2010, this conflict of interest is no longer relevant.
3. The 2014 *Financial System Inquiry* (FSI) recommended this change, specifically to “remove market ownership restrictions from the *Corporations Act 2001* once the current reforms to cross-border regulation of financial market infrastructure are complete.” The FSI added that ownership restrictions on the ASX should be the same as for other entities in the financial sector.

Subsequently, the Council of Financial Regulators (CFR) in its 2020 advice to the Government recommended to “allow the Minister to approve increases in voting power in ASX Limited above 15 per cent under the widely held market body provisions.”

4. No.