

Department of Finance

Response to Question on Notice

PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES

Inquiry into Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament

Scheme for Compensation for Detriment caused by Defective Administration

Hearing of 16 November 2021

Question on Notice 4 (Proof Hansard page 7)

Mr Sebar: Our advice through the resource management guide is that the NCE, which is the subject of the claim, is the entity responsible for considering and making a decision on that claim. So our advice would be that it would be appropriate for the minister to be making a decision based on the advice provided by ASIC and then making a decision which directs ASIC.

Mr HILL: But you've also told us very clearly there's no statutory basis to this scheme, that it's simply a guide—we interrogated that earlier—that the minister or decision-maker is not bound to follow. Is there a legal barrier to the Treasurer of the day making a determination under the CDDA scheme, not giving a direction to ASIC and deciding to pay the compensation from general appropriation or revenue?

Mr Sebar: We will take that question on notice.

Response

It is a matter for each Minister or agency to consider the appropriateness of using the CDDA scheme in relation to the agencies within their portfolio and to establish the mechanism for the administration of the scheme. It is also the Minister's responsibility to seek advice, when necessary, on the interaction between the CDDA scheme and the operation of legislation within their portfolio responsibility.