



11 March 2016

Standing Committee on Tax and Revenue
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2601

By email: TaxRev.reps@aph.gov.au

Dear Sir/Madam

Inquiry into the External Scrutiny of the Australian Taxation Office

The Australian Financial Markets Association (AFMA) welcomes the opportunity to make this submission in relation to external scrutiny of the Australian Taxation Office (ATO).

AFMA is the leading industry association promoting efficiency, integrity and professionalism in Australia's financial markets. AFMA has more than 120 members reflecting the broad range of participants in financial markets, including Australian and international banks, leading brokers, securities companies, fund managers, energy traders and industry service providers.

AFMA is supportive of robust governance and accountability arrangements for regulators and government agencies, including the ATO. An important element of any accountability framework is oversight by external authorities that are independent of the agency being scrutinised and have sufficient powers and resources to do their job effectively.

Current scrutiny arrangements

The ATO is currently oversighted by parliament and its committee system, including the Joint Committee of Public Accounts and Audit and the House of Representatives Standing Committee on Tax and Revenue. The Australian National Audit Office (ANAO) provides oversight in relation to performance and financial management, in addition to auditing the ATO's financial statements. The Inspector-General of Taxation (IGT) provides scrutiny of systemic issues in tax administration as well as handling the complaints function that

was previously the responsibility of the Commonwealth Ombudsman's Office, as announced in the 2014-15 Federal Budget.

AFMA does not consider scrutiny by multiple external authorities to be inefficient or to represent duplication. The parliament, ANAO and IGT all bring a different focus and expertise to bear on the task of overseeing the ATO.

AFMA has found the IGT to be an effective oversight mechanism. Our understanding is that many ATO officers have come to appreciate the honest broker role played by the IGT. Indeed, AFMA has advocated that a similar model be applied to the oversight of other financial system regulators, most notably the Australian Securities and Investments Commission.

AFMA also notes the long-standing role of the Inspector-General of Intelligence and Security (IGIS). Like the IGT, the IGIS recognises that the significant powers and responsibilities afforded Australia's security agencies need to be balanced by equally powerful accountability mechanisms. The ATO enjoys powers and responsibilities that in some cases exceed those given to law enforcement bodies.

AFMA agrees that the IGT is uniquely well-placed to handle the complaints function that was previously the responsibility of the Commonwealth Ombudsman. Issues of tax administration often involve a level of complexity requiring specialist attention and expertise that would not normally be expected to reside in the Commonwealth Ombudsman's office. The IGT's role in handling individual complaints is highly complementary to its role in investigating systemic issues in tax administration and has served to reduce the potential for overlap and duplication with the role of the Ombudsman's office.

ATO advisory board

In addition, AFMA is supportive of the Henry Review recommendation (Recommendation 115) for an advisory board to provide the Commissioner of Taxation 'with more high-level strategic advice and apply private-sector experience and expertise to improve the ATO's performance' (p. 665). An advisory board would be distinct from the Board of Taxation that currently advises the Treasurer on tax-related issues. We note that the establishment of a Tax System Advisory Board, with a similar mandate to that envisaged by the Henry Review, was announced as part of the 2013-14 Federal Budget; however to date further progress on its establishment has not been achieved.

AFMA also supports the Henry Review recommendation for the Joint Committee of Public Accounts and Audit to monitor implementation by the ATO of the recommendations of external review bodies, such as the IGT (Recommendation 118).

Earned autonomy

The 'earned autonomy' principle that forms part of the Public Management Reform Agenda focuses on internal risk management at the expense of external controls. It treats

internal and external controls as though they were substitutes when they are more appropriately viewed as complements.

External scrutiny provides an incentive to improve internal risk management. There is a danger that internal risk management becomes focused on reducing risks to management through the avoidance of scrutiny in the absence of strong external oversight.

Cost to Government

The cost to Government of the current scrutiny arrangements is, in our view, very small relative to the value of ensuring that one of the most important agencies of the government functions efficiently and effectively. As the 2010 Henry Review noted ‘the resources committed to review the ATO by the Ombudsman and the Inspector-General are not substantial’ (p. 663). The cost of effective governance and oversight should be considered a core cost of government. Minimising that cost should not come at the expense of weakening scrutiny or oversight, as this may lead to more significant costs to government through reduced efficiencies in the tax function that can directly and adversely affect government revenue. The cost to government of external scrutiny of the ATO needs to be kept in appropriate perspective.

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AFMA trusts that these observations are useful to your deliberations on how to best ensure continued effective external scrutiny of one of the government’s most important agencies and functions. Please contact me with any queries.

Yours sincerely,



Rob Colquhoun
Director, Policy