

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

**Inquiry into the Oversight of ASIC, the Takeovers Panel and the
Corporations Legislation**

2022 - 2023

Division: Financial System Division
Topic: ASIC Stakeholder Engagement
Reference: Spoken 5 December 2022
Senator: Deborah O'Neill

Question:

CHAIR: You mentioned the stakeholders. Do you believe that ASIC is engaging with all the stakeholders that it needs to? Or are there blind spots?

Mr Moore: I couldn't speak to that off the top of my head. I think they are very engaged, as we say. They have a lot of committees around the community. As we mentioned before, some of them would like a greater level of engagement. I don't think we've highlighted any organisation that felt left out when dealing with ASIC. Jodi?

Mrs Keall: That's correct.

CHAIR: On notice, have a think about that and let us know if anything comes to mind. In evidence this morning from the ASX, I raised concerns about the service of the Australian public more broadly, given that we have such a huge amount of money now in superannuation for people. Everything that goes on at the Australian Stock Exchange once might have belonged to a very wealthy and elite group in the community; that is no longer the case. Every Australian is impacted by what happens there. You'd be well aware of the failure of the CHESS replacement system, and recent reports, particularly from Accenture. We've been asking questions this morning about the transparency of communication between the ASX and ASIC—a key stakeholder, systems in place, information supposedly flowing—yet, we see what's happened. What insights can you provide the committee with, in terms of your work as the head of FRAA, about how such a communications gap may have evolved, and do you have any suggestions about remedying that going forward?

Mr Moore: As you know, under the rules of FRAA we're not allowed to look at individual cases, except where they may be examples for bigger issues. I don't have any information specifically in my role with FRAA in terms of what happened with ASIC and the ASX. I can't talk to that, but I'm very happy to take it on notice and come back with a more considered view.

Answer:

1. Is ASIC engaging with all the stakeholders that it needs to? Or are there blind spots?

The FRAA gathered evidence from a range of sources to conduct its assessment of ASIC, as detailed in the *Effectiveness and Capability Review of the Australian Securities and Investments Commission* report (dated July 2022) (the **FRAA report**). The FRAA met with industry and consumer advocacy bodies, academics, peer regulators and ASIC senior leaders; conducted surveys of ASIC staff and stakeholders; and received public written submissions.

The information received suggested that ASIC was engaging broadly with all necessary stakeholders. However, the FRAA report did find that ASIC should improve its approach to stakeholder engagement to better address the views raised by stakeholders:

- CHOICE and other consumer groups noted that ASIC adopts a more limited approach to consulting with consumer groups when seeking views on strategic priorities, compared to the approach adopted by the Australian Consumer and Competition Commission.

The outcome of this finding would be for ASIC to focus on an improvement in the *quality* rather than the *quantity* of stakeholder engagement.

2. What insights can you provide the committee with, in terms of your work as the head of FRAA, about how such a communications gap (between the Australian Stock Exchange (ASX) and ASIC) may have evolved, and do you have any suggestions about remedying that going forward?

The FRAA's functions do not include assessing or reporting on single cases as set out by the *Financial Regulator Assessment Authority Act 2021*. Accordingly, FRAA cannot comment specifically on a potential communications gap between the ASX and ASIC.

The FRAA considered communication in the context of assessing ASIC's effectiveness in the three areas selected for review (strategic prioritisation, planning and decision-making, surveillance, and licensing).

The FRAA report identified several plans and commitments by ASIC to continue to make its communication more effective. The FRAA intends to review ASIC's progress on these matters in a future review.