

Chapter 2

Treasury portfolio

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of budget estimates for the 2017–18 financial year for the Treasury portfolio. This chapter of the report follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

2.2 On 29, 30 and 31 May 2017, the committee heard evidence from Senator the Hon Mathias Cormann, Minister for Finance, Senator the Hon James McGrath, Assistant Minister to the Prime Minister, and Senator the Hon Arthur Sinodinos AO, Minister for Industry, Innovation and Science, along with officers from the Department of the Treasury (Treasury) and agencies of the Treasury portfolio, including:

- Australian Small Business and Family Enterprise Ombudsman;
- Australian Taxation Office;
- Inspector-General of Taxation;
- Australian Prudential Regulation Authority;
- Australian Competition and Consumer Commission with the Australian Energy Regulator;
- Australian Office of Financial Management;
- Australian Securities and Investments Commission;
- Productivity Commission;
- Superannuation Complaints Tribunal;
- Commonwealth Grants Commission; and
- Australian Bureau of Statistics.

2.3 Senators present over the course of the three days of hearings included Senator Hume (Chair), Senator Ketter (Deputy Chair), Senators Abetz, Bernardi, Bushby, Cameron, Dastyari, Di Natale, Gallagher, Georgiou, Gichuhi, Hanson, Leyonhjelm, Lines, Ian Macdonald, McAllister, O'Neill, Polley, Roberts, Smith, Whish-Wilson, Williams, and Xenophon.

Macroeconomic Group and Corporate Group

Departmental Secretary

2.4 The Treasury Secretary, Mr John A Fraser, made a comprehensive opening statement to the committee which outlined the current state of the Australian economy, and discussed some of the factors that may have an impact on Australia's economic performance over the forward estimates and the medium term.

2.5 In particular, Mr Fraser noted that there were currently a 'number of positive signs in the global economy', citing the growth of Australia's Asian trading partners,

China, India and Japan, and a lower unemployment rate in the United States as encouraging factors.¹

2.6 Globally, Mr Fraser commented that the changing landscape of geostrategic risks would be important in our regions as the China/US relationship develops and changes.

2.7 Domestically, the Secretary indicated that generally stronger commodity prices, household consumption, wage growth and mining investment would each have an impact on Australia's economy over the forward estimates.

2.8 Mr Fraser also highlighted the impact of Tropical Cyclone Debbie on multiple aspects, noting:

there has been an impact on the mining, agricultural and tourism industries in Queensland and northern New South Wales that is expected to reduce GDP growth by about a quarter of a percentage point in the June quarter. These events will contribute to real GDP growth slowing to around 1¾ per cent in 2016–17.²

2.9 Finally, the Secretary highlighted that the budget forecasts indicate a 'return to budget balance in 2020–21', with an underlying cash balance surplus of \$7.4 billion to be realised that same year.³

2.10 Finally, Mr Fraser noted that two ratings agencies have 'affirmed our AAA credit rating following the release of the 2017–18 Budget.'⁴

2.11 The committee then discussed a wide range of topics with the Mr Fraser and officers from Treasury's Macroeconomic and Corporate Groups.

Major bank levy

2.12 The committee discussed the processes around the design of the proposed Major Bank Levy. In particular, the committee sought information about what consideration was given to other models, comparisons with similar levies in other countries, and any economic modelling of the impact of the proposed bank levy.⁵

2.13 Officers from the Macroeconomic Group indicated that:

In providing advice to the government we looked at a range of possible approaches for providing a levy to the banks. As Mr Fraser said, you could look at an asset base, you could look at a profit base, you could look at a liability base. There are at least a dozen countries around the world that have a levy on banks, and we looked very closely at those countries and

1 *Proof Estimates Hansard*, 29 May 2017, p. 5.

2 *Proof Estimates Hansard*, 29 May 2017, p. 6.

3 *Proof Estimates Hansard*, 29 May 2017, p. 8.

4 *Proof Estimates Hansard*, 29 May 2017, p. 8.

5 *Proof Estimates Hansard*, 29 May 2017, p. 19.

how they do it, informing advice that went to the government as part of the budget.⁶

2.14 Senator Cormann added that the government's decision was based on liabilities. That is to say that those banks that would be subject to the major bank levy would be those operating in Australia with \$100 billion of liabilities.⁷

2.15 The committee specifically asked about the primary purpose of the major bank levy. Mr Fraser stated that the primary purpose is to raise money to help in the process of fiscal repair. When asked about any other policy rationales, Mr Fraser said that the levy was also designed to:

Provide a more level playing field, enabling the smaller banks, and indeed the non-bank lenders, to compete more aggressively. It also recognises the general systemic risks that the major banks, which are large leverage banks, impose on the rest of the community.⁸

2.16 The committee also discussed the leak of information in relation to the proposed major bank levy prior to its release on budget night. In particular, the committee sought information about what investigations would be carried out in response to the leak.

2.17 Mr Fraser indicated that once he became aware of the issue, he spoke with Mr Greg Medcraft, Chairman of the Australian Securities and Investments Commission (ASIC), who referred the matter to the Australian Federal Police (AFP) for investigation.⁹

Super Saver Scheme

2.18 The committee sought information from Treasury in relation to housing affordability measures announced in the 2017–18 Budget, in particular around the proposed Super Saver Scheme.

2.19 Senator Cormann clarified that the measure announced in the budget differed from another proposal in relation to superannuation discussed earlier in the year. He informed the committee that the measure would not give individuals access to superannuation funds previously accumulated; rather, the system would allow an individual to put savings into their superannuation account, with the benefit of the associated tax incentives. Further, individuals would only be eligible to withdraw that saved amount from their account for the purpose of putting a deposit on a house.¹⁰

2.20 The Super Saver Scheme was also discussed with the Fiscal Group. The committee asked about the effect the scheme might have on house prices, noting concern that it may increase demand which in turn may increase house prices.

6 *Proof Estimates Hansard*, 29 May 2017, p. 19.

7 *Proof Estimates Hansard*, 29 May 2017, p. 19.

8 *Proof Estimates Hansard*, 29 May 2017, p. 19.

9 *Proof Estimates Hansard*, 29 May 2017, p. 26.

10 *Proof Estimates Hansard*, 29 May 2017, pp. 41–42.

2.21 Officers of the Treasury indicated that:

Overall I do not think it will have an inflationary effect on prices in the context of the package overall. The overall intent of the housing affordability package is to place downward pressure on prices. Whilst it is hard to be quantitatively precise about the impact, I think that is the overall direction, because we have measures that go to increasing supply and we have measures that go to taking some of the benefit to investors out of the system, so I do not think it will be inflationary overall.¹¹

Fiscal Group

Funding of the National Disability Insurance Scheme (NDIS)

2.22 The committee asked officers of Treasury's Fiscal Group about Commonwealth funding for the NDIS. Specifically, the committee asked about the funding gap and how measures in the 2017-18 Budget would address this issue.

2.23 The officers indicated that the 0.5 per cent increase to the Medicare Levy, announced in the 2017-18 Budget, would be reserved for funding of the NDIS when it goes to full rollout from 1 July 2019. Officers from Fiscal Group further explained that:

The proposal is that the NDIS savings fund will be credited with one-fifth of the Medicare levy. The increase in the Medicare levy is formally hypothecated, pending the passage of legislation in the parliament, both the legislation to give effect to the Medicare increase and the legislation to create the savings fund. That one-fifth of the Medicare levy would flow into the savings fund or be credited into the savings fund.¹²

2.24 Senator Cormann, the Minister representing the Treasurer at the table, further noted that the budget papers said:

'these sources of funding are not sufficient to cover the Commonwealth's NDIS contribution in full scheme, leading to a \$3.8 billion shortfall in 2019-20, accumulating to \$55.7 billion over the medium term, which is to 2027-28'¹³

Medicare Guarantee Fund

2.25 The committee discussed the establishment of the Medicare Guarantee Fund with the Fiscal Group officers, specifically enquiring as to how funds would enter and leave the fund over the forward estimates.

2.26 Fiscal Group stated:

The amounts that will be accredited to the funds are, essentially, the portion of the Medicare levy that is not attributable to the NDIS, and a share of personal income tax revenue, such as would make up the full cost of the

11 *Proof Estimates Hansard*, 29 May 2017, pp. 54–55.

12 *Proof Estimates Hansard*, 29 May 2017, p. 50.

13 *Proof Estimates Hansard*, 29 May 2017, p. 51.

Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme, which was in the order of \$34 billion.¹⁴

2.27 The committee noted that the costs of the Medicare Benefits Schedule (MBS) and the Pharmaceutical Benefits Scheme (PBS) were variable amounts which could exceed the amount set aside in the Medicare Guarantee Fund.

2.28 Fiscal Group acknowledged this, however, noted that in this circumstance, 'a greater share of personal income tax revenue would be credited to the fund. Officers also noted that in the case of a smaller spend on the MBS and PBS, that any excess would be retained in the fund.'¹⁵

Structural Reform Group

2.29 This was the first estimates appearance of the newly-formed Structural Reform Group. The Deputy Secretary of the group, Ms Meghan Quinn, provided the committee with an overview of the group's role and purpose as well as highlighting a number of the group's current projects.

2.30 The Deputy Secretary said that 'the reason for creating the group is to ensure that we are looking at things in a holistic way' and gave the following example:

When we are looking at, say, regional development, we draw together taxation, expenditure, legislation, in terms of thinking about the policy. It was happening before, but it is true that if you reorganise organisations you get a different focus on issues. It is a reflection of the desire for our focus on structural reform going forward as a department.¹⁶

2.31 Ms Quinn also explained to the committee that the group carries out work around five topic areas:

- Energy and climate change;
- Infrastructure, Communications and workplace relations;
- Industry, innovation and regional development;
- Regulatory reform; and
- Competition.¹⁷

2.32 The committee sought information on how the structural reform group was staffed. Ms Quinn informed the committee that the group is made up of 42 staff, drawn from other Treasury Groups. Further, Ms Quinn noted that the group was staffed with a 'more senior cohort of capability', with six SES officers and a large number of executive level 2 officers.¹⁸

14 *Proof Estimates Hansard*, 29 May 2017, p. 71.

15 *Proof Estimates Hansard*, 29 May 2017, p. 71.

16 *Proof Estimates Hansard*, 29 May 2017, p. 92.

17 *Proof Estimates Hansard*, 29 May 2017, p. 91.

18 *Proof Estimates Hansard*, 29 May 2017, p. 105.

2.33 The committee also discussed a number of the group's current projects including the climate change review being led by the Department of Environment, the ACCC gas market inquiry, the group's input into the Finkel review, and the monitoring of the NBN. The committee sought a comprehensive list of the Structural Reform Group's projects on notice.

Australian Taxation Office (ATO) and Revenue Group

Commissioner's opening statement

2.34 Mr Chris Jordan, Commissioner of Taxation, made a detailed opening statement to the committee; the focus of which was Operation Elbrus.

2.35 Mr Jordan explained that Operation Elbrus was a joint investigation coordinated by the ATO and AFP, which was looking into the matter of a 'syndicate allegedly involved in tax evasion and organised crime'.¹⁹ On 17 May 2017, a number of warrants were executed and arrests were made in relation to the operation. Mr Jordan noted that further to this, allegations of wrongdoing by officers of the ATO had also been reported.

2.36 The Commissioner addressed the reported allegations against Mr Michael Cranston, a deputy commissioner with the ATO at the time, citing Commissioner Colvin's statement that Mr Cranston was 'not being considered for conspiracy to defraud the Commonwealth'.²⁰ Mr Jordan reinforced this view stating that:

[At] no time did Michael Cranston directly access taxpayer data systems, or access the audit cases under this investigation. And there is no evidence of actual intervention or influence on the audit cases or of money being refunded or of tax liability being changed.²¹

2.37 Mr Jordan also provided the committee with an update on the issue of last year's ATO portal failures. He noted that the ATO would publish a report on the reviews that had been conducted into the matter and that the ATO had reached a commercial settlement with Hewlett Packard Enterprise (HPE) which: 'recoups the key costs incurred by the ATO and provides us with additional and higher-grade IT equipment, giving the ATO a world-class storage network'.²²

Code of Conduct review

2.38 The committee asked ATO officers about the current code of conduct review being undertaken by Barbara Deegan. ATO confirmed that this independent review was into three officers, one of whom is Deputy Commissioner Michael Cranston; and

19 *Proof Estimates Hansard*, 30 May 2017, p. 5.

20 *Proof Estimates Hansard*, 30 May 2017, p. 6.

21 *Proof Estimates Hansard*, 30 May 2017, p. 7.

22 *Proof Estimates Hansard*, 30 May 2017, p. 8.

was being completed as quickly as possible, likely to be finalised in the next four weeks.²³

2.39 ATO confirmed that it would wait for the outcome of the review before determining whether to take any action in relation to those officers under investigation.

Petroleum Resource Rent Tax (PRRT)

2.40 The committee discussed the details of the Petroleum Resource Rent Tax (PRRT) with officers from Revenue Group. In particular, the committee sought information about the amount of PRRT credits budgeted for over the forward estimates.

2.41 Officers noted that the forecasts were for \$900 million in 2016–17 and the same for following years. Revenue Group further explained:

Our models for forecasting PRRT revenue are reasonably simple base-and-growth models. We have a small number of taxpayers paying PRRT. We consult with the industry, the department and sources in the private sector to get a sense of volumes of production from those projects, what is happening with prices, and we feed those into the growth rate we apply to the current receipts. I am conscious that much more work was done on the longer term PRRT collections as part of the recent review.²⁴

Inspector-General of Taxation

2.42 Mr Ali Noroozi, Inspector-General of Taxation (IGT) made a brief opening statement to the committee, in which he stated that one of the principle purposes of the IGT is to improve tax administration, further noting that:

[His] team seeks to foster trust and confidence in the tax system by championing effective engagement with taxpayers and tax professionals, enhancing voluntary participation and providing assurance over the integrity and fairness of the Australian Taxation Office and Tax Practitioners Board administrative actions. We seek to achieve this primarily through investigating complaints regarding the ATO and the TPB and by conducting reviews into broader tax administration issues.²⁵

2.43 The committee asked Mr Noroozi about a potential review of the matters arising out of the ATO's Operation Elbrus. Mr Noroozi acknowledged the significant public interest in the matter and indicated that he had not commenced any inquiry at that stage noting both the AFO and ATO investigations as well as the court proceedings that are currently underway; he explained:

23 *Proof Estimates Hansard*, 30 May 2017, pp. 9–10.

24 *Proof Estimates Hansard*, 30 May 2017, p. 45.

25 *Proof Estimates Hansard*, 30 May 2017, pp. 59–60.

I will be very up-front with you and tell you exactly the two different factors that are uppermost in my mind. On the one hand I do not want to prejudice court proceedings. I also do not want duplication of effort.²⁶

2.44 The IGT also advised the committee that an inquiry into the matter could be commenced in a number of different ways including through self-referral, a request from the committee or a direction from the Minister.²⁷

Australian Securities and Investments Commission

Chairman's opening statement

2.45 Mr Greg Medcraft, Chairman of the Australian Securities and Investments Commission (ASIC), highlighted the agency's major outcomes over the last three months, since their last estimates appearance. These outcomes included:

- the Queensland Supreme Court ordered ex-officers of the former fund managers MFS to pay \$205 million in compensation and banned them from managing companies;
- the former managing director Steven Noske was jailed for 18 months and fined \$20,000 for insider trading;
- Queensland car-yard lender Channic was ordered to pay over \$1.2 million after breaching consumer credit laws and dealing unjustly with vulnerable Indigenous consumers; and
- Citibank refunded \$5 million to around 230,000 customers for failing to properly disclose information on international credit card fees.²⁸

2.46 Mr Medcraft also emphasised to the committee that ASIC is principally an enforcement agency, as that is where 70 per cent of its funding is allocated. He also noted that the current review into ASIC's enforcement regime would give them new powers to deal with not only the symptoms, but the causes of a number of problems relating to financial misconduct. More specifically, Mr Medcraft said:

ASIC see this power as being vitally important, and it is crucial to our effectiveness of such a banning power that triggers allowing us to ban management that is inappropriate. It will not be affective if we can only ban those who themselves have directly committed breaches of law because we largely have that at the moment. The role of managers should be about taking reasonable steps to ensure compliance with the law by the people they are managing. We need to be able to remove managers who fall seriously short of that standard and whose management failings have contributed to misconduct in a firm and thus losses to investors and consumers and, therefore, loss of trust and confidence.²⁹

26 *Proof Estimates Hansard*, 30 May 2017, p. 63.

27 *Proof Estimates Hansard*, 30 May 2017, p. 63.

28 *Proof Estimates Hansard*, 31 May 2017, p. 2.

29 *Proof Estimates Hansard*, 31 May 2017, p. 3.

Major bank levy

2.47 The committee asked ASIC about its investigation into the leak of information relating to the major bank levy before the Budget was delivered on 9 May 2017.

2.48 Mr Medcraft indicated that Treasury, the AFP and ASIC each became aware of the issue the day of or after the Budget was delivered, and that an investigation was initiated on 10 May 2017.

2.49 Ms Armour, head of the market surveillance division of ASIC, specified that ASIC officers had noticed some changes to the share prices of the banks on 9 May 2017 as part of their standard market surveillance. However, the variation of between 2.3 and 3 per cent was not considered to be significant.³⁰

2.50 It was subsequent to the news of a leak surfacing that this variation in the markets appeared more significant. At that point the investigation was initiated. Ms Armour further noted:

We are a little bit reluctant to go into details, but obviously, we have been examining accounts that traded in the five stocks in the period before the rumours commenced. We are looking to see if anyone did profit in a way that is unexplained or unusual. We are talking with Treasury and are gaining information about who knew about the proposal and the processes that we use, and we are working with the AFP in connection with that.³¹

2.51 ASIC officers noted that at this stage, it was unclear when the investigation might be finalised.

Superannuation Complaints Tribunal

2.52 This was the first estimates appearance of the Superannuation Complaints Tribunal (SCT). The agency was represented by Ms Helen Davis, Chairperson of the SCT.

2.53 Ms Davis talked to the committee about the SCT's role, explaining that the statutory body was established in 1992–93—around the same time as compulsory superannuation was introduced—as a dispute resolution body for superannuation disputes. She also noted that the SCT does not deal with systemic issues in the superannuation system, rather, they focus on individual cases, stating that:

A superannuation complaint is essentially any complaint about a decision of the trustee, so it is something the fund did or did not do. Our jurisdiction covers the regulated funds and some of the public sector funds that have been elected in.³²

2.54 The committee asked questions in relation to SCT's activities as well as its staffing and funding. Ms Davis informed the committee that SCT currently has

30 *Proof Estimates Hansard*, 31 May 2017, p. 4.

31 *Proof Estimates Hansard*, 31 May 2017, p. 4.

32 *Proof Estimates Hansard*, 31 May 2017, p. 59.

32 staff, and was dealing with between 2300 and 2600 complaints each year with 1600 open complaints at the present time.³³

2.55 In relation to the SCT's funding, Ms Davis explained that the Superannuation Complaints Tribunal is resourced through ASIC, which is in turn funded by the APRA Levy. This means that staff who work at the SCT are employed by ASIC. Ms Davis also clarified that the SCT's budget for 2017–18 is \$5.1 million.³⁴

Commonwealth Grants Commission

2.56 The committee spoke to the Commonwealth Grants Commission (CGC) about its role in the distribution of GST revenue between the states, known as Horizontal Fiscal Equalisation or HFE.

2.57 The committee raised concerns that certain states were not receiving an adequate allocation of GST revenue. In particular, the committee noted that in 2016–17, GST revenue was allocated at a level of \$759 per individual in Western Australia, whereas in the Australian Capital Territory allocation sat at around \$2896 per individual. Officers of the Grants Commission acknowledged this difference and explained that HFE takes into account different factors affecting each state or territory. In this instance, officers noted that Western Australia is a 'fiscally strong state' and that the royalties received from mining have contributed to its wealth outside of the GST distribution system.³⁵

2.58 The committee also asked the CGC whether it had any involvement in the Productivity Commission's review into Horizontal Fiscal Equalisation. Officers indicated that the CGC had not made submission to the review.³⁶

Other topics raised

2.59 The committee discussed a wide range of topics during the three days of hearings with the Treasury portfolio. The above reporting of discussions is not complete. Other topics discussed by the committee included:

- Wage growth disparity across Australia
- Housing affordability
- Household debt and its impact on consumption
- Major bank levy—design process and consultation; leak of details before Budget night; impact on small banks, shareholders and taxpayers; and economic modelling
- Medicare Levy budget measure
- First Home Buyer Super Saver Scheme

33 *Proof Estimates Hansard*, 31 May 2017, p. 58–59.

34 *Proof Estimates Hansard*, 31 May 2017, p. 60.

35 *Proof Estimates Hansard*, 31 May 2017, pp. 67–68.

36 *Proof Estimates Hansard*, 31 May 2017, p. 69.

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- National Housing Infrastructure Facility
 - Skilling Australia Fund and the associated levy relating to temporary visa workers
 - The process relating to the production of Budget papers including the 'Women's Budget Statement'
 - Energy policy including the Future Security of the National Electricity Market (Finkel) review
 - ASBFEO's small business loans inquiry and the implementation of its recommendations
 - ASBFEO's Payment times and practices inquiry
 - Medicare Levy and Medicare Guarantee Fund
 - Update on the Panama Papers and related investigations
 - Taxation of loose leaf tobacco
 - Foreign and domestic investment in residential housing through Managed Investment Trusts
 - GST on particular items including salads and feminine hygiene products
 - Processes and consultation in the development of the Bank Levy budget measure
 - APRA's engagement with the superannuation industry
 - National Broadband Network pilot program
 - ACCC's dairy inquiry
 - ASIC's report 499 Financial Advice: Fees for no service
 - ASIC's REP 515 Financial advice: Review of how large institutions oversee their advisers
 - FOI emails—Greg Kirk correspondence with CBA 15 May, Emails 2006–2015
 - Macquarie Bank 2013 enforceable undertaking
 - Update on the Productivity Commission's inquiry into Horizontal Fiscal Equalisation
 - Alternative default models for superannuation systems
 - Role and funding of the Superannuation Complaints Tribunal
 - Discussions around the Commonwealth Grants Commission's role in determining the amount of GST revenue received by States and Territories, in particular, Western Australia
 - Catholic Education Commission's report and ABS's response
 - ABS' data integrity

