

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Australian Securities and Investments Commission

Question No: 223

Topic: Life insurance

Reference: Written

Senator: Ketter, Chris

Question:

- (1) What mechanisms does ASIC have to enforce compliance with the Life Insurance Industry Code of Practice if it is not approved by ASIC? What mechanisms do consumers have to enforce the code if it is not approved by ASIC? What mechanisms to enforce the code would ASIC have if it was approved?
- (2) Was there any consultation with or direction from the Treasury, the Minister or the Minister's office on the timing of the release of the report Life Insurance Claims: An Industry Review (REP 498)? If so, what was the nature of the consultation and/or the direction?

Answer:

- (1) ASIC does not have a role in enforcing compliance with industry codes of conduct. ASIC's powers in relation to codes are limited to section 1101A of the Corporations Act 2001, which allows ASIC to approve codes of conduct. Approval by ASIC of an industry code is a sign to consumers that they can have confidence in the approved code. The approval by ASIC of a code does not mean that ASIC can enforce the code.

Under the Life Insurance Code, consumers can report breaches of the Code to the body responsible for monitoring and enforcement of the Code - the Life Code Compliance Committee (composed of a consumer representative, an industry representative and an independent chair) (the Life CCC). The investigation, enforcement and sanction powers of the Life CCC are set out in the Code.

Consumers can also seek to enforce a code by bringing a dispute to an ASIC approved external dispute resolution (EDR) scheme – the Financial Ombudsman Service. Even where a code is not incorporated by subscribers into their contracts with consumers, an EDR scheme will apply the provisions of a code when determining the outcome of a dispute.

However, unless insurers who subscribe to the Code incorporate the Code into the terms and conditions of their insurance contracts with consumers, the Code will not be enforceable by consumers in a court of law.

In short, ASIC does not have a direct role in enforcing industry codes, regardless of whether or not the code is approved by us.

- (2) ASIC pre-determined to issue REP 498 on 12 October 2016, and on 5 October 2016 we met with the Minister and her office on to discuss the report. Neither Treasury nor the Minister asked ASIC to move the timing of the release of the report.