



**Submission to the
Council of Financial Regulators
Working Group on
Financial Market Infrastructure Regulation**

May 2012

About CHOICE

CHOICE exists to unlock the power of consumers. Our vision is for Australians to be the most savvy and active consumers in the world.

As a social enterprise we do this by providing clear information, advice and support on consumer goods and services; by taking action with consumers against bad practice wherever it may exist; and by fearlessly speaking out to promote consumers' interests - ensuring the consumer voice is heard clearly, loudly and cogently in corporations and in governments.

To find out more about CHOICE's campaign work visit www.choice.com.au/campaigns and subscribe to CHOICE Campaigns Update at www.choice.com.au/ccu.

Introduction

CHOICE appreciates the opportunity to provide the following comments to the Council of Financial Regulators Working Group on Financial Market Infrastructure Regulation. Following on from our submission to the working group in November 2011, we have a few additional comments to make in response to the 10 February 2012 letter to the Deputy Prime Minister.

Compensation funds

CHOICE agrees with and supports action on the key issues raised under the heading Compensation funds in the Council of Financial Regulators letter to the Deputy Prime Minister dated 10 February 2012.

Governance

We agree that the most useful reform in the short term is to improve the governance of the National Guarantee Fund (NGF) to increase its independence and to provide for a broadly representative Board. The Board has historically been part of the Australian Stock Exchange (ASX) and has lacked expertise in consumer policy, investor protection and consumer compensation schemes.

To ensure its independence we therefore agree that it would be appropriate for the Minister to appoint the board. CHOICE would welcome an opportunity to nominate appropriately qualified candidates for appointment.

We also support a more broadly representative board and think it would be appropriate for the Minister to appoint an equal number of directors from a consumer protection background and from an industry background. Directors should also be experienced and collectively have the necessary skills to provide financial, legal and regulatory/policy oversight.

Such a balanced and appropriately skilled board would increase community confidence and would make the NGF suitable to lead other necessary reforms.

Reviews

CHOICE has been a long standing supporter of a review of the heads of claim, which have remained virtually unchanged since 1987. We believe, that with the inclusion of directors with a strong consumer protection background, the NGF board could do much of the preparation for a review. This could include consultation ahead of regulatory reform, to not only modernize the current heads of claims, but also to ensure they remain current on an ongoing basis.

Similarly, it would be appropriate for a more broadly constituted NGF board to lead a review of the treatment of the Financial Industry Development Account funds.

The Australian Securities and Investments Commission (ASIC) has established rules about how external dispute resolution schemes conduct such reviews and it would be appropriate for the NGF led reviews to be conducted within this framework.

However the NGF Board will also need to work with, and report to, Treasury as the implementation of change will ultimately require regulatory reform.

Consistency of coverage

We also agree that compensation coverage should be consistent across the market and support further consultation on the detail. With government encouragement and an appropriately constituted NGF board it might be possible that the market operators can reach an agreement in this regard.

Our position is that the NGF should be spun off from the ASX and established as an independent company limited by guarantee.

The new independent NGF company could then accept new market operators as its members providing whole of market coverage and protection for consumers.