



CHARTERED ACCOUNTANTS  
AUSTRALIA + NEW ZEALAND

27 January 2017

EDR Review Secretariat  
Financial System Division  
Markets Group  
The Treasury  
Langton Crescent  
PARKES ACT 2600

*Submission sent via email to [EDRreview@treasury.gov.au](mailto:EDRreview@treasury.gov.au)*

Dear Sir/Madam,

## **Submission – Interim Report – Review of the financial system external dispute resolution and complaints framework**

Chartered Accountants Australia and New Zealand welcomes the invitation to make a submission to the above review and provide comments on the Interim Report.

Chartered Accountants ANZ is broadly supportive of many of the Review Panel's draft recommendations. However, we believe that some of the issues identified require further investigation. We also believe there are additional matters that the Review Panel needs to consider before finalising its report to government.

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### **Superannuation Complaints Tribunal replaced by a Superannuation Ombudsman**

We have concerns about closing the SCT and replacing it with an Ombudsman. Our unease revolves around the ability of the Ombudsman to enforce and bind its decisions on disputants that may not be fund trustees or members. In addition we believe the compulsory nature of superannuation necessitates having a more rigorous and substantial dispute resolution process, such as a tribunal, rather than an ombudsman type service.

In addition we believe that many of the concerns raised by the Review Panel about the SCT can be overcome by reforming the SCT operative legislation (the Tribunal has been in existence for more than 22 years and until now its function and processes has never been reviewed), providing appropriate funding and and improving overall administration of the tribunal.

### **Two complaint avenues – one for superannuation and the second for all other financial services products and services**

We agree with the Review Panel's recommendation that there should be a mechanism for all superannuation complaints involving APRA Regulated Super Funds, to be dealt with by at least one tribunal or ombudsman.

Equally we believe that there should be at least one ombudsman service to hear all non-superannuation financial matters.

As the above implies we do not agree with the Review Panel's draft recommendation that there should be only one dispute service for super and only one service for all other financial services. In our view the government would be better to let the market decide what is best.

### **Self Managed Superannuation Funds (SMSFs)**

We note that the Review Panel's Interim Report recommended a new industry ombudsman for superannuation disputes however it was silent about Self Managed Super Funds – member, trustees and others – also being eligible to access this proposed service.

It is our view that SMSF members should not be permitted to complain to an external dispute resolution complaints body about the actions of the super fund trustee.

However SMSF trustees, members and other beneficiaries should be permitted to seek compensation or redress in a number of circumstances that at present can only be solved by initiating formal legal proceedings. For example, complaints about poor or malfesceant administration or a fund or member benefit.

In all matters SMSFs should be permitted to complain to the non-superannuation complaints body.

### **Data Collection, Analysis and Concrete Actions**

We note that two complaints bodies – the Financial Ombudsman Service and the Credit and Investments Ombudsman – collect highly relevant and useful data about the complaints they receive including how they are resolved and how quickly.

We also note that thus far the Superannuation Complaints Tribunal has not collected similar data.

It should be compulsory for data about complaints received and solved by AFSL holders (that is, without involvement by an external dispute resolution body) is sent to ASIC which then regularly publishes this collated information.

Chartered Accountants ANZ believes that the external dispute resolution process must ensure that the collection and analysis of relevant data is consistently and accurately undertaken. We believe that all participants in the financial services sector have much to learn from the complaints consumers that are making about the financial products they use.

## Review of Financial System External Dispute Resolution and Complaints Framework Chartered Accountants ANZ submission

For example, we note that FOS 2015/16b data shows that over 12,750 of its 13576 members did not have a complaints lodge against them. Of the remaining 842 FOS member, 353 of them had one dispute lodged. The remaining 489 FOS members had almost 33,750 disputes lodged against them.

At present we believe external dispute resolution arrangements may be seen by some financial services industry participants as an irritable and largely unavoidable business cost.

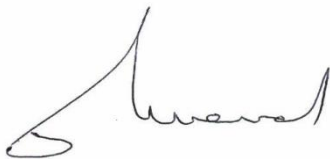
Ideally Chartered Accountants ANZ believes that the financial services industry as a whole should set itself the objective of putting the external dispute resolution scheme effectively out of business, because consumers no longer need to seek redress from an external party. This will only occur if the remuneration and incentive structures for product providers reward increases in consumer satisfaction levels and decreases in the number and gravity of consumer complaints and they have the ability to understand and react to complaints received by and about their peers.

### Compensation Scheme of Last Resort

Whilst we have some sympathy with the Review Panel's reasoning for arguing that there is merit in introducing an industry-funded compensation scheme of last resort, any such an arrangement would need to be carefully managed. It would need to be clear that it would only apply as an absolute last resort after all other avenues – including APRA or ASIC intervention – had been exhausted.

Should you require any further information or wish to discuss the contents of this submission, please contact Tony Negline, Head of Superannuation on 02 8078 5404 or by email at [tony.negline@charteredaccountantsanz.com](mailto:tony.negline@charteredaccountantsanz.com).

Yours sincerely,



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**Chartered Accountants Australia and New Zealand**