



8 November 2018

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Committee members

## **Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018**

We refer to the joint submissions on this Bill that the Australian Shareholders' Association (ASA) has previously made with the Consumer Action Law Centre, Choice and other bodies. We note the evidence given by Ms Temple and Ms Turner to the Committee on 31 October 2018 and endorse the letter of 5 November 2018 providing responses to the Committee's questions on notice.

We would like to amplify one matter, regarding Senator Ketter's question below:

Senator KETTER: Do you agree with the submission of Industry Super Australia that the target market determination should include a section on non-suitable targets for a particular product?

Ms Temple: The FSI did recommend that target and non-target markets be identified. In previous submissions we have supported the identification of a non-target market, although we have not focused on this so much, because our understanding was that it was not an option on the table. But we do think that that could form an important part of the regime.

When we met Treasury earlier this year, ASA and others did argue for the law to require that non-target markets also be identified. We believe that defining unsuitability is even more valuable than suitability. We had not previously noted Industry Super Australia's submission dealing with this, but the arguments for this approach are summarised well on the first page of that submission.

The intention of the Design and Distribution Obligations and Product Intervention Powers regime is to protect consumers from acquiring unsuitable financial products. Given the many unfortunate examples of mis-selling over the last 10 to 15 years, a framework that actively warns consumers away from certain products would be a welcome and commonsense approach to reverse the asymmetry of promoters' financial knowledge and sophistication.

We had hoped that the obligations to define both target and non-target markets would be in the final legislation. We hope that, even at this late stage, the government will consider reinstating the “non-target market” obligations.

In a similar vein, we would ask again for the government to use the wider definition of financial products in the ASIC Act instead of that in the Corporations Act. That expansion would provide greater breadth of consumer protection, which would surely be in accordance with the spirit of the Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Fox', with a stylized flourish above the 'x'.

Judith Fox  
Chief Executive Officer