

Our Reference: 10179/17

18 January 2018

Michelangelo Spano
PO Box 305
WELLAND SA 5007

By email: Spanom@taxology.com.au

Dear Mr Spano,

I note your previous correspondence with the Australian Securities and Investments Commission (ASIC) regarding your concerns that AMP Financial Planning Pty Limited (ACN 051 208 327) engaged in unconscionable conduct and misleading and deceptive conduct, and your subsequent complaint regarding ASIC to the Commonwealth Ombudsman.

I refer to your email of 16 January 2018 in which you requested that ASIC consider your eligibility for compensation under the Compensation for Detriment caused by Defective Administration Scheme (CDDA Scheme).

ASIC does not currently have authorisation under the CDDA Scheme. The previous authority to the CDDA Scheme was granted to ASIC on 17 March 2015 by the then Assistant Treasurer Josh Frydenberg. That authority is no longer valid due to a change in Assistant Treasurer on 21 September 2015. The current Assistant Treasurer has not granted an authority to ASIC. Given that ASIC does not have authorisation under the CDDA Scheme, applications to the CDDA Scheme regarding conduct by ASIC are not eligible for compensation.

Next steps

A more appropriate forum for you to seek compensation may be through an application for an 'Act of Grace' payment from the Department of Finance. Act of Grace payments may be made when the Finance Minister or delegate considers it is appropriate to do so because of special circumstances. Special circumstances are described as including where 'an act of a [non-corporate entity] has caused an unintended and inequitable result to the individual or organisation seeking the payment'. I note that ASIC is defined as a non-corporate entity by s8(1A)(a) of the *ASIC Act 2001 (Cth)*. You are able to read more about 'Act of Grace' payments and the application process for the payment on the Department of Finance's website located here: <https://www.finance.gov.au/resource-management/discretionary-financial-assistance/act-of-grace-mechanism/information-for-applicants-act-of-grace-requests.html>.

Yours sincerely

Martin Stockfeld
Senior Manager
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