

9 August 2019

Jacqueline Rush, Senior Policy Adviser
Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001

Via email: IDRSubmissions@asic.gov.au

Dear Jacqueline

Internal dispute resolution: Update to RG 165

Thank you for the opportunity to provide feedback to ASIC on its proposed updates to Regulatory Guide 165.

The Australian Institute of Company Directors (**AICD**) has a membership of more than 44,000 including directors and senior leaders from business, government and the not-for-profit sectors. The mission of the AICD is to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society.

The AICD supports ASIC in updating its existing internal dispute resolution (**IDR**) requirements to improve the way that consumer complaints are dealt with across the financial system. We agree that it is essential for consumers and small businesses to have access to transparent, fair and timely IDR processes.

In this submission, the AICD has limited its observations to question B13Q1 of the consultation paper, which seeks comments on systemic issue identification, escalation and analysis.

Systemic issues and the role of the board

Customer complaints are a key risk indicator for conduct issues, and it is important that boards have sufficient visibility of them. Effective oversight of non-financial risks (including legal compliance) is a core governance responsibility of the board.

The AICD therefore supports the principles-based approach taken by ASIC to help strengthen the accountability framework and the identification, escalation and reporting of systemic issues by financial firms.

We note that Proposal B13(a) makes it clear that boards and financial firm owners must set clear accountabilities for complaints handling functions, including setting thresholds for, and processes around, identifying systemic issues that arise from consumer complaints.

This is an important first step in addressing systemic issues. There is no uniform approach to identifying systemic issues. It is important that boards have the discretion to set thresholds and processes for identifying systemic issues that arise from consumer complaints, as this will ensure that they are appropriate and workable for the relevant financial institution.

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If thresholds are not set at the appropriate level and processes are not sufficiently clear, there is a risk that boards will not receive the “right information” – i.e. information that has been sufficiently analysed and evaluated by management in order to allow board members to effectively discharge their oversight responsibilities. As Commissioner Hayne observed in the final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (**Financial Services Royal Commission**), it is the *quality* not the quantity of information provided to boards that is critical.

We also support the proposed requirement that reports to the board and executive committees must include metrics and analysis of consumer complaints including about any systemic issues that arise out of them, and the suggested processes for financial firms in identifying systemic issues.

The AICD understands that this has been a core area of focus for financial firms following the Financial Services Royal Commission, although we acknowledge ASIC’s ongoing concerns about firms’ efforts to identify, escalate and resolve systemic issues.

The AICD also recognises that from both a customer and corporate governance perspective it is far preferable to have systemic issues resolved by financial firms without the need for customers to have to resort to external dispute resolution mechanisms such as the Australian Financial Complaints Authority (**AFCA**).

Next steps

We hope our comments will of assistance.

If you would like to discuss any aspect of this letter further, please contact Christian Gergis, Head of Policy at [REDACTED] or Christie McGrath, Senior Policy Adviser at [REDACTED].

Yours sincerely



LOUISE PETSCHLER
General Manager, Advocacy