

PRIME TRUST ACTION GROUP

30 January 2020

Mr Andrew Bleeze
Assistant Director
Discretionary Payments Section
Risk and Claims Branch
Department of Finance

By email: SFC@finance.gov.au

Dear Mr Bleeze

PRIME RETIREMENT AND AGED CARE PROPERTY TRUST

Thank you for your prompt response to our letter of 28 January 2020.

We note your statement that in reviewing any act of grace claim, Finance will seek advice from ASIC addressing the claims made in our CDDA Claim application including whether there had been defective administration and whether compensation would have been paid had ASIC considered the matter under the CDDA Scheme.

However, we are having difficulty reconciling your claim that ASIC had advised Finance that its enabling legislation prevents the consideration by its portfolio minister under the CDDA Scheme with advice received from them that ASIC was subject to the CDDA Scheme and an email from ASIC dated 29 January 2020 advising that our correspondence to them has been referred to the appropriate section in ASIC and the issues we have raised are still under consideration.

Under the circumstances, we would not be necessarily acting in the best interests of the investors we represent should we accept the offer from Finance to consider an act of grace settlement whilst ASIC is still considering our CDDA Claim and its full implications have not been outlined and understood.

Under the circumstances we believe that our offer of a face to face meeting with Finance and ASIC is a more appropriate approach rather than a telephone call. Naturally we would be happy to have a call to discuss and arrange such a meeting.

We note that it has previously been confirmed to us in writing that ASIC is subject to the CDDA Scheme.

We also note that Portfolio Minister (the Treasurer in this case) has the power to decide CDDA Claims against ASIC and this is indeed confirmed on the ASIC website:

" .. Portfolio Ministers and officials authorised by the Portfolio Minister can decide applications made under the CDDA Scheme."

Source (downloaded 30 January 2020): <https://asic.gov.au/about-asic/dealing-with-asic/financial-compensation-schemes/>.

We are also cognisant that the CDDA Scheme operates on the basis of authority provided to individual portfolio ministers under the executive power of sections 61 and 64 of the Australian Constitution and that any move to preclude CDDA Claims against ASIC would effectively deny investors their Constitutional rights.

We look forward to hearing from you by return email. Our personal contact numbers are also noted below:

Roger Pratt 0413 592 330 and Steve O'Reilly 0403 894 019.

Yours faithfully,

Roger Pratt

Steve O'Reilly

copies

Australian Securities and Investments Commission
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