

PRIME TRUST ACTION GROUP

28 January 2020

Ms Adriana Bianchi
Complaints Officer / Chief Legal Office
Australian Securities and Investments Commission

By email: adriana.bianchi@asic.gov.au

Dear Ms Bianchi

PRIME RETIREMENT AND AGED CARE PROPERTY TRUST

We refer to our letter of 10 December 2019 together with our email of 18 December 2019 and note that despite your commitment to respond we have not received a reply. However, on 21 January 2020, we received an email communication from the Department of Finance stating that the CDDA Scheme does not apply to ASIC because there is no provision for it in ASIC's enabling legislation.

Our response to the Department of Finance has been copied to you where we have outlined that the CDDA Scheme operates on the basis of authority provided to individual portfolio ministers under the executive powers of the Australian Constitution and not any provision in ASIC's enabling legislation.

We also refer to ASIC's "Guide for Assessing Claims for Compensation Under the CDDA Scheme" as provided to us under a freedom of information application in February 2019. Paragraph 5 of the Guide states that:

*"Any ASIC staff member who has received or is asked to assess a claim for compensation **MUST** follow the process set out in this Guide." (emphasis added)*

We are concerned that ASIC is not complying with its own internal written procedures as receipt of the initial application was confirmed by ASIC. We would therefore appreciate your advice as to whether:

- a) our CDDA Claim has been registered;
- b) Commission Counsel has been advised; or
- c) a Case Officer has been assigned to the matter.

If any of these initial and essential procedural requirements have not been attended to, we note that this would represent a significant breach of ASIC's internal procedures.

We repeat the offer made in the response to the Department of Finance that notwithstanding the failure of ASIC to treat the matter with due and fair process to date, we are prepared, on a without prejudice basis and reserving all our rights to have the matter dealt with under the ASIC procedures

for assessing a CDDA Claim, to consider a face to face meeting with the Department of Finance and ASIC to discuss the issues.

If you are prepared to continue on this basis, please contact the undersigned.

Yours faithfully,

Roger Pratt

Steve O'Reilly

copies

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