The federal government responded to calls for a banking royal commission with a raft of changes to the Australian Securities and Investment Commission (ASIC) but for consumers, who bore the brunt of the recent financial scandals, it is further potential changes to the Financial Ombudsman Service (FOS) that may matter the most.

The media has focused on recommendation for change at ASIC, where the majority of recommendations announced yesterday were outcomes of the ASIC Capability Review . The review was itself was recommended by the 2015 Financial System Inquiry , which commenced began back in 2014.

It is good to see movement on these recommendations, though some of the fine points such as the user-pays funding model and ASIC's new recommended internal governance structure may remain subject to debate.

Equally if not more important for consumers is the government's new review - also announced yesterday - of the Financial Ombudsman Service (FOS) and other external dispute resolution schemes. This is where average Australians takes up cases of carelessness, wrongdoing, negligence and fraud every day. According to reports, the FOS alone received 30,000 complaints last year. It is the coal face.

The FOS, itself operating under ASIC's regulatory guidance, is the natural place for consumers to find their voice. It is an independent body for dispute resolution, keeping cases away from the courts with the aim of enabling consumers to win remedial action at lower cost and in less time. There are reported issues around about the response time of staff at the FOS, and the overall resources available to support work volumes and complexity, but the need for a strong FOS appears to be undisputed.

Submissions to the original Financial System Inquiry in early 2014 attest to the role of the FOS, and hint at its potential effectiveness. In one submission, the Consumer Credit Legal Centre in NSW provides case study after case study of consumers who went to the FOS seeking help for unpaid insurance claims, fraudulent mortgages and irresponsible lending practices.

In an ideal world, these circumstances would not arise – but no system is perfect, or immune from abuses. The submission of consumer group Choice to the inquiry also recognised the role of external dispute resolution schemes for both consumers and the benefit of the overall system.

In light of ongoing issues and scandals in the financial sector, it might be reasonable to consider further beefing up the resources and powers of the FOS. Policing a system through high level surveillance is one way to detect problems; gathering intelligence from the grassroots is another.

But the system is messy. In addition to the FOS, the external dispute resolution landscape includes the Credit and Investment Ombudsman and the Superannuation Complaints Tribunal, each with their own guidelines of where and how they can get involved in a case. This is a confusing menu of options for the consumer, even after the 2008 consolidation that brought the number of schemes down from eight to three.

The role, powers and governance of these bodies will now be the subject of another independent review, with an expert panel to be convened and asked to report back by the end of this year. Among other items, this review might consider removing these bodies from ASIC.

Such a separation would leave ASIC free to concentrate on its core role: ensuring market integrity through surveillance and enforcement. It would relieve ASIC of the responsibility for consumer protection in financial services – the only industry where ASIC instead of the ACCC has a mandated role in relation to consumer protection.

A suggestion to relocate responsibility for consumer protection in financial services from ASIC to ACCC was one of the suggestions made by Alex Erskine , in a paper submitted to the Financial Services Inquiry and published by the Australian Centre for Financial Studies in 2014. In the paper, Erskine argues that ASIC suffers from being charged with six policy objectives and insufficient tools – thus failing the Tinbergen Principle that holds that every single policy objective needs to have at least one policy tool if it is to be realised.

This analysis merits careful consideration. In every other industrial sector in Australia, the ACCC is charged not only with consumer protection, but also competition.

The importance of competition in promoting efficiency and encouraging satisfactory consumer outcomes was a theme that carried through the findings and recommendations of the Financial Services Inquiry, and remains a subject of great public debate in relation to the financial services sector.

ACCC holds sufficient power to investigate any matter of unconscionable conduct, whether within a single firm or on an industry-wide level. It is also the competition regulator. These activities sit within its core mandate and institutional expertise. What is the role of this regulator in Australia's financial system?

The opus magnum of the Financial System Inquiry continues to be written, as the industry now awaits the outcome of another highly significant review.

Amy Auster does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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