

Parliamentary Joint Committee on Corporations and Financial Services

Australian Securities and Investments Commission

Answers to Questions on Notice

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Question:

Mr GEORGANAS: I believe you conducted onsite reviews of the advice provided by stockbrokers, including in relation to listed investment trusts and listed investment companies. Can you provide us with further details on these audits?

Mr Shipton: I'll take on notice if there are any further and better particulars that we can provide—

Answer:

ASIC has conducted surveillance reviews on how stockbrokers structure and conduct their personal advice business, with an emphasis on testing compliance with their advice obligations (including the best interest duty). This review included a focus on:

- adequacy of resources;
- risk and compliance frameworks;
- adviser supervision arrangements; and
- management of conflicts of interest (including remuneration and incentives for financial advisers).

This work has included reviewing brokers' product and service offerings, policies and procedures, understanding the scope of their internal audit function, and reviewing a sample of client files. The onsite component included system demonstrations and interviews with management, compliance staff and advisers to:

- a. test their understanding of the advice obligations, and
- b. gather intelligence relating to the use of listed investment companies and trusts (both on the primary and secondary markets).

ASIC's analysis of materials received and information provided as part of these reviews is ongoing. We intend to provide feedback to brokers to help them strengthen their policies and procedures to better ensure compliance. Any misconduct identified may result in enforcement action.

Our focus on consumer harm means we will be continuing our testing of compliance with advice obligations across the stockbroking industry.

We separately continue to monitor misclassification of retail clients as wholesale clients for the purposes of avoiding the consumer protection laws applicable to retail investors.

If as part of this work or our broader supervisory activities we identify conduct that indicates an adviser has breached their best interest duties, we would take appropriate action. It can, however, be difficult to establish to the levels required by law that an adviser has not acted in the best interest of clients where they are providing advice across a range of widely available products and services, they have robust policies and procedures for managing conflicts of interest and they have followed those policies and procedures. We note that the stamping fee issue is broader than the best interest duty. Stockbrokers can receive stamping fees for all client investment that they bring to a LIC or LIT capital raise and not just those that

they provide personal advice (and have a best interest duty) to. The best interest duty in itself is not adequate to deal with the systemic failure with LICs and LITs that the stamping fee exemption creates.