



<b>Committee</b>	Senate Economics Legislation Committee
<b>Inquiry</b>	Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 [Provisions]
<b>Question No.</b>	001
<b>Topic</b>	Greenwashing misleading and deceptive conduct
<b>Reference</b>	Spoken, Hansard page 30, 23 April 2024
<b>Committee member</b>	Senator McKim

### Question

Senator McKIM: I have a last question. Has ASIC ever taken proceedings around misleading or deceptive conduct against a major emitter or fossil fuel producer to date?

Ms O'Rourke: We share those misleading and deceptive conduct responsibilities with the ACCC. That's under Australian consumer law and the Corporations Act. ASIC's actions are focused on financial products and services, and the ACCC are focused on the rest of the economy. The three civil penalty provision cases that ASIC has commenced in relation to greenwashing, which are misleading and deceptive conduct cases, are against financial service providers. Those are Vanguard Australia and two superannuation entities. Statements made in relation to financial products and services are our area of responsibility. We've also taken 17 infringement notice provisions and we've made 40 corrective disclosures. Some of those are in relation to statements made publicly by companies. That can be wider than just financial services companies, because that goes to our responsibility in relation to continuous disclosure or other periodic reporting. I don't have the full list of 17 or 40 in front of me to give you a readout of the cut between different sectors but am very happy to take that on notice if that's of interest.

Senator McKIM: Thank you. That would be much appreciated.

### Answer

#### INFRINGEMENT NOTICES

Entity Name	Entity Type	Sector	Link	No. of infringement notices	Total Value	Date
Morningstar Investment Management Australia Limited	AFSL Holder	Financial services provider	<a href="#">23-324MR ASIC issues infringement notices to Morningstar for statements regarding exposure to weapon investments   ASIC</a>	2	\$29,820	30 November 2023
Future Super Investment Services Pty Ltd	AFS Representative	Financial services provider – Superannuation fund promotor	<a href="#">23-110MR ASIC issues infringement notice to superannuation fund</a>	1	\$13,320	27 April 2023

			<a href="#">promoter for greenwashing   ASIC</a>			
Black Mountain Energy Limited	Company	Energy – Oil, Gas & Consumable Fuels	<a href="#">23-001MR ASIC issues infringement notices to energy company for greenwashing   ASIC</a>	3	\$39,960	5 January 2023
Diversa Trustees Limited	AFSL Holder	Financial services provider – Superannuation trustee	<a href="#">22-379MR ASIC issues infringement notice against superannuation trustee for greenwashing   ASIC</a>	1	\$13,320	22 December 2022
Vanguard Investments Australia Limited	AFSL Holder	Financial services provider – Investment manager	<a href="#">22-336MR ASIC issues infringement notices against investment manager for greenwashing   ASIC</a>	3	\$39,960	1 December 2022
Tlou Energy Limited	Company	Energy – Oil, Gas & Consumable Fuels	<a href="#">22-294MR ASIC acts against greenwashing by energy company   ASIC</a>	4	\$53,280	25 October 2022
Northern Trust Asset Management Australia Pty Ltd	AFSL Holder	Financial services provider – Investment manager	<a href="#">23-344MR ASIC issues infringement notices to Northern Trust Asset Management for greenwashing   ASIC</a>	2	\$29,820	19 December 2023
Melbourne Securities Corporation Limited	AFSL Holder	Financial services provider – Trustee and responsible entity	<a href="#">24-029MR ASIC issues infringement notice to Melbourne Securities for greenwashing   ASIC</a>	1	\$13,320	26 February 2024

### CORRECTIVE DISCLOSURE OUTCOMES

Corrective disclosure outcomes are those outcomes that have been voluntarily obtained through ASIC's engagement with entities on specific disclosure concerns. These disclosure concerns may be identified as a result of specific surveillance or investigative activities or through ASIC's ongoing

supervision of corporate documents lodged with ASIC such as prospectuses or Product Disclosure Statements.

ASIC has obtained a total of 65 sustainable finance-related corrective disclosure outcomes to date. These have been obtained across various sectors including superannuation, managed investment schemes and listed companies. A high-level breakdown of the sectors in which corrective disclosure outcomes have been obtained is provided below:

<b>Sector</b>	<b>Number of Corrective Disclosure Outcomes</b>	<b>Percentage of Total Corrective Disclosure Outcomes</b>
<b>Listed Companies</b>		
Energy – Oil, Gas & Consumable Fuels	7	11%
Materials - Metals & Mining	16	25%
Utilities	1	2%
Consumer Discretionary - Diversified Consumer Services	1	2%
Environmental Services	1	2%
Industrials - Machinery	1	2%
<b>Managed Investment Schemes</b>	28	43%
<b>Superannuation</b>	10	15%
<b>Total:</b>	65	100%

Four of the listed companies above are controlling corporations (or connected to controlling corporations) that met the reporting threshold under the National Greenhouse and Energy Reporting scheme in 2022-2023 which indicates that these companies are (or are associated with operations that are) high emitters, high energy producers or high energy consumers.