



ASIC
Australian Securities &
Investments Commission

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
Question No.	004
Date	26 November 2021
Topic	SMSF auditor referrals from ATO/CADB
Reference	Spoken, 26 November 2021, Hansard page 12
Committee member	Mr Georganas MP

Question

Mr GEORGANAS: Thank you to the commissioners and to the chair, Mr Longo, for appearing today. My questions are about the Company Auditors Disciplinary Board, the CADB. In matters for the CADB in 2020-21, there seemed to be a substantial increase compared to previous years. Many of the matters related to different registered company auditors failing to lodge statements. Does ASIC's annual report cover the referrals to the CADB?

Mr Day: That's a very good question. If you want to continue with the questions, I'll go and have a look at the annual report. I think it does, but in the type of specific detail you're looking for I would expect it might not.

Mr GEORGANAS: It's just interesting, because it would be a really good factor in determining whether there has been an increase.

Mr Day: I suspect that Commissioner Armour or Deputy Chair Court may want to add to this, but there's certainly a concerted effort within ASIC to focus in this area and obviously then to increase the amount of work that we're referring to the CADB. Commissioner Armour may want to say more about that.

Ms Armour: Yes. A number of years ago, this committee conducted a review into audit and financial reporting in Australia. I'm sure I haven't used the proper title of the review, but it was broadly looking at those issues. ASIC determined that it would adjust its supervision of the audit profession, and we have looked to move more matters into enforcement where we see issues with the audit of various companies, so we have actually had a number of criminal outcomes recently, as well as looking at other outcomes. Does that help answer your question?

Mr GEORGANAS: I was having difficulty hearing. It seems a bit muffled. I don't know whether it's just me.

Mr Hughes: I might supplement Commissioner Armour if that's alright. I think Commissioner Armour was making the point that, as a result of the PJC inquiry in relation to auditing, we had taken an enhanced approach to the pursuit of audit matters and had begun the process of referring more matters to the disciplinary board. I might also point out that we're continuing to undertake reports on audits and audit firm inspections over a rolling 12-month period. Our next report on audit firm inspections for the 12 months to 30 June is due to be released before the end of the calendar year.

Mr GEORGANAS: The annual report, on page 108, says ASIC received 32 referrals regarding SMSF auditors from the ATO, and ASIC initiated another eight cases. Do any of those referrals relate to the matters referred to the CADB?

Mr Hughes: We'd have to take that on notice. We're happy to provide a response in writing.

Mr GEORGANAS: I'd like to know how the number of referrals from the ATO has changed over time. Can you provide the numbers from the last decade if it's doable.

Mr Hughes: I'm happy to take that on notice.

Answer

None of the 32 SMSF auditor referrals received from the ATO mentioned in our 2020-21 annual report were referred by ASIC to the CADB.

The CADB disciplines company auditors registered by ASIC under the *Corporations Act 2001*, based on applications from ASIC.

Since 2013 ASIC and the ATO jointly regulate approved SMSF auditors under the *Superannuation Industry (Supervision) Act 1993*. In that time ASIC has received 221 approved SMSF auditor referrals from the ATO.

ASIC registers SMSF auditors and takes direct disciplinary actions, including cancellation, suspension, disqualification, or imposing additional registration conditions. The ATO conducts compliance reviews of SMSF auditors and refers them to ASIC for disciplinary action.

Some but not all SMSF auditors are also registered company auditors, and vice versa. They are separate registrations under different legislation. CADB is not relevant to SMSF audits.

ASIC made decisions about the SMSF auditor registration held by some of the company auditors it has referred to the CADB. However, none of these related to ATO referrals to ASIC.

The table below shows the number of referrals received from the ATO over the last nine years

Year	Number of referrals from the ATO
2014	6
2015	5
2016	12
2017	44
2018	62
2019	37
2020	17
2021	38

The following is a summary of outcomes from referrals received from the ATO:

Outcome	Number
ASIC disciplinary decision - disqualification or cancellation	30
ASIC disciplinary decision Registration suspension	4
ASIC disciplinary decision Imposition of additional conditions on registration	63
ASIC negotiated outcome voluntary cancellation	90
ASIC decided to take no action	6
Currently subject to consideration	22