Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2014 - 2015

Department/Agency: ASIC
Question: AET 157-159
Topic: Statute of Limitations
Reference: Written - 6 March 2015
Senator: Dastyari, Sam

Question:

Questions
If the Statue of Limitations for failing to meet the best interest duty, engaging in misleading or deceptive conduct, or giving a defective statement of advice, or various State tort laws, was lifted from 6 to 10 or 12 years…

157. How would this affect legal actions against financial advisors?
158. Would it allow victims of criminals, such as Peter Holt and Steve Navra, to take meaningful legal action against their former advisors?
159. Has ASIC ever considered the impact of changing the Statue of Limitations?

Answer:

157. As with any legal claim which is subject to limitation periods, an increase in the relevant limitation period would provide a longer window for those with potential claims against financial advisors to bring proceedings seeking compensation.

158. It may be that some clients who have received poor advice from financial advisors do not become aware that they have received poor advice until considerable time has passed. This may be due to any one of a number of reasons including the long term nature of some investments (such as superannuation) and lack of knowledge about financial matters. This delay may, depending on the nature of the legal claim, mean that a limitation period has passed. Extending the relevant limitation periods may avoid this issue arising in some matters.

159. No, this would be a policy matter for Government.