

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Australian Securities and Investments Commission

Question No: 230

Topic: SMSF investment in housing

Reference: Written

Senator: Whish-Wilson, Peter

Question:

1. Does ASIC have any data on recent growth in investment—either directly or indirectly—by self-managed superannuation funds (SMSFs) in property?
2. Has the ASIC assessed the risk of SMSFs exposure to property?

Answer:

1. ASIC does not collect any data on recent growth in investment—either directly or indirectly—by SMSFs in property. The Commissioner of Taxation is the primary regulator for SMSFs and the Australian Taxation Office (ATO) has published data on this topic, which ASIC has regard to: see <https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/Statistics/Quarterly-reports/>.
2. No. ASIC has not assessed the risk of SMSFs exposure to real estate. As noted above, the ATO has published data on SMSFs, including on SMSFs' LRBA linked to residential real estate.

ASIC's primary role in relation to SMSFs is to regulate the conduct of gatekeepers such as financial advisers and SMSF auditors. Advice to a person to establish a SMSF or use an existing SMSF to purchase an asset is 'financial product advice'. This falls within the Australian Financial Services (AFS) licensing regime administered by ASIC.

In 2012, in response to the growth in SMSFs, an increase in geared investment strategies and the PJC inquiry into the collapse of Trio, ASIC established an SMSF Taskforce. The Taskforce continues to meet regularly to examine high risk and emerging SMSF issues such as property spruiking to SMSFs.

With the increased popularity of SMSFs and property investment, the provision of unlicensed advice in relation to SMSFs remains a key priority for ASIC and ASIC has taken enforcement action in this area in cases where property spruiking was involved (such as the recent successful NSW Supreme Court action involving Park Trent: see ASIC MR16/375 available at asic.gov.au).

ASIC has also provided guidance on MoneySmart about issues for investors to consider when investing in property, including through an SMSF: see

<https://www.moneysmart.gov.au/superannuation-and-retirement/self-managed-super-fund-smsf/smsfs-and-property>.