

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

10 – 11 February 2010

Question: aet 124

Topic: Financial Services Licence Holders – Forestry Products

Hansard Page: E123 (11/02/2010)

Senator BUSHBY asked:

Senator BUSHBY—... I have been advised that some of the obligations placed on financial services licence holders who dealt in forestry products in notices sent from ASIC placed unreasonably high burdens on them—for example, requiring them to provide details of clients as they stood at the time of purchase of the products, information that in many cases required manual checking of historical paper records. It may have been some time since that went on, and providing the details as they stood at the time of purchase required manual checking of paperwork to see how it went. Are you aware of those problems? Have they been raised with ASIC?

Mr D'Aloisio—I am not aware of them but I am happy to take that on notice and have a look. If that is part of what is seen as a tightening up or adding additional obligations, I will need to check with our surveillance team, but it would be understandable. These products have been the subject of concerns. We have had failures. It would be part of ASIC to be looking at that a lot more closely.

Answer:

Testing advice for appropriateness under the law always requires a review of the advice that was given and the circumstances of the client at that time. Accordingly this necessitates looking at historical information. Depending on the systems the licensee uses it may or may not involve a manual checking exercise.

To determine whether the advice given to the 60,000 investors was appropriate, ASIC required some licensees (selected on the basis of volume of sales) to go back and review the advice provided to clients and provide information to ASIC about the client's circumstances and the advice provided. Through the formulation of an appropriate investor profile (ie the financial characteristics of a client for which these products are suitable) ASIC was then able to determine which advice was more likely to be inappropriate than others. Licensees were then required to review instances of advice that hit one or more of the ASIC indicators of potentially inappropriate advice. We considered this the fairest and most efficient way to test the appropriateness of advice provided to clients placed in Timbercorp/Great Southern products rather than requiring Licensees to review all advice provided.

Of the licensees issued with ASIC's Notices requiring them to audit files, 9 licensees requested extensions of the time within which they were required to reply. ASIC granted extensions to all 9 licensees. ASIC also answered a number of technical queries from licensees i.e how do I fill out the spreadsheet, what is meant by this question etc.

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ASIC has not however, received any complaints from licensees about any undue or unreasonably high regulatory burden being placed on them in the context of ASIC's agribusiness surveillance activities. To date, the licensees seem to have understood the rationale for ASIC's surveillance activities and have worked in a co-operative fashion with ASIC.