

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

21 – 22 October 2009

Question: sbt 21

Topic: Class Order Relief #2

Hansard Page: E136-7

Senator BUSHBY asked:

Senator BUSHBY—How is ASIC monitoring and enforcing the class order relief, and through which area in ASIC will that be managed?

Mr D'Aloisio—We have a superannuation division. Clearly, it will conduct surveillances and it will look at how this is working and assess if the clarification is working as intended and whether or not trustees are moving more into that personal advice area that they should not be, and so on. That will be picked up as part of our surveillance program.

Senator BUSHBY—When you look at how many trustees have actually applied for class order relief, can you tell me how many would be eligible out of a pool?

Mr D'Aloisio—Yes, we can do that. We will give you the eligibility and who has applied and what decisions we have made.

Senator BUSHBY—Have you actually approached the trustees to see whether they wish to take advantage of the relief?

Mr D'Aloisio—Because the matter was well publicised through the associations and generally through the consultation and through the way we put it into the market, we would expect that those who want to avail themselves of that relief would do so. We would not have to actively canvass them on it.

Senator BUSHBY—Have you done any follow-up with any of those trustees that have applied for relief as to whether they have found it useful or as to their experience as a result?

Mr D'Aloisio—Again, I think that would come through in our surveillance/compliance. I will take that on notice as well.

Senator BUSHBY—How many complaints has ASIC received from consumers about the provision of financial services over the past 36 months?

Mr D'Aloisio—It would not be a figure that I would have readily available but it would be a figure I could obtain. Clearly, over the six or eight months one of the key things has been the Storm Financial area. There were significant complaints in relation to that and, in fact, complaints in relation to the managed investment scheme failures that have occurred. So, yes, in the last six or eight months there would have been quite a number of complaints in relation to financial advisers. We will extract those numbers for you.

Senator BUSHBY—In doing so, can you also advise how many ASIC have actually issued responses to and also what is the average time in which complaints are handled?

Mr D'Aloisio—Yes, we will do that. We have very strict guidelines in terms of answering complaints that come in and response to correspondence. We publish the results in our annual report as well. Generally speaking, they would have all been answered, unless there were some exceptional issues, within 28 days.

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Answer:

Eligibility for Relief

Super fund trustees are not required to apply to ASIC to rely on relief under ASIC Class Order [CO 09/210].

Super fund trustees may choose to rely on [CO 09/210] if they meet a number of eligibility criteria, all of which must be satisfied. These are summarised in Tables 1 and 2 of *Regulatory Guide 200: Advice to super fund members* (see also our response to Question on Notice sbt20). These criteria include that the super fund trustee hold an Australian financial services licence authorising the provision of personal advice about super.

As at 6 November 2009, 49 licensed super fund trustees have personal advice authorisations and are able to give intra-fund advice in reliance on [CO 09/210] where other criteria are also met.

Super fund trustees that do not hold an Australian financial services licence with a personal advice authorisation may apply to ASIC to obtain such a licence and, therefore, become eligible to rely on [CO 09/210] where other criteria are also met.

Alternatively, super fund trustees that do not hold an Australian financial services licence with a personal advice authorisation are able to provide general intra-fund advice or factual information to their members. *Regulatory Guide 200: Advice to super fund members* clarifies how this can be done.

Implementation

ASIC continues to proactively address implementation issues.

ASIC's Super Funds stakeholder team is meeting with super fund trustees to assist them in understanding our guidance and relief. ASIC's Super Funds stakeholder team also continues to communicate with industry on intra-fund advice issues through industry liaison forums and presentations to industry associations and their members.

As a result of these processes, ASIC is aware that a number of super funds are implementing, or considering implementation of, intra-fund advice models.

In addition, ASIC's Super Funds stakeholder team will begin visiting super fund trustees in early 2010 as part of its priority to assist industry to better engage their members. These visits will encourage super fund trustees to engage more with their members and help them to understand their superannuation investment. Among other things, ASIC will seek feedback on how effective *Regulatory Guide 200: Advice to super fund members* and [CO 09/210] have been in assisting with better member engagement.

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Complaints

In the last three financial years ASIC has dealt with more than 35,000 complaints, approximately a third of which have been about financial services. The following table summarises these complaints as well the average time taken to finalise these complaints.

	2008/2009	2007/2008	2006/2007
Total Number of Complaints	13,633	11,436	10,682
Number of Complaints about Financial Services	5,725	3,505	2,629
Average number of days to finalise FS complaints	31	23	19
Median time	19	12	14
% finalised with 28 days	72%	79%	82%