

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION  
ANSWERS TO QUESTIONS ON NOTICE

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<b>Question No</b>	ASIC03QON
<b>Topic</b>	ASIC notices during COVID period
<b>Committee Member</b>	Jason Falinski, MP
<b>Reference</b>	Hansard page 11

### Question

Mr FALINSKI: As part of your COVID-19 plan, to what extent have notices slowed down as a result? To give context, in March 2020 you guys issued a statement saying that you're recalibrating your regulatory priorities to focus on COVID-19 challenges. As part of that statement, you said:

*In issuing information-gathering notices, ASIC has provided new guidance to our staff – mindful that many notice recipients may be facing significant disruption.*

*By taking these actions, industry participants will be better placed to focus on their immediate priorities and the needs of their customers at this difficult time.*

My question, in that context, is: to what extent have the notices slowed down?

Mr Shipton: I can confirm that those notices have slowed down. For instance, in our Close and Continuous Monitoring Program there has been a decline in the onsite supervision and notice utilisation. I don't have the figures to hand, but we can take that on notice if you wanted to get some statistical analysis here. I will also ask my colleague, Deputy Chair Crennan, to make any observations on the enforcements.

Mr Crennan: I would just add that there are a number of aspects of the operation of the office of [inaudible] issuing of notices, which you've referred to. That's been [inaudible]. We are not in a position to give you precise numbers or a graph or anything, but we'll take that on notice and endeavour to get back to you quickly. So too with the section 19 examinations—we have been persevering with them similar to these types of circumstances—and other interactions with the larger entities in particular in circumstances where we, for example, issue 912C notices where an entity can effectively write a report for us and all those sorts of things. So we've explored as many strategies as we can that are efficient and sensitive to the current economic environment such that we can continue to enforce the law, continue to investigate possible contraventions of the law, without overburdening the regulated communities but without stopping the office of influence from its operations in any significant way. I hope that's helpful, but we'll get back to you with the precise details.

### Answer

ASIC issued 2,511 notices in the five-month pre-COVID comparison period (October 2019 to February 2020) and 1,557 notices in the current five-month COVID period (March 2020 to July 2020). This represents a 38% decline in the total number of notices issued<sup>1</sup> in the COVID period compared to the immediate pre-COVID period. Graph 1 below shows an increasing trend for notices throughout 2019 as ASIC focused on the accelerated enforcement outcomes priority in response to the Financial Services Royal Commission. The peak (683 notices issued in August 2019) to trough (226 notices issued in April 2020) represents a 67% decline in notices issued. The May to July 2020 period has seen a modest across-the-board increase in the number of notices issued as ASIC and the regulated population adjust to operating within COVID restrictions.

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<sup>1</sup> The most common ASIC notices are issued pursuant to: s19 of the ASIC Act (to appear for examination); ss30 & 33 of the ASIC Act (to produce books and records); and s912C of the Corporations Act (for an Australian Financial Services licensee to provide information).

Graph 1: ASIC Notices Issued by Month (July 2018 to July 2020)

