

Answer to question in writing:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE ASIC ANNUAL REPORT (SECOND REPORT) 2019

ASIC23QW

At the House Economics Committee public hearing on 30 June 2020, Industry Fund Services (IFS) was asked how its 'limited scope' financial planners could be compliant with the best interests duty, if their financial planners can only give advice on superannuation. IFS told the committee that it was confident that it is possible to provide limited advice and also comply with the best interests duty. IFS advised that ASIC agreed with this position.

(a) What is ASIC's view on limited scope financial advice? Does ASIC believe that it is possible to provide appropriate and compliant financial advice when only considering a limited aspect of an individual's financial needs and goals?

In its response to a question on notice from that hearing IFS stated that:

ASIC's Report 639 *Financial advice by superannuation funds* examined a sample of intra-fund and scaled advice provided by superannuation funds. **The majority of that advice was compliant with s961B, 961G and 961J of the Corporations Act.** ASIC provided additional tips to trustees and advice providers to ensure compliant scaled advice and Intra-fund advice. ([IFS02QON](#))

However, [ASIC Report 639](#) found that the overall pass rate for intra-fund and scaled advice was 56 per cent (pp. 31-32). Whilst this is a majority (i.e. greater than 50 per cent), it is hardly an outstanding performance.

When ASIC's Report 413 *Review of retail life insurance advice* revealed a 37 per cent failure rate, there was outrage and the introduction of a life insurance reform package.

(b) What is ASIC's view of the low overall compliancy pass rates for financial advice provided by superannuation funds?

(c) Has ASIC taken action against any funds as a result of these findings? Does it plan to?

Answer:

(a) Advice providers can provide limited scope personal advice and comply with the best interests duty and related obligations in the Corporations Act 2001 (Corporations Act).

Not all personal advice needs to be comprehensive advice or advice that covers the full range of advice topics that might be relevant to an individual's financial needs and goals.

For example, advice might just deal with a client's life insurance needs or superannuation needs. Such limited advice can meet all the relevant legal requirements for personal advice. This is because what an advice provider must do to meet the legal requirements, including the best interests duty and related obligations, can be 'scaled up' or 'scaled down' depending on the nature or scope of the advice.

(b) ASIC's Financial advice by superannuation funds project included a review of personal advice provided to 233 members of 21 industry, retail, corporate and public sector superannuation funds. In the review we assessed 32 files recording advice that was provided under an intra-fund arrangement, 68 files recording advice that was scaled/limited in scope but not provided under an intra-fund arrangement and 133 files recording advice that was comprehensive in scope.

The findings from the advice review identified the need for improvement in the advice provided to members of superannuation funds. For most files, that did not demonstrate full compliance with the best interests and related obligations, this was due to procedural, disclosure or record-keeping deficiencies. However, the file did not indicate that the member was at risk of suffering detriment as a result of the advice.

For a smaller number of files (36) that did not demonstrate compliance with the best interest duty and related obligations, there was an indication that the member was at risk of suffering detriment as a result of the advice.

(c) ASIC has not taken enforcement action against any specific funds as a result of the advice review findings and it does not plan to do so.

For the files where there was an indication that the member was at risk of suffering financial or non-financial detriment, we contacted the advice licensee of the advice provider requesting them to review the advice and where required, remediate those affected members. We asked advice licensees to confirm that they had undertaken the appropriate steps and to provide us with an update on the outcome.