

Question No: 012-02
Committee Member: Mr Falinski
Topic: Use of the term 'financial adviser' – Role of ASIC

Question:

The *Australian Securities and Investment Commission Act 2001* sets out one of the roles of the Commission is to “promote confident and informed participation by investors and consumers in the financial system”. I note ASIC’s answer to previous questions about the use of the term financial adviser.

- a) Given that the person concerned did not provide financial advice as commonly understood by investors and consumers, how does ASIC’s reference to this person being a former financial advisor, which was replicated in extensive media coverage, advance the statutory role given to ASIC as outlined above?
- b) How does it particularly fulfil this role in relation to the financial advice sector?

Answer:

ASIC advances its statutory role by, among other things, taking action against misconduct to maintain trust and integrity in the financial system. For the financial advice sector, this is about ensuring consumers have trust and confidence in seeking financial advice and that those providing services to consumers are held to account for any misconduct they engage in. For ASIC, as well as focusing on poor advice, it also takes action for other misconduct by persons operating in the financial advice sector to ensure the integrity of the sector.

In this particular case, ASIC took action against a person for dishonest conduct related to attempts to artificially satisfy the minimum spread requirement for companies seeking to be admitted to the ASX, which conduct interferes with the fair and orderly operation of the market and undermines its integrity.

The person engaged in part of the offending in the course of, and in connection with, his role, at the time, as an authorised representative of an Australian financial services licensee, by whom he was authorised to provide advice in relation to financial products. The description ‘former financial advisor’ reflects the person’s role at the time of the offending.