

ASIC FOI 047-2026
Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Supplementary Budget Estimates 2025 - 2026

Agency: Australian Securities and Investment Commission
Question No:
Topic: Targeted review of RG 97
Reference: Written (21 October 2025)
Senator: Andrew Bragg

Question:

1. What was the rationale for ASIC initiating a targeted review of RG 97 at this time?
2. Was this prompted by industry lobbying, data analysis, or ASIC's own supervisory findings?
3. Which stakeholders has ASIC consulted so far on the review, and how are differing views between super funds, property industry groups and consumer advocates being balanced?
4. Will ASIC release a list of stakeholders consulted and any submissions received?
5. What evidence or analysis has ASIC undertaken to assess the impact of current stamp duty disclosure rules on investment decisions?
6. Has ASIC assessed whether stamp duty disclosure materially shifts asset allocation away from property and infrastructure?
7. How does ASIC coordinate with Treasury/APRA to ensure fee disclosure settings under RG 97 impact the operation of the YFYS performance test?
8. Could these changes flow through to how fees are captured by the performance test, if they were to be capitalised and spread across years, would this impact performance test results?
9. Has ASIC considered alternative approaches, such as a new "Taxes and duties" line item, to maintain transparency if stamp duty is excluded from transaction costs?
10. Does the Government accept that removing stamp duty from RG 97 could primarily benefits property developers and large funds with heavy property exposure?
11. Can the Minister confirm which stakeholder groups have actively advocated for this change?
12. How does the Government justify reducing transparency for superannuation members on a material cost that directly affects their retirement savings?
13. What safeguards will be in place to ensure members are still given a true picture of the costs borne?
14. If the Government's stated aim is to improve housing supply, why is it using fee disclosure rules to advance this objective rather than direct housing policy?
15. Can the Government explain how this change would lead to the building of new homes? Stamp duty will still need to be paid, so there is no change in actual cost or returns.
16. Has Treasury modelled the claimed impact (e.g. the PCA's assertion of 35,000 new homes)?

17. How will the Government ensure that changes to RG 97 do not create an uneven playing field between property investments and other asset classes?
18. Has the Government considered whether reclassifying stamp duty would disadvantage funds more heavily invested in equities, alternatives or infrastructure?
19. Can the Minister rule out further changes to RG 97 or the performance test that are designed to advantage specific sectors rather than improve outcomes for members?
20. Will the Minister commit to future changes being subject to full public consultation and consumer impact analysis?
21. Can ASIC clarify the objective of its current data monitoring exercise in the mortgage broking sector? What specific concerns or risks is it seeking to address?
22. What evidence has ASIC relied on to justify this exercise, given the mortgage broking industry's strong consumer outcomes and consistently low complaint volumes?
23. Does ASIC see an opportunity to use this exercise to provide deregulation options for this highly regulated sector?

Answer:

1. ASIC initiated the review in response to consultation at the investor roundtable convened by the Treasurer in August.
2. The review was prompted by industry concerns raised at the investor roundtable that stamp duty disclosure disincentivises investment in property by superannuation funds.
3. The working group consists of representatives from superannuation funds, the investment management sector, consumer advocates, and government and regulatory bodies. The review panel is not a decision-making body. ASIC will consider recommendations made by the review panel in accordance with our standard practice for consultations.

The members of the working group are senior representatives of s 47G(1)(a), s 47G(1)(b), Australian Retirement Trust, Cbus Super, Colonial First State, Hesta, Rest Super, Unisuper, Aware, the Super Members' Council, the Association of Superannuation Funds of Australia, the Financial Services Council, Macquarie Bank, Insignia Financial, Super Consumers Australia, the Conexus Institute Advisory Board, APRA and the Department of the Treasury. We have also consulted on this work with Responsible Entity members of the Financial Services Council's Fund Board (Mercer, QIC, Colonial First State, Franklin Templeton, AMP and Australian Unity).

We have proactively reached out to a broad range of affected stakeholders, as outlined above, in an effort to ensure views between super funds, property industry groups and consumer advocates are conveyed to ASIC, considered and balanced. We will release any proposals arising from the review for broader public consultation.

4. Following conclusion of the review, ASIC will release any proposals arising from the review for broader public consultation. Like the Parliament, ASIC's standard practice is to publish submissions made to consultations.

5. The review panel has been invited to provide ASIC with evidence and analysis on how or if current stamp duty disclosure rules distort investment decisions or create outcomes inconsistent with the legislative objective of superannuation.

We have proactively reached out to a broad range of affected stakeholders, in an effort to ensure views between super funds, property industry groups and consumer advocates are conveyed to ASIC, considered and balanced. We will release any proposals arising from the review for broader public consultation, and will seek further evidence through this consultation.

6. The focus of ASIC's review has been on whether current regulatory settings have the potential to cause unintended consequences, impacts on superannuation consumers, or outcomes inconsistent with the legislative objective of superannuation. Our purpose is to examine whether this is effective disclosure, and we have received feedback from the review panel about whether, and to what extent, stamp duty disclosure is impacting investment decisions.
7. Treasury and APRA are both represented on the review panel. Additionally, ASIC has engaged with APRA regarding the impacts of any changes to stamp duty reporting on the performance test, the ATO YourSuper comparison tool, and APRA's Comprehensive Product Performance Package data publication.
8. ASIC analysis indicates that if stamp duty fees were averaged over 5 to 10 years, this would impact some of the tests that use APRA's transaction costs data, including the fees and cost metric in APRA's Comprehensive Performance Package data publication and the total annual fee metric in the ATO's YourSuper comparison tool. Reporting averaged stamp duty costs over a period of time would result in lower fees reported for some years and higher fees for other years than under the current tests. Removing stamp duty as a transaction cost (including moving it to a new 'taxes and duties' line) would result in lower fees in every year than under the current tests. We do not anticipate any significant impacts to the performance test from either removing or averaging stamp duty.
9. ASIC is considering various approaches. Our intention is to maintain transparency for consumers while addressing any identified distortions or unintended consequences arising from the current settings, not to eliminate stamp duty disclosure.
21. ASIC's current monitoring exercise in the mortgage broking sector is focussed on mortgage brokers' compliance with the best interests obligations contained in Part 3-5A of the *National Consumer Credit Protection Act 2009*. The legislative objective of these obligations was to improve consumer outcomes by requiring brokers to act in the best interests of their clients and reducing the potential for conflicts of interest to impact the advice consumers receive from mortgage brokers. Our compliance monitoring exercise seeks to identify and address risks of non-compliance with these obligations to ensure the legislative objective of improving consumer outcomes is met.
22. ASIC is responsible for administering the *National Consumer Credit Protection Act 2009*, including the best interest obligations contained in Part 3-5A. One aspect of this role is regularly monitoring the industry for potential risks of non-compliance. Such monitoring is particularly relevant given the mortgage broking sector plays a significant and increasing role in assisting consumers to obtain mortgage finance, with brokers

originating approximately 78% of new residential home loans (up from 67% four years ago, and 56% in 2017).

23. Ultimately, the Australian Government determines the regulatory policy settings, including for the mortgage broker sector. However, ASIC is undertaking a broader multi-year program of regulatory simplification, focussed on improving access to regulatory information, reducing complexity in regulatory instruments, making it easier to interact with ASIC, and supporting simplification through law reform.

ASIC has:

- Established the ASIC Simplification Group in 2025.
- Published our regulatory simplification report (Report 813 *Regulatory simplification*) in *September 2025*; and
- Invited feedback or suggestions from the public to our regulatory simplification report and the questions it poses about how ASIC can make regulation easier.

We continue to consider potential opportunities for simplification and welcome further suggestions.