

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

17 October – 18 October 2012

**Question:** SBT 32

**Topic:** Complaints Handling Procedures

**Hansard Page:** pg 128, Thursday 18 October 2012

**Senator WILLIAMS asked:**

**Senator WILLIAMS:** A flow-on from the crazy days of lending. In relation to accepting complaints at ASIC, I see you have a proper complaints handling department, I would imagine.

**Mr Medcraft:** Yes.

**Senator WILLIAMS:** And it is a true complaints handling procedure. There is an Australian standard for complaints handling procedures in organisations: it is AS ISO 1002. You are a contributor to the foundation, I believe, of this complaints standard. Unfortunately, ASIC themselves do not subscribe to it. Are you aware of that? Is your complaints section—

**Mr Medcraft:** I will take it on notice.

**Senator WILLIAMS:** That would be fine, because time is short.

**Answer:**

ASIC was a member of the committee that prepared ISO/AS10002-2006. ASIC considered that our participation was important as, around that time, ASIC was implementing the financial services regulation reforms which introduced the Australian financial services licensing regime. These reforms, contained in Chapter 7 of the *Corporations Act 2001*, require licence applicants to have an appropriate internal dispute resolution system in place to deal with complaints from their customers. They also require licence applicants to maintain memberships of one or more external dispute resolution schemes. Accordingly, ASIC considered that a standard was required for licensees to process internal disputes and for the external ombudsman schemes to resolve disputes between the licensee and their customer.

ASIC is not a 'complaints' resolution body for financial services or other matters within our regulatory responsibilities in the same way as Australian Financial Services or Australian Credit licensees, or other regulated entities, and the financial ombudsman services are.

The public and members of the regulated community provide ASIC with valuable information about misconduct that may be occurring and may breach the *Corporations Act 2001*, *Australian Securities and Investments Commission Act 2001*, the *National Consumer Credit Protection Act 2009*, and related legislation. ASIC welcomes these complaints, tip-offs, reports of misconduct, and statutory reports, about regulated entities as valuable sources of intelligence. But ASIC is not a complaints resolution body for these matters. This is because ASIC is not the entity that provided the base service or product that is being brought to ASIC's attention.

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ASIC makes a distinction between these reports of misconduct that we receive and complaints that a company, company officer, insolvency practitioner, or financial services provider may receive from shareholders, creditors, or customers. That type of correspondence is a complaint.

The shareholders, creditors or customers investing in, engaging with, or trading with these entities may be dissatisfied in some way with the provider of those services, and then make a complaint.

Where these complaints are not resolved to the satisfaction of these people, they may be reported to ASIC. ASIC treats these as 'reports of misconduct'. These are valuable sources of information about issues and conduct that is occurring in the market.

ASIC uses ISO/AS10002 to base our processes for receiving, acknowledging, assessing, and actioning reports of misconduct about alleged breaches of the laws we administer and other matters. The Commonwealth Ombudsman has confirmed our approach in this regard. ASIC's process for handling reports of misconduct is not a true 'complaints handling' process, and the ways we resolve and finalise reports of misconduct cannot reflect how organisations receiving complaints about their own service provision resolve and finalise those complaints.

ASIC uses this intelligence information, along with other information we gather, to consider whether we should take further steps or action in respect of the entity, person or issue being reported to ASIC.

Not every report of misconduct or similar matter reported to ASIC requires a formal investigation or litigation. In addition, not every matter reported to ASIC is able to be actioned. Accordingly, ASIC must make decisions on which matters will be escalated for a regulatory response and how those matters will be handled. Public interest considerations and any evidence of systemic conduct are some of the factors taken into account.

ASIC recently released Information Sheets to better advise the public of our handling of reports of misconduct (INFO 153), our approach to enforcement (INFO 151), and our policy on public comment (INFO 152). These Information Sheets are available from our website.