



ASIC
Australian Securities &
Investments Commission

Committee	Senate Economic References Committee
Inquiry	Inquiry into improving consumer experiences, choice, outcomes in Australia's retirement system
Question No.	001
Topic	Cbus Super
Reference	Spoken, 20 February 2025, Hansard page 1
Committee member	Senator BRAGG

Question 1:

Senator Bragg (CHAIR): I first want to ask you about the media release you put out about Cbus last year. Effectively, are you alleging that 10,000 people here have been wronged by these internal processes at Cbus?

Ms Constant: I think it's not appropriate to comment on proceedings in play. However, I think the media release you're referencing and the statement that we made was that ASIC is alleging that more than 10,000 members and claimants have been impacted, with a financial loss estimated at \$20 million, and that by 2022 more than 6,000 Cbus members and claimants had their payments delayed by more than 12 months.

Senator Bragg (CHAIR): So 10,000 people?

Ms Constant: Ten thousand members and claimants, correct.

Senator Bragg (CHAIR): When did you first receive a complaint about this?

Ms Constant: I think ASIC is limited in what it can say about the matter because it's currently before the court. But ASIC's position is set out in full, of course, in the documents filed with the Federal Court.

Senator Bragg (CHAIR): Was it years ago?

Ms Constant: I will take on notice what we can and cannot comment on.

Answer:

As we allege in our concise statement in the proceedings, ASIC first received a breach report from Cbus about these particular systemic issues on 5 August 2023. Subsequently on 19 October 2023, AFCA also advised ASIC of a possible systemic issue with Cbus's claims handling process.

ASIC was aware of media attention relating to Carolyn Hocking's account shared on ABC Radio Melbourne on 5 June 2023. Separately, on 7 June 2023 ASIC also received a Report of Misconduct from a family member assisting a claimant, alleging errors and delays in processing a death benefits claim. Previously, there was a single Report of Misconduct to ASIC on 8 September 2020, from a member whose TPD claim was denied and allegedly not handled properly.

Question 2:

Senator Bragg (CHAIR): When you say 10,000, are these 10,000 complaints that have come through AFCA mainly?

Ms Constant: Again, I'll take on notice what we can and cannot comment on, noting that this is before the courts.

Answer:

ASIC's case is based on claims information Cbus has reported to ASIC, not just complaints which were made to AFCA. After ASIC's investigation commenced, ASIC obtained records of some complaints from AFCA relevant to its proceedings, however ASIC's case is not limited to only those affected claimants who have made a complaint to AFCA.

Question 3:

Senator Bragg (CHAIR): This is a matter of great public interest, as you would imagine. There are people here who have had to get multiple death certificates for their families when they've been suffering a bereavement. There have been people who've waited years and years. There are dozens and dozens of really heart-wrenching case studies. In fact my office has had to deal with two or three just this week where they can't get answers from Cbus, in some cases, many years after people have died. All this is a preface to my question, which is: given this is a matter of great public interest, are you seriously thinking about dealing with this matter through mediation?

Ms Constant: Again, I'll take on notice what we can and can't comment on. I don't think that's something I can comment on. However, I'm very happy to engage more generally on the issue of death benefits and our member services and processes, which, as you're picking up on, ASIC has very much in focus at the moment.

Answer:

ASIC has been ordered by the Federal Court of Australia to attend a mediation with Cbus after the filing of pleadings by the parties. It is a common practice of the Federal Court to order the parties to mediation in response to ASIC civil law enforcement proceedings. The purpose of these orders is to provide an opportunity to the parties to reach an in-principle resolution of the proceedings (subject to Court approval) or to narrow the issues in dispute so as to minimise the cost and time of the Court. In the event agreement is reached between the parties at the mediation on any aspect of the case, the matter will proceed to a public hearing where the Court will receive evidence and make open findings on whether there have been contraventions of the law and the appropriate penalty to impose. The Court is not bound to determine the matter in accordance with any agreement that might be reached between the parties at mediation.