

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Securities and Investment Commission

Question No: 109

Topic: Proceeds of crime actions

Reference: Hansard page 24 (31 May 2017)

Senator: Macdonald, Ian

Question:

Senator IAN MACDONALD: And finally: if there are monetary penalties in criminal cases, the criminal laws of various states provide that the victim can sometimes be awarded some part of any monetary penalty—

Mr Price: Proceeds of crime actions.

Senator IAN MACDONALD: Yes. Is that relevant to the legislation under which you or the actions before the courts have related to?

Mr Price: Typically, it would not be ASIC that takes a criminal action. We might refer a brief of evidence to the Commonwealth Director of Public Prosecutions. I will need to check, but my memory is that ASIC itself does not bring proceeds of crime actions. That is done by other regulatory agencies.

Mr Day: Proceeds of crime actions are brought by the Australian Federal Police. In circumstances where we believe at an early stage, even before charges are laid, that there is a possibility, we will liaise with the Australian Federal Police. Sometimes we have had proactive requests from the federal police about matters themselves. They are the party that takes those actions, and they are then able to take the appropriate steps.

Senator IAN MACDONALD: Are you able to tell me in this instance whether you have been in touch with the federal police, and, if you are able to tell me that, can you tell me what has happened?

Mr Day: We would have to take that on notice.

Answer:

Please note - Senator Ian McDonald has asked this question in the context of Storm Financial (Storm).

ASIC did not provide proceeds of crime application referral to the AFP in regard to Storm. The reasons for this are outlined in the answer to Question on Notice 116.