



ASIC
Australian Securities &
Investments Commission

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
Question No.	010
Topic	s22 ASIC Act
Reference	Spoken, 11 February 2022, Hansard page 23
Committee member	Mr Julian Hill MP

Question

Mr HILL: Is there a standard date or default time frame for the use of a section 22 notice? I know for some of the corruption or integrity commissions it's quite a long time frame—it can be five or seven years—in other instances it might be much shorter. Is it something like three months, six months, five years, 10 years?

Mr Savundra: I'd have to check that, if I could take that on notice, please.

Mr HILL: Okay. I have another question: obviously, being able to being able to conduct interviews and direct interviewees not to discuss the answers is a powerful and important tool, a necessary tool, of a regulator. I understand that. What assurances can you give the committee that the secrecy provisions are not being used to stifle criticism of ASIC and/or the government? And what controls are in place, policy or operational, to prevent the misuse of these powers?

Mr Savundra: I'm happy to respond to that initially and see if others want to add to it. The direction is pertaining to the content of the examination itself, and I take your point that sometimes it might be necessary to refer to the content—the content is the questions asked or the answers given. That doesn't stop someone, without disclosing that content, being critical of ASIC. We, obviously, have comprehensive procedures around complaints about ASIC, so if you wish to complain about ASIC, you make a complaint to our professional conduct unit. We're overseen, as a law enforcement agency, by ACLEI, so you can complain to ACLEI, and you can complain to the Ombudsman. I wouldn't expect it to be used as a device to limit criticism about ASIC. People are free to speak about their interactions with ASIC without disclosing the content of the examination.

Mr HILL: This is an unproductive line of questioning for me. Yes, I appreciate that. Please take on notice the questions we have put. I had no expectation whatsoever that you'd be able to answer the statistics here. The reason, if you like, that I didn't perhaps telegraph this is that I was somewhat curious to see the extent to which senior officers at ASIC have any line of sight to the use of these powers or can point me towards the policies and the controls. Now, complaints to ACLEI and your complaints process is one thing, but I'm not getting a strong sense that this is a significant issue that reaches your lofty heights often, if at all, in terms of how these powers are actually being used and, indeed, what the policies around their use are and where the balance is being struck.

Mr Day: Thanks, Mr Hill, that assists. I think, in terms of formulating answers to questions on notice, we'll provide as part of that a description and an outline of what the policies are so that you can understand that, and then if you've got further questions, once you've got that, we're happy to assist further.

Mr HILL: That's fine. There are a few specifics sitting behind this area of interest, but I don't want to or need to go into that at this time. We'll see what comes back in response to the questions. I have a final question, Chair, I noticed that—

Answer

While we do not keep statistics on such directions, they will typically be made for varying periods of no more than 12 months.