

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

10 – 11 February 2010

**Question: aet 119**

**Topic: Cases Referred to ASIC for Investigation**

**Hansard Page: E116-E117 (11/02/2010)**

**Senator EGGLESTON asked:**

**Senator EGGLESTON**—The *Financial Review* reports that almost half of the 278 matters the ASX referred to ASIC for investigation since 2005 are yet to be finalised. Can ASIC give the exact number of cases that are yet to be finalised from 2005?

**Mr D'Aloisio**—That is something that I would like to take on notice and give you a written answer, because I need to check the source of where that has occurred. What I can say is this: ASX in its surveillance role has got to kind of detect, smell, have a look. I think its former chairman referred to it as being a bit like Neighbourhood Watch: you see something that looks a bit iffy or tricky and you refer it to ASIC with some appropriate work. ASIC then has to take that, do proper and full investigations and collect evidence that would then stand up in court and convince a DPP to take those actions. That necessarily will mean that, just by the nature of the number of referrals, there will be a number of those matters that will not be actioned beyond a certain point. There will be a number that proceed to extensive investigation and then of those that proceed to investigation a fewer number may end up in court. I think I will take that on notice and see if I can give the committee a better run-through of how what starts off as behaviour that looks a bit smelly or whatever tracks its way through. The notion that because ASX has reserved 200 matters to ASIC that should convert to 200 insider trading cases is with respect just a nonsense; it does not translate in that way.

**Answer:**

From 2005 to 15 March 2010, ASIC has received 394 referrals from the ASX.

ASIC considers every referral received from the ASX. The first step involves an initial assessment by ASIC's MarketWatch team to determine whether the referral requires further consideration by an ASIC Deterrence or Stakeholder team. This includes combining like referrals. From the 394 referrals received 16 were combined to result in 378 referrals being analysed. Of these referrals ASIC:

- Continues to conduct an initial assessment on 29 matters;
- determined that 181 referrals did not require further action; and
- referred 168 referrals to an ASIC Deterrence/Stakeholder team for further consideration.

Of the 168 referrals that were considered further by ASIC 64 remain ongoing. Of these 64 referrals, 1 referral dates back to 2005.