

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates, 31 May to 2 June 2005

**Question: Bud 98**

**Topic: ASIC – Administrator’s Report**

**Hansard Page: E80**

Senator Wong asked:

I think there were some witnesses – I will not put it any higher than that – who raised a concern as to the extent to which ASIC investigated such reports. Do you have the figures for the past financial year on how many such reports have been investigated?

We are interested in the trend, so perhaps you could give us the figures for three financial years.

Answer:

In the 2004/2005 financial year, ASIC received and assessed 6,878 statutory reports from external administrators (in comparison to 6,946 in the 03/04 financial year and 6,176 in 02/03). Although the total volume of these reports decreased 1% last year, the number actually reporting alleged offences rose 2%.

In terms of action taken in 04/05, 12% of cases led to a request for further evidence and analysis. This analysis led to the commencement of formal investigations in 28 cases, equalling 0.5% of total reports received, consistent with the previous 03/04 financial year (28 cases investigated, equalling 0.5% of total reports received). In 02/03, statutory reports led to the commencement of 54 formal investigations, representing 1% of total reports received.

In addition to this, ASIC achieved the following results in 04/05 by actioning complaints (as adverse to statutory reports) from external administrators, as part of our External Administrator Assistance initiative:

- 772 company officers were prosecuted for 423 external administrator type offences;
- these prosecutions resulted in the courts awarding \$917,094 in fines and costs;
- 74% of company officers contacted by ASIC chose to comply with their legal obligations.

Presently before the courts are another 290 individuals facing 354 charges (268 of which are liquidator assistance type matters) and another 176 individuals being investigated for liquidator assistance type offences.

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Liquidator assistance matters where ASIC seeks compliance and / or prosecution (where appropriate) include:

- failure to lodge report as to affairs: s475(1), (2), (4), (5) and (6)
- failure by officers to deliver books and records: s530A
- failure by others to deliver books and records: s530B
- failure to attend on liquidator: s530A(2)
- failure to provide address: s530A(5)
- acting as a company officer after liquidator's appointment: s471A
- failure to hand over property and assets of the company: s590