

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

1 June – 3 June 2010

Question: BET 24

Topic: ASIC Coercive Powers

Hansard Page: E120 (01/06/2010)

Senator BUSHBY asked:

Senator BUSHBY—I want to ask some questions initially about the use of coercive powers. Which of the coercive powers available to you do you make most frequent use of?

Ms Gibson—There are three that spring to mind, Senator. One would be the power to require people to acquire documents. The second is the power to attend investigation hearings. The third one would be a power we have to require financial services licensees to give reasonable assistance, which would be to prepare documents rather than just respond to directions.

Senator BUSHBY—What legislative powers give you the right to use those particular three? For the record, which sections?

Mr D'Aloisio—Section 19 and section 33.

Ms Gibson—I am not sure of the other ones either. There is 944DA or something.

Mr D'Aloisio—Asking commissioners that question is a bit tricky. We will take that on notice and give you the answer. It will not take us long to get.

Answer:

ASIC has a number of compulsory powers available to it including, the examination of persons and serving compulsory notices requiring books and records to be produced. The five most frequently used powers by ASIC over the period 1 July 2007 to 17 June 2010 are:

1. Section 33 of the ASIC Act- notice to produce documents in person's possession (6984 occasions);
2. Section 30 of the ASIC Act- notice to produce books about affairs of body corporate or registered scheme (5687 occasions);
3. Section 19 of the ASIC Act- notice requiring appearance for examination (3354 occasions);
4. Section 31 of the ASIC Act- notice to produce books about financial products (1430 occasions); and
5. Section 912C of the Act- direction to provide a statement (939 occasions).

ENDS