

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 110

Topic: Section 912C

Hansard Page: Written

Senator Bushby asked:

- Are section 912C Notices ever used to compel the production of documents? Does ASIC consider this section provides the power to compel the production of documents?

Answer:

The power under s912C of the *Corporations Act 2001* enables ASIC to direct a financial services licensee to provide a written statement to ASIC containing specified information. ASIC does not consider that this power includes a power to compel the production of documents other than the statement itself.

Sometimes parties may provide ASIC with a pre-existing document that contains the information sought by ASIC.

Additionally, from time to time parties will provide documents as part of the process of responding to a s912C notice. For instance, they may provide copies of documents which elaborate or illustrate information provided under s912C. These documents are essentially provided on a voluntary basis.

ASIC may use the power to ask a party to identify a document in which information is recorded or contained but not to seek production of the document.

Our inquiries have shown that there have been isolated instances where s912C has been used in this way. The team involved has been reminded that s912C is not available for this purpose. This issue will also be dealt with as part of ASIC's training course on compulsory information gathering powers. The course is currently being developed.