

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

Question: sbt 68 (ASIC)
Topic: Complaints in banks
Hansard Page: E35-36

Senator SHERRY asked:

Another issue I want to explore in a little more detail is the complaints handling processes within banks. Before I get to any detail, would it be of concern to ASIC if a bank manager discussed the financial details of a customer in a public place?

Mr Lucy—I expect that it would certainly be of concern to the client, but I doubt very much that it is a matter that is relative to our legislation. With the manner in which you described that example, I think it would be more to do with privacy requirements.

Senator SHERRY—But would that seem to indicate a lack of compliance activity by the bank?

Mr Lucy—It would certainly be the indicator of that.

Senator SHERRY—Other than the privacy legislation, you do not know of any specific area of financial regulatory law that that would breach?

Mr Lucy—Let us take that on notice and I will also look at the extent to which we have received any inquiry about that issue.

Senator SHERRY—Please take it on notice and perhaps identify, in areas of your responsibility, where a bank manager discussing in a public place the details of a client of the bank would be a breach of any law that you are responsible for.

Mr Lucy—We will undertake to do that.

Senator SHERRY—The provision of bank statements has been raised with me and the issues around the lack of provision by a number of banking authorities in this regard. Are you aware of the issue and do you have any current complaints before you?

Mr Lucy—This general matter came up in a question on notice, so we are aware of the issue.

Senator SHERRY—As a general principle, isn't it true that banks are required to provide basic bank statements to their customers?

Mr Rodgers—The short answer to that is yes. My own banking experience suggests to me that at least my bank delivers statements to me far more often than the regulation requires them to.

Senator SHERRY—I suspect the couple of banks that I am thinking about are not the bank you are with. One of the reasons I am raising this is that at least one of the banks I have had details of—and I understand that complaints have gone to ASIC—primarily operates in the rural and regional sector. At a time of spreading drought, the non-provision of bank statements to people in these circumstances is just another additional difficulty they have to deal with. Are you concerned about the non-provision of bank statements in any circumstances but particularly in the current circumstances of drought and increased financial pressure on farmers?

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Mr Lucy—‘Concerned’ would not be the right word. We would certainly seek that they meet their obligations and, to the extent that there were any complaints in that area, we would follow them up very vigorously. Absolutely, as it involves people who are suffering hardship with the drought, that would be a matter we would look at very promptly.

Senator SHERRY—I am sure you have had a number of cases in this regard drawn to your attention and I am not going to mention the banks here today—certainly the two that I have in mind. But I would ask that you examine those cases as expeditiously as possible, understanding the pressures there are on your resources. I turn to the general issue of the internal disputes procedures within banks and the way they are operating—and I think I touched on this at the last estimates. Do you have any further update on examination of the operational processes and procedures of banks’ internal dispute processes?

Mr Rodgers—Generally, we have an articulated position regarding internal dispute resolution schemes. I do not think we assert this as a matter of law, but in terms of whether we ask licensees to measure their internal dispute resolution systems against the applicable standard, that is a really useful benchmark for people to be able to work out whether they have something that meets those kinds of benchmarks. This is an area where internal disputes have a mechanism to go external as well, through the Australian Banking Industry Ombudsman. As I recollect, the last ABIO report suggested a decline in complaints to that office from the banking sector.

Senator SHERRY—I have received complaints claiming that the internal procedures of some banks are not operating reasonably and fairly. On the basis of examining some of the matters in this area, I think there is at least an arguable case that, in the case of some banks, the internal disputes procedures are not working reasonably and fairly in terms of time and issues relating to their operation. I would have thought that this is a matter that ASIC should keep under some sort of examination.

Mr Lucy—We certainly do, but again we would be very much dependent upon complaints. I will take that on notice and have a look at what sorts of complaints we are getting in respect of that area.

Senator SHERRY—Without going to the individuals who have raised the issues with me, some of them have been referred to ASIC.

Mr Lucy—Good.

Senator SHERRY—If you could, I would like you to have an examination of those cases in the context of whether those bank dispute procedures are working reasonably and fairly in the interests of consumers.

Mr Lucy—We will respond.

Answer:

Generally, where a bank manager comments on a customer’s financial details in a public place, such conduct would be unlikely to breach laws administered by ASIC.

Under section 1017D of the *Corporations Act 2001 (Cth)*, issuers of deposit products (for example, authorised deposit-taking institutions) are required to provide retail clients with periodic statement at least every 12 months. Statements must include opening and closing balances, details of transactions and other information.

Since January 2004, ASIC has received nine complaints raising concerns about the internal dispute procedures in banks. Of these complaints:

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- q 3 were resolved;
- q 2 were closed with no action taken (one because court proceedings had already commenced and two because the complaint was lodged without details);
- q 2 had no identifiable offences;
- q 1 was referred to the Australian Banking Industry Ombudsman; and
- q 1 was outside ASIC's jurisdiction.