

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

19 – 20 October 2011

Question No: SBT 105

Topic: ASIC investigations

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Senator Williams asked:

Senator WILLIAMS: The problem is that we cannot get explanations. I remember, probably eight months ago, asking Mr Marcellus to contact a person in Adelaide. I took one of your representatives there two years ago, where all the documents were laid out—the PPB and so on. Eight months ago I asked your representative to ring this person and explain why no action had been taken. Four months ago, I rang Mr Marcellus and said, 'Have you spoken to this bloke?' He said, 'No, I will.' I spoke to the man yesterday and he still has not had a call.

People have problems, we bring the problems to you and we get vague answers and no explanations for the people who are complaining. People, whether it is those who dealt with Mr Burt or those who dealt with Mr Max? in Adelaide, get no explanations. This is one of the frustrating things where people make sworn statements on the Bible of wrongdoing, but we cannot get any detail. I do not know how you are going to fix this problem, but we need to have some explanations for the public, who are concerned about these issues, instead of not being able to comment on this issue.

Mr Day: If I may respond, we can look into any isolated examples you speak about. Again, to put some of these things in context, as we have briefed you on before, if I use the last full financial year as an example, 15,000 reports of misconduct came to ASIC.

Senator WILLIAMS: Fifteen thousand?

Mr Day: When I say reports of misconduct—

Mr Dwyer: We are talking total complaints.

Mr Day: We are talking about total matters brought to our attention. Again, of those a large percentage are resolved on the spot—we can assist the person on the spot; a large number of those have no evidence; a large number of those have no breach identified in the material we get. But in every case we endeavour to get back to them and give them reasons for our decisions if we are not able to action the matter further. The thing that needs to be noted is that there are two circumstances that generally apply, which I am sure you will appreciate. The first is, of course, that not every matter brought to ASIC's attention requires ASIC's action. I am sure you would appreciate that.

Senator WILLIAMS: I am sure that is true, yes. You are probably also dealing with angry people who are broke and want to take it out on someone. I understand that totally.

Mr Day: But also we have people who come to us just with concerns of a general nature, say between two directors of the same company who now do not like each other and effectively want us to mediate between them.

Senator WILLIAMS: It happens in marriages too.

Mr Day: Exactly. So, of course, I expect senators would not expect us to investigate and break out lawyers, guns and money for those types of cases. But the second circumstance is that not every matter brought to ASIC's attention can be actioned by ASIC. There is a finite circumstance of what we can get to and what we cannot get to. We do have to take that. But where we cannot get to that we explain to people why we can and cannot and we endeavour to tell them as much as we can. We previously also pointed out to this committee that there are some restrictions that operate on us about what we can and cannot say. It depends on what level of scrutiny we have done and depends on whether or not we have used our powers. Those things have to be taken into account. In an isolated example where you say we have not got back to someone, I will quite happily take that on notice if you give me the details.

Senator WILLIAMS: I have made two phone calls on that very issue.

Mr Day: Very good. I will look into that and sort that out for you.

Answer:

ASIC's investigation and action regarding various complaints lodged by Mr Viscariello remain active.

Due to confidentiality obligations, ASIC is unable to comment further on this matter.