



The Hon David Bradbury MP
Parliamentary Secretary to the Treasurer

Senator Mathias Cormann
Parliament House
CANBERRA ACT 2600

Mathias,
Dear Senator

I refer to the Senate Economics Legislation Committee's report regarding the Corporations Amendment (No 1) Bill 2010 and the recommendation that the Australian Securities and Investments Commission (ASIC) include in its annual report information about the number of search warrants obtained under section 35 the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

I attach for your information a letter from the Deputy Chairperson of ASIC, Ms Belinda Gibson, which advises that ASIC will report on the number of search warrants obtained under section 35 in its annual report and will do so from its next annual report, in 2010-2011.

In relation to telecommunications interception warrants, comprehensive reporting requirements already exist under the *Telecommunications Interception and Access Act 1979*; and I am of the view that this should satisfy that aspect of the Committee's recommendation.

It is the intention of the Government to consider amending the ASIC Act to give legislative effect to this administrative arrangement.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Bradbury', with a long horizontal flourish extending to the right.

DAVID BRADBURY

enc



ASIC

Australian Securities & Investments Commission

18 November 2010

BELENDIA GIBSON
Deputy Chairman

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Dear Mr Bradbury

I refer to discussions that have taken place between Treasury and ASIC officials regarding the Senate Economics Legislation Committee's (the Committee) Inquiry and recent report into the Corporations Amendment (No 1) Bill 2010 (Bill).

In addition to the Committee's recommendation that the Bill be passed, I note that the Committee made a recommendation that if the Australian Securities and Investments Commission (ASIC) does acquire new search warrant and telecommunications interception powers to investigate insider trading and market misconduct offences, it is required to state in its Annual Report:

- the number of times it has used each of these powers;
- the number of times that ASIC referred an insider trading or market misconduct matter to the AFP for investigation for the possible use of the phone interception power; and
- the nature of the use of these powers in each circumstance.

This recommendation deals with two distinct matters: search warrants and telecommunication interception powers.

In terms of search warrants, I have considered this part of the recommendation and can advise you that in future annual reports ASIC will report on the number, and generally on the nature and use of search warrants issued in exercise of the powers contemplated by the Bill during the relevant reporting period. I note that ASIC will not report any information that may identify people that are the subject of a warrant or that may prejudice investigations.

In relation to telecommunications interception warrants, ASIC itself does not have the power to issue these warrants. Other agencies must do so. It is understood that comprehensive reporting requirements for these agencies already exist under the *Telecommunications Interception and Access Act 1979*. It would not be appropriate for

ASIC to separately report on providing information to other law enforcement agencies so that they may consider exercising their telephone intercept powers in circumstances where they may ultimately decide not to do so.

Yours sincerely

A handwritten signature in black ink, appearing to read "Belinda Gibson". The signature is written in a cursive, flowing style.

Belinda Gibson
Deputy Chairman

cc Tim Beale, Treasury
tim.beale@treasury.gov.au