

## Whistleblowers

The *Corporations Act 2001* makes special provision for disclosure by whistleblowers.

If you believe you are a whistleblower and want to find out whether the law protects you, you should read our Information Sheet 52 *Protection for whistleblowers*.

You can get a copy of the information sheet from our website [www.asic.gov.au](http://www.asic.gov.au) or by calling ASIC on **1300 300 630**.

## Other ways we may be able to help you

Our consumer and investor website [www.moneysmart.gov.au](http://www.moneysmart.gov.au) offers up-to-date financial tips and safety checks on:

- scams and swindlers, and
- shares, managed investments, superannuation, insurance and deposits

as well as useful links to consumer information.

You can also register for a free electronic newsletter, *MoneySmart Tips*, or follow us on Twitter at [www.twitter.com/ASIC\\_Connect](http://www.twitter.com/ASIC_Connect).

Our website [www.asic.gov.au](http://www.asic.gov.au) offers searches of:

- Australia's 1.8 million companies, including an email service to alert you to documents that a particular company may lodge with us
- licensed financial services organisations and advisers and their representatives
- prospectuses offered by Australian companies
- company auditors and liquidators, and
- banned financial advisers and disqualified company directors.

You can find all our public announcements, publications and services at [www.asic.gov.au](http://www.asic.gov.au).



ASIC

Australian Securities & Investments Commission



## How ASIC deals with reports of misconduct

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## Our role

ASIC is Australia's corporate, markets and financial services regulator. We contribute to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers.

We welcome reports from members of the public who believe that a company or individual has not complied with the laws we administer. For more information, refer to 'Laws we administer' at [www.asic.gov.au](http://www.asic.gov.au).

## How we assess reports of misconduct

We record every report of misconduct that we receive. We make preliminary enquiries and conduct an initial assessment of your report to see if a law relating to corporations or financial services has been broken. We try to respond to you within 28 days of receiving your report to advise you of the outcome of our assessment.

We can only take action if the matter is within our areas of responsibility. If you have information that is relevant to your report you should provide it to us promptly so that we can consider the information in our assessment.

We weigh every report of misconduct that we receive against four basic questions:

- What is the extent of harm or loss?
- What are the benefits of pursuing the misconduct?
- How do other issues, like the type and seriousness of the misconduct and the evidence available, affect the matter?
- Is there an alternative course of action?

All reports of misconduct that we receive provide us with valuable information, but not every matter brought to our attention requires us to take action.

Under the laws we administer, we have the discretion to decide whether to take further action on reports of misconduct that we receive. Generally we do not act for individuals and we will seek to take action only on those reports of misconduct where our action will result in a greater impact in the market and benefit the general public more broadly.

## When we decide to consider the matter further

When we decide to take action on your report of misconduct after our initial assessment we will generally communicate this to you.

We have a number of options available to us. We may refer your report to a specialist investigation or surveillance team within ASIC to seek compliance with the law we administer. We may also take administrative, licensing, criminal or civil action to remedy any breach of the law we administer.

For more information, read our Information Sheet 151 *ASIC's approach to enforcement* at [www.asic.gov.au](http://www.asic.gov.au).

Sometimes, however, we are unable to tell you what precise action we are taking, or even if we are taking action, as to do so may (among other things) prejudice that action or may affect the market.

For more information read our Information Sheet 152 *Public comment* at [www.asic.gov.au](http://www.asic.gov.au).

## When we decide not to take action

When we decide not to take further action on your report, we will generally communicate this to you.

If we can suggest other ways of dealing with the matters you tell us about, we will. If another organisation deals with the matters you have told us about, we will let you know which one.

Our decision not to take further action on your report does not affect your right to take your own legal action to try and resolve the matter. You may wish to talk to a legal adviser about whether or not to take your own legal action.

Even if we decide not to take further action in relation to your report, the information you provide to us in support of your report:

- tells us which people and what problems are troubling consumers, investors and creditors
- suggests targets for surveillance and inspections
- helps us select cases for possible criminal or civil action, and
- guides us on the warnings and guidance we give.

## Can we recover your money?

We often receive complaints from consumers who want help getting their money back. Even if we believe a law that we administer has been breached, we generally will not be able to recover money for you. Often you will need to get your own professional advice in this regard.

## If you are dissatisfied with our decision

If you are dissatisfied with our decision in relation to your report of misconduct, you may request ASIC to review the decision.

An ASIC officer who was not involved in the original decision will conduct the review, and they will consider any further information you may wish to provide.

If, after this review, you are unhappy with ASIC's handling of your report, you may make a complaint to the Commonwealth Ombudsman.

We encourage you to seek your own independent legal advice about any other rights or remedies that may be available to you if you are dissatisfied with our decision.

## Confidentiality

We will consider any report of misconduct to have been given to us in confidence. We will not reveal the contents of your report unless we are required or authorised to do so under law.

If you wish to know more about your rights to privacy and how ASIC handles your personal information, please refer to ASIC's Regulatory Guide 103, *Confidentiality and release of information* at [www.asic.gov.au/rg](http://www.asic.gov.au/rg) and our Privacy Statement at [www.asic.gov.au/privacy](http://www.asic.gov.au/privacy).