

Credit Ombudsman Service Limited

ABN 59 104 961 882

ANNUAL REPORT 2013

Contents

Corporate Information
Chairman's Report
Chief Executive's Report
Directors' Report
Financial Statements
Notes to Financial Statements
Directors' Declaration
Independent Audit Report

Corporate Information

The Credit Ombudsman Service Limited (the Company or COSL) is a company limited by guarantee, not having a share capital.

The Company operates the Credit Ombudsman Service, an external dispute resolution (EDR) scheme approved by the Australian Securities and Investments Commission (ASIC).

The Company deals with all complaints in relation to 'Financial Services'. This is broadly defined in the Rules of the Credit Ombudsman Service so as to allow holders of both Australian Financial Services Licences as well as Australian Credit Licences and their authorised credit representatives to become members of COSL (Members).

The Company's primary aim is to provide consumers and Members with an alternative to legal proceedings for resolving finance-related disputes.

In doing so, ASIC's Regulatory Guide 139 requires COSL to:

- provide its services at no cost to consumers, and
- be impartial, independent and accessible.

Board of Directors

The Board of Directors of the Company is responsible for overseeing the operations of the Credit Ombudsman Service, for ensuring independent decision-making by the Credit Ombudsman and his staff, and for preserving the independence of the Credit Ombudsman Service.

Under its Constitution, the Board of Directors of the Company comprises:

- an independent Chairman appointed by the Board,
- not less than one and not more than three Member Directors appointed by the Board to represent the Members of the Company, and
- not less than one and not more than three Consumer Directors appointed by the Board to represent the interests of consumers.

Credit Ombudsman

The Credit Ombudsman:

- has overall management responsibility for the Credit Ombudsman Service,
- is empowered to make Determinations and issue binding Awards in relation to consumer complaints made against Members,
- is responsible for establishing systems and procedures to maintain efficient and effective operations in accordance with the Rules of the Credit Ombudsman Service, and
- has all the other powers, functions and duties conferred by the Company's Constitution and the Rules, and as conferred and delegated by the Board from time to time.

Independence in decision-making

The decision-making process and administration of the Credit Ombudsman Service are independent of its Members and sectors of the industry which provide its funding.

The Credit Ombudsman and staff of COSL are:

- entirely responsible for the handling and determination of complaints, and
- accountable only to the Board of Directors.

Credit Ombudsman Service Rules and Guidelines

Complaints about Members are dealt with by the Credit Ombudsman Service in accordance with the Rules and Guidelines promulgated by the Board.

Consumer and Member communications

The Company maintains its website at www.cosl.com.au.

The website:

- publicises its Annual Report on Operations, Position Statements, public submissions, Determinations, case studies, newsletters and media releases,
- has a dedicated Membership section for information about COSL membership, applicable fees, complaint processes and Member resources,
- allows a person to check if a financial service provider against whom they have a complaint is a Member of COSL or a representative of such a Member,
- allows consumers to lodge complaints online, and
- allows access to corporate information about COSL, such as its Constitution, Rules, Guidelines and Annual Report.

Contact Information

Membership

PO Box A252
Sydney South NSW 1235
Phone: (02) 9273 8455
Fax: (02) 9273 8445
Website: www.cosl.com.au
Email: members@cosl.com.au

Case Management

PO Box A252
Sydney South NSW 1235
Phone: (02) 9273 8400
Interstate callers: 1800 138 422
Fax: (02) 9273 8440
Website: www.cosl.com.au
Email: info@cosl.com.au

Chairman's Report

Mark Scanlon Chairman of the Board

On behalf of the Board of the Credit Ombudsman Service Limited (COSL), it is with pleasure that I present the Annual Report for the 2012/2013 year.

We aim to deliver on expectations of our stakeholders by sustaining an active program of continuous improvement in the organisation. So, for example:

- almost all the recommendations of the independent review of COSL's operations conducted by The Navigator Company have now been implemented (some are of an on-going nature),
- our implementation of the recommendations of the external review by CACE Partners, management consultants, has contributed to further organisational and process improvements,
- we are adopting a new edition of our Rules, after due consultation with key stakeholders, to reflect both legislative and regulatory developments in the past twenty-four months, as well as process improvements in the way we deal with complaints.

I am pleased to note that, despite significant growth in the last twelve months, both in terms of membership and complaint numbers, COSL has discharged its remit admirably.

The sometimes challenging decisions the Board and management have had to make – on investing in new processes, staff and resources in view of the increasing number of complaints we receive – have been justified.

I am fully committed to strong corporate governance practices and firmly believe in the benefits an effective board can bring to an organisation. I am confident our non-executive Directors retain independent character and judgement, act in good faith with care and diligence and continue to play an essential role in the composition of the Board, having regard to the skills, knowledge and expertise they bring. This is particularly important in the case of COSL which is required, under the terms of its approval by ASIC, to be independent of both industry and consumers and impartial in its decision-making.

Acknowledgements

I extend my thanks to my colleagues, Ms Karen Cox and Ms Loretta Kreet (Consumer Directors) and Mr Jon Denovan and Ms Vicky Edema (Industry Directors) for their valuable contribution to COSL's governance and strategic direction.

The retirement of Ms Catherine Uhr as Consumer Director last December was a sad loss to COSL.

Ms Uhr was a non-executive director of COSL since its inception in 2003 and was responsible for many of its significant achievements over the years.

The Board, management, staff and I are indebted to her for her contribution to COSL's development and continued growth over the last nine years.

I also thank the Ombudsman, Raj Venga, for guiding COSL through another eventful year and meeting the demands of a constantly evolving EDR landscape. He has led and built the team responsible for this success.

A handwritten signature in black ink, appearing to read 'Mark Scanlon', with a stylized flourish at the end.

Mark Scanlon
Chairman
8 October 2013

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Chief Executive's Report

Raj Venga Ombudsman and Chief Executive

It's been about three years since the National Consumer Credit Protection Act 2009 came into operation. The Act requires persons who engage in credit activities to join an ASIC-approved EDR scheme, such as COSL, as a condition of their licence or authorisation.

The initial surge in, and more than doubling of, our membership numbers since then appears to have now stabilised at about 17,000 members. However, we expect another significant surge in membership in the next 24 months due to recent legislative changes allowing accountants to apply for a limited Australian Financial Services Licence in order to, among other things, provide financial advice relating to self-managed superannuation funds. This will require them to join an ASIC-approved EDR scheme such as COSL.

Complaint volumes

Our complaint numbers have continued to increase (37% in the last 12 months), albeit at a less dramatic pace than in previous years. This has brought its own challenges in terms of ensuring adequate staff resourcing and maintaining acceptable timelines. Indeed, in the past 12 months, we have undergone an organisational re-structure, streamlined our processes further and increased staff numbers by 40% to meet the increased workload.

The legislative landscape has been nothing short of dynamic. Significant law reform in relation to financial planning, credit and privacy, while aimed squarely at industry and intended to benefit consumers generally, has also had implications for us in our case management and training.

Timelines

The time it takes us to resolve a complaint varies from complaint to complaint, depending on:

- the level of assistance a particular consumer may require to articulate their complaint or understand what is needed from them.
- the complexity of the facts and the legal issues involved,
- the time taken by the parties to provide us with the information requested,
- the willingness of the parties to engage in our process in good faith,
- our obligation to allow each party the opportunity to respond to the other's statements, evidence and offers of settlement, and
- our overall workload.

We strive to be completely transparent and accountable in our reporting to stakeholders. When we report on our timelines, we include the period during which a complaint is addressed by the financial services provider's (FSP) internal dispute resolution (IDR) process. (A FSP should generally be afforded the opportunity to first address a complaint before it is referred to us.)

Further, our timelines commence from the time we receive a complaint, not from the time a complaint is first assigned to a case manager. (Some EDR schemes have a 'pre-allocation' pool of files where complaints are held in abeyance until a case

manager's pre-defined workload permits the assignment of the complaint to him or her.)

- Timelines for all complaints

Despite the 37% increase in the number of complaints we received in the last 12 months (on top of the 38% in the previous year), the median number of days it took us to close a complaint was 69 days (previously, 77 days). The average number of days taken to resolve a complaint was 133 days (139 days previously), i.e. just over 4 months.

- Timelines for non-financial hardship complaints

57% (previously, 54%) of non-financial hardship complaints were closed within 3 months of receipt, and 75% (previously, 72%) were closed within 6 months of receipt.

48% (previously, 54%) of the non-financial hardship complaints closed were either in favour of the complainant or by mutual agreement.

- Timelines for financial hardship complaints

Regrettably, 32% (previously 36%) of all complaints we receive relate in some way to financial hardship; specifically, the failure of a lender to agree to a payment variation on grounds of financial hardship. This level of financial hardship complaints is similar to previous years and we do not anticipate a reduction in the foreseeable future.

The underlying causes of the financial hardship complaints we see are unemployment or reduced income (57%) [previously 30%], cost of living, including other debt (4%) [previously 21%], followed closely by illness of the borrower or their family member (22%), business failure (7%), interest rate increases (2%), relationship breakdown (7%) and natural disasters (1%).

Despite the increase in the number of financial hardship complaints, as well as the time and care that needs to be taken to assist consumers to deal with these matters (which are usually emotive and financially critical in nature), the median number of days it took us to close a financial hardship complaint was 64 days (previously 74 days).

24% (previously 22%) of all financial hardship complaints were closed in less than 30 days, 48% (previously 43%) of complaints were closed in less than 60 days and 88% (previously 71%) in less than 120 days.

Addressing delays

As can be seen above, our timelines have started to improve. This is attributable to:

- our new website (see below), which allows complaints received online to be automatically registered in real time onto our system,
- proactively meeting with, and better explaining our processes to, key stakeholders; in particular, FSPs, consumer advocates and caseworkers,
- moving to the use of the telephone as the preferred method of contact with consumers and FSPs,
- increasing our case management team and deepening our expertise,

- re-structuring our organisational settings and better calibrating our workflow,
- cracking down on unnecessary delays by FSPs failing to respond to our request for information by escalating complaints to the next stage of our process, drawing adverse inferences (where appropriate), and notifying ASIC of recalcitrant conduct, and
- focusing on resolving older cases which tend to distort timelines.

We are confident that we will see further improvement in our timelines over the next twelve to twenty four months.

Industry concerns

Industry has expressed its frustration at various forums about having to discontinue enforcement action once a complaint is received by an EDR scheme. Common views are that:

- delays can result in significant cost to a FSP because the security property cannot be sold while the complaint is being addressed at EDR,
- there should be introduced a maximum time limit for EDR schemes to handle debt-recovery complaints, on the expiry of which the FSP would be free to resume or commence enforcement action,
- borrowers and their advocates are lodging complaints with EDR as a delaying tactic or tactical negotiating manoeuvre,
- borrowers are not making payments while the complaint is being heard in EDR, and
- the borrower's equity is being eroded by delays.

ASIC, in releasing the results of a review of the jurisdiction of EDR schemes, confirmed its view on "the appropriateness of the existing policy settings". We think this is the correct regulatory response.

After all, had the complainant defended the proceedings in court, FSPs would still face the same outcomes: they would not be able to realise the security; they would experience delays in having the case heard in court (and the delays would likely be more substantial than those that might be experienced in EDR); and the borrower's equity would, consequently, be diminished by the delays, particularly as defaulting borrowers are unlikely to make payments while the case is being heard.

It is no answer for an FSP to say that borrowers would not usually defend enforcement proceedings in court. That is precisely why EDR schemes were established and given legislative recognition in the NCCP Act and the Corporations Act: to provide access to dispute resolution as an alternative to lengthy and costly legal proceedings.

But we appreciate that delays are in no one's interest. On our part, we will continue to improve our processes and timelines and make EDR as quick and painless as possible, without compromising the quality of our work.

Stakeholder communications

As part of our commitment to be transparent and accountable, we continue to meet with and present to a number of our important stakeholders, including:

- financial counsellors, community legal centres and consumer bodies,
- regulators, and
- FSPs and their peak industry bodies.

Recognition as an EDR scheme

COSL is already approved to operate as an external dispute resolution scheme by ASIC.

As part of the reforms to the Privacy Act 1988, the Office of the Australian Information Commissioner (AOIC) is empowered to recognise EDR schemes for the purpose of handling privacy-related complaints. All credit providers are required to be members of a recognised EDR scheme before they are permitted to disclose credit information to a credit reporting body or access such information. If an individual is dissatisfied with the decision of a credit reporting body or a credit provider about their complaint, or about the outcome of an access or correction request, they may complain to a recognised EDR scheme of which the credit reporting body or credit provider is a member.

COSL will apply to be recognised as an EDR scheme by the AOIC for the purpose of handling privacy-related complaints. These complaints are often part of a broader complaint about financial services. Our recognition as an EDR scheme by the AOIC will minimise the risk of fragmenting the handling of complaints related to the same services that involve both privacy and service delivery related aspects.

Importantly for our Members, this means that they will not need to join another EDR scheme in order to continue to disclose credit information to a credit reporting body or to access such information.

COSL's new website

Our new online hub is intended to foster more effective communication and engagement with our stakeholders and the general public. For example, consumers are able to easily identify and contact the person nominated by a FSP to deal with complaints. Significantly, where a consumer does not know the identity of the FSP because they have only been dealing with an employee or former contractor of the FSP, our website will enable the consumer to identify and locate the relevant FSP and refer their complaint to it.

With thanks

I express my sincere appreciation for the ongoing support and teamwork of my staff and the professionalism and commitment they bring to their roles every day. They have handled the pressure of our increased casework and membership extraordinarily well and have continued to deliver services to a very high standard.

I would also like to express my appreciation to our directors. Their whole-hearted support and guidance throughout the year has been instrumental in COSL's continued growth and success.



R Venga
Chief Executive and Ombudsman
8 October 2013

Directors' Report

Your Directors submit their Directors' Report for the Financial Year ended 30 June 2013. This report is made in accordance with a resolution of the Directors passed on 8 October 2013.

1. Directors

The names of the Directors and the periods during which they were in office during the financial year, as of the date of this Report, are:

Mark Edward Scanlon (whole year and current) – Chairman

Loretta Kreet (since 17 December 2012 and current) – Consumer Director

Karen Cox (whole year and current) - Consumer Director

Jonathan Alexander Denovan (whole year and current) - Member Director

Catherine Louise Uhr (up to 17 December 2012) - Consumer Director

Victoria Anne Massey Edema (whole year and current) - Member Director.

2. Nature of the Company's operations and principal activities

The principal activity of the Company during the financial year was to operate as an external dispute resolution scheme in the financial services industry. The Company's membership includes finance brokers, non-bank lenders, building societies, mutual banks, credit unions, financial planners, finance companies, debt purchasers, small amount lenders, aggregators and mortgage managers.

The Company has operated as an ASIC-approved EDR scheme since 17 December 2003.

3. Review of operations

The operations of the Company during the year resulted in an operating surplus of \$110,091.

4. Significant changes in the Company's state of affairs and principal activities

There have been no significant changes in the Company's state of affairs or principal activities, other than those that may be referred to in the Chairman's Report above.

5. Significant matters or circumstances since balance date

No matter or circumstance has arisen since the end of the financial year that has significantly or may significantly affect the Company's operations in future financial years, or the results of those operations in future financial years, or the Company's state of affairs in future financial years.

6. Likely developments in the Company's operations in future financial years

We are not aware of any likely developments in the Company's operations in future financial years.

7. Environmental regulation and performance

The Company is not subject to any particular and significant environmental regulation under a law of the Commonwealth or of a State or Territory.

8. Dividends

The Company's Constitution prohibits the paying of any dividend or distribution to Members and no dividend or distribution was paid to any Member during the financial year.

9. Company officers

During the year, no officer of the Company was a partner in an audit firm or a director of an audit company that is an auditor of the Company.

10. Options

The Company is a company limited by guarantee without a share capital and therefore, no options were or were able to be granted over unissued shares or unissued interests.

11. Indemnities and insurance

During the year no indemnities were given for any person who is or has been an officer or auditor of the Company. The Company has paid directors and officers insurance cover for all directors at a cost of \$ 6,772.57, exclusive of GST. The Company did not pay any insurance premiums in respect of insurance for auditors.

12. Remuneration and benefits

No Director or other officer of the Company has during the year or since the end of the year received or become entitled to receive any benefit other than those benefits included in the aggregate amount of emoluments received or due and receivable by the Directors and other Officers as shown in the Company's accounts.

13. Directors' and Secretary's qualifications, experience and special responsibilities

ME Scanlon

B.Bus (Accounting) MBA (RMIT) FAICD FCPA – Chairman. Company Director

JA Denovan

LL.B - Member Director. Partner, Gadens Lawyers

VA M Edema

BA LL.B - Member Director. Company Director

K Cox

BA LL.B – Consumer Director. Coordinator of the Consumer Credit Legal Centre (NSW)

L Kreet

B.Ec LL.B - Consumer Director. Senior Solicitor, Legal Aid Queensland

RA Venga

LL.B (Hons) LL.M FAICD – Company Secretary.

14. Meeting attendance

Name	Meetings held whilst a Director	Meetings Attended
Mark Edward Scanlon	4	4
Victoria Anne Massey Edema	4	4
Karen Cox	4	4
Loretta Kreet	2	2
Catherine Louise Uhr	2	2
Jonathan Alexander Denovan	4	3

15. Proceedings on behalf of the Company

During the year, no proceedings were either commenced by or against the Company and accordingly no application for leave under section 237 of the Corporations Act 2001 was made.

16. Registered membership

As at 8 October 2013, the registered membership of the Company was 16,958.

On behalf of the Board



M Scanlon
8 October 2013