

Credit
Ombudsman
Service

Annual Report

October 18

2010

Reporting period: 1 July 2009 – 30 June 2010

**2009/2010
Financial Year**



Owner: Copyright Credit Ombudsman Service Limited
ABN 59 104 961 882
PO Box A252 Sydney South NSW 1235

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Corporate Information

The Credit Ombudsman Service Limited ('COSL') is a company limited by guarantee, not having a share capital. The Company was incorporated as the Mortgage Industry Ombudsman Service Limited ('MIOS') on 18 June 2003 and commenced operations on 1 July 2003. The Company adopted its current name on 17 February 2004.

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

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

ASIC's Regulatory Guide 139 requires the Credit Ombudsman Service to:

- provide its services at no cost to consumers
- be impartial and accessible
- be independent of its Members despite the fact that its operations are funded by a combination of membership fees and complaint fees levied on its Members.

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 staff of the Company, 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
- 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 of the Company
- is responsible for establishing systems and procedures to maintain the Company's efficient and effective operations in accordance with the Rules of the Credit Ombudsman Service
- has all the other powers, functions and duties conferred by COSL'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
- 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 of the Company.

Consumer and Member communications

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

The website:

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

The COSL's Annual Report on Operations 2010 will be published on its website by the end of October 2010.

Contact Information

Membership

PO Box A252
Sydney South NSW 1235
Phone: (02) 9273 8455
Fax: (02) 9261 2792
Website: www.cosl.com.au
Email: members@cosl.com.au

Case Management

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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

On behalf of the Board of the Credit Ombudsman Service Limited ('COSL'), I have the pleasure of presenting the Company's Annual Report for 2010.

Only two EDR schemes remain

COSL deals with all complaints in relation to 'Financial Services'. This is broadly defined in its Rules to ensure EDR coverage for holders of both Australian Financial Services Licences as well as Australian Credit Licences and their authorised credit representatives.

My Board and I are conscious that COSL is one of only two external dispute resolution ('EDR') schemes operating in Australia with the approval of the Australian Securities and Investments Commission ('ASIC'). It is a privilege that we do not take for granted and an acknowledgement that healthy competition in the sector is vital to promote transparency and accountability and to discourage complacency and mediocrity.

The Company's approval by ASIC to operate as a fully-fledged EDR scheme comes with the responsibility to discharge its remit impartially, fairly and effectively. This benchmark is the cornerstone of the Company's case management process and practice.

Our philosophy

COSL has always prided itself for its progressive approach to complaints handling, identifying and addressing evolving issues, and being the first mover in important areas like financial hardship.

It is perhaps this boldness and preparedness to meet challenges head-on that has led ASIC to regard the present state of competition in the EDR sector as a good thing and something that ought to be preserved and encouraged. After all, real competition can only benefit both consumers and industry. Importantly, it means that both EDR schemes must strive to consistently achieve best practice and not be content with mediocrity or slow footedness.

Governance

The Credit Ombudsman Service is an independent scheme which operates in its own right without reference to or affiliation with an industry association, consumer body or a subset of either of these.

As of 9 December 2009, the Mortgage and Finance Association of Australia ('MFAA') voluntarily relinquished its right to appoint industry representatives to COSL's Board. Similarly, the Consumers Federation of Australia may no longer appoint consumer representatives to the Board.

Two existing board members and I are on our final terms in office and a process of board renewal will occur in the next two years or so. Future board members will be appointed directly by the COSL board.

Composition of membership

Historically, COSL's membership has been skewed towards credit-related businesses, such as mortgage and finance brokers, non-bank lenders, mortgage managers, aggregators, wholesale funders and securitisation trustees. Micro-lenders and debt collection firms also now feature more prominently in the composition of our membership.



More recently, we welcomed as Members a number of financial advisers as well as authorised deposit-taking institutions (building societies and credit unions). We have been given to expect that many more financial advisers will join us in the next 12 months and we continue to grow our expertise in that area.

Effect of legislation

The new National Consumer Credit Protection Act has had the anticipated effect of dramatically increasing COSL's membership from 8,700 members in June 2009 to about 12,700 in June 2010, a significant increase of 46%. The new legislation requires credit providers, financial intermediaries and other persons engaged in credit activity to join an ASIC-approved EDR scheme.

We expect our membership to increase still further in the next six months as credit licensees continue to appoint credit representatives to act on their behalf. Credit representatives are required to join an ASIC-approved EDR scheme before they can be appointed to that role.

Up until now, membership of an EDR scheme for persons engaged solely in credit activities was entirely voluntary (except in Victoria from 1 July 2009). In fact, COSL's membership numbers would have been extremely modest had the MFAA not required, from the time of COSL's inception in 2003, certain categories of its members to join an ASIC-approved EDR scheme. COSL, which has always operated exclusively in the non-bank sector, was the natural choice for non-bank lenders and finance brokers.

The new national credit legislation has now obviated the need for the MFAA to require EDR membership for its members, but the Board and I remain extremely grateful to the MFAA for its invaluable support over the years, its promotion of external dispute resolution to its membership and its commitment to raising professional standards among its members.

Increased caseload

With the increase in membership numbers, we will almost certainly see a significant increase in complaints over the next 12 to 24 months. Furthermore, a number of prescribed notices under the National Credit Code alert consumers to their right to refer disputes to EDR.

We therefore continue to monitor our capacity to handle an increasing caseload. For example, the four month period following the end of the 2009/10 financial year has already witnessed an almost 90% increase in the number of complaints we received compared to the same period last year! Our decision to employ and train more case managers during the reporting period has proven to be both prudent and timely, but we may still have to increase our staffing levels further to cope with the deluge.

Fees

Although regrettable, we had no alternative but to increase our membership fees and adjust our complaint fees during the year in order to ensure that we were well resourced to address an increased workload without compromising on the quality of our output and our timelines.

Indeed, ASIC requires an EDR scheme to have the financial and operational capacity to deal with complaints that may be referred to it. Thus it is one of COSL's constitutional objects to ensure that it has the financial resources, staff, technology, research facilities and other resources to ensure the timely, efficient and effective resolution of complaints in the financial services industry.

COSL's operations and the annual free complaint voucher that it offers each of its Members (allowing Members to offset the cost of complaint fees), are essentially funded by



membership fees, not complaint fees. This was designed to ensure that complaint fees remained low and would not impose a crippling burden on sole operators and smaller COSL Members.

Indeed, based on complaints closed during the 2009/10 financial year, I am pleased to say that:

- 79% of COSL Members against whom complaints were made were not charged any complaint fees whatsoever (either because the complaints were closed at the early stages of our process, the fees were waived or the free complaint voucher was used to offset the complaint fees); and
- of the remaining 21% of COSL Members who were invoiced for complaint fees, the average complaint fee charged was only \$288.

However, if the level of complaints in the four months following the end of the 2009/10 financial year is any indication that there will be a consistently elevated level of complaints going forward, it is more than likely that we will have to levy Members who receive complaints an additional fee at the end of the year to reflect our increased costs in dealing with these complaints.

Given COSL's large membership base, membership fees already subsidise complaint fees to a large extent. It is therefore only fair and reasonable that Members who receive complaints are charged an extra levy in proportion to the number of complaints received against them.

This is precisely why we have encouraged and continue to encourage our Members to resolve complaints 'internally' within their IDR process as far as possible. Our data indicates that, already, 53.3% of all complaints we refer back to Members' IDR process are resolved by Members.

Acknowledgements

To promote independence, COSL is also required by ASIC to have a Board comprising an equal number of consumer and industry directors and an independent Chair. Far from this being an impediment, COSL has forged a collegiate board that has worked collaboratively to guide COSL's strategic direction, ensure its operations are adequately resourced, maintain the independence of its Ombudsman and support management's initiatives to improve COSL's performance and coverage. It has been my privilege to have worked with my Board over the past seven years.

It is therefore with some regret that I announce my retirement from the Board in the next 12 months. I have been with COSL since its inception and it is appropriate that I leave my successor with the privilege of leading COSL through its next phase of growth.

I extend my thanks to my colleagues, Ms Kat Lane and Ms Catherine Uhr (Consumer Directors) and Mr Jon Denovan and Ms Vicky Edema (Industry Directors) for their valuable contribution to the governance and direction of the Company, and for their friendship.

I must also record my sincere appreciation and thanks for the tireless and unwavering efforts of my Chief Executive, Mr Raj Venga. The energy, vision and human capital Raj has invested in the Company since his appointment in 2006 have been instrumental in COSL's growth and effectiveness as an EDR scheme.



GW Matthews AM
Chairman
10 October 2010

Chief Executive's Report

We suggested in last year's Report that 2009/2010 would see significant challenges for us as we prepared for the impact of the new national credit legislation on our operations, resources, funding and membership.

I'm happy to say that we managed the challenges particularly well despite the huge spike in membership numbers and the high proportion of financial hardship applications received, while still effectively managing our caseload and the quality of our output during this period of change.

We did this by growing our case management team, up-skilling our case managers and continuously improving our complaint processes to meet the challenges of an increasing caseload.

The avalanche of membership applications in the last three months of the 2009/10 year was processed without too much fuss and on time, thanks to the prudent decision of the Board some two and half years ago to acquire a new computer system which integrated our case management and membership functions.

Interaction with our Members

We continue to meet with our Members, in particular our larger Members, to discuss issues of common interests, such as financial hardship applications, systemic issues and complaints handling generally.

Our larger Members have demonstrated a keen interest in receiving from us statistical information, including comparative complaints data, with which to compare their complaints experience against those who operate similar businesses.

The introduction of national credit licensing spurred us to intensify our communications to Members and prospective members to ensure that they understood the implications of the legislation in relation to EDR scheme membership. For example, no longer could a Member's loan writer or contractor operate under the cover of the Member's COSL membership. They now needed to join an EDR scheme in their own right, irrespective of whether they elected to apply for an Australian Credit Licence or be appointed a credit representative.

We have also discussed with some Members general trends that we may have noticed, and raised with others issues of a potentially systemic nature which, if confirmed, would require us to notify ASIC.

We also issue Member Alerts on topical issues (such as fixed rate break fees, financial hardship) to give Members an indication of our approach to such issues. Member Alerts are often accompanied with tips for Members to avoid complaints. Member Alerts are emailed to Members and are also available on our website.

Our larger lender Members are generally working collaboratively with us in relation to financial hardship applications. This is the case even where the Member is not the lender but has been engaged by the lender (or the lender's administrator) to manage the loan.

We issued a comprehensive position statement on financial hardship aimed at explaining to our Members our approach in dealing with consumers in financial difficulties and this appears to have been well received by industry.

Other stakeholder communications

As part of our commitment to be transparent and accountable, we met with and presented to a number of our important stakeholders, including:

- financial counsellors, community legal centres and consumer bodies



- ASIC and Commonwealth Treasury
- industry bodies, such as the Mortgage and Finance Association of Australia, Abacus Australian Mutuals and the National Financial Services Federation.

Government and regulatory bodies

We were consulted on the development of the new national credit legislation and continue to contribute to the policy development of the second phase of the Government's credit reform.

We maintain close and regular contact with ASIC, both in its capacity as the regulator of the financial services and credit sectors as well as the body that monitors our compliance with conditions attaching to our approval to operate as an EDR scheme.

We are required to:

- report to ASIC any systemic issues and matters involving serious misconduct by a Member; and
- collect and report information to ASIC about complaints we receive on a quarterly basis and in our annual report.

New compensation caps

ASIC has required COSL to adjust the threshold over which it will not deal with a complaint to \$500,000. However, compensation can only be awarded up to a maximum monetary compensation limit which at present is \$250,000, but which will increase to \$280,000 from 1 January 2012.

Annual Report on Operations

ASIC now requires EDR schemes to report annually on the number of complaints that are made against named members.

The report will contain Explanatory Notes to qualify the raw data and give it some important context. Given the sensitivity of the report, we first consulted with Members who had received complaints during the relevant period about how the information would be presented. The report will appear in COSL's Annual Report on Operations which will shortly be available on our website (www.cosl.com.au).

COSL Staff

To ensure their skills are continually being updated and remain relevant to their work, COSL's Case Managers, all legally qualified, receive specific training in, among other things:

- mediation and conciliation (national accreditation)
- consumer credit law
- banking law
- law and practice on investment advice
- plain English language writing skills
- understanding psychological conditions (to assist them in dealing appropriately with parties who may be suicidal or suffering from a mental illness)
- staying positive and effective.

Our dedicated membership department, adequately staffed and resourced, services and maintains records for 12,700 COSL Members. This involves processing applications,



renewals and follow-ups, and attending to the numerous enquiries that are typical of a scheme with a large membership base.

With thanks

I express my sincere appreciation for the sustained commitment, professionalism, and dedication that my staff bring to their roles every day.

I am indebted to my Case Management team not only for the skill and creativity they apply in resolving complaints, but also for the empathy they bring to their jobs.

Credit must also go to my membership team for processing the huge number of membership applications received in the last quarter. This was a time-critical task given the strict regulatory deadlines that applied. We were able to accommodate all applications for membership received on or before 30 June 2010 which enabled applicants to register with ASIC by that date, thus allowing them to continue their credit activities on and from 1 July 2010.

I would also like to express my appreciation to my Chairman, Mr Graeme Matthews AM, and the non-executive directors of COSL. Their whole-hearted support and guidance throughout the year has been unparalleled.

Graeme's foreshadowed retirement from the Board will be a loss to COSL. My staff and I have benefitted enormously from his strategic vision and good counsel over the years.

Graeme was one of the founding fathers of the Mortgage Industry Ombudsman Scheme (MIOS), which was established in 2001 with the support of the Mortgage and Finance Association of Australia. MIOS was established specifically to raise professional standards in the non-bank mortgage industry. MIOS evolved into an independent Credit Ombudsman Service in July 2003.

During Graeme's Chairmanship:

- COSL grew from 1,200 members in 2003 to 12,700 members in 2010
- our membership represented 70% of the entire membership of EDR schemes in the finance sector
- we received approval from ASIC to operate as an EDR scheme under two separate legislative regimes – financial services and credit
- the recommendations of COSL's triennial independent review were implemented in full, with case management being brought in-house under a single Ombudsman/CEO structure and COSL's profile enhanced
- we implemented state of the art case management and membership computer software
- we provided significant policy input to legislative reform, and in particular, national credit and broker regulation.



R Venga
Chief Executive and Ombudsman
10 October 2010

Directors' Report

Your Directors submit their Directors' Report for the Financial Year ended 30 June 2010. This report is made in accordance with a resolution of the Directors passed on 10 October 2010.

1. Directors

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

Name	Role	Length in role
Graeme William Matthews AM	Chairman	(whole year and current)
Katherine Gizelle Lane	Consumer Director	(whole year and current)
Jonathan Alexander Denovan	Member Director	(whole year and current)
Catherine Louise Uhr	Consumer Director	(whole year and current)
Victoria Anne Massey Edema	Member Director.	(whole year and current)

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 finance industry. The Company's membership comprises mortgage and finance brokers, mortgage managers, aggregators, originators, non-bank lenders, finance companies, debt collection firms, trustees, building societies and credit unions.

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 \$114,045.

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 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

As noted in the Chairman's Report, the Company's operations in future financial years and the results of those operations will be affected by the impact of the National Consumer Credit Protection Act which requires credit providers, financial intermediaries and other persons engaged in credit activity to join an ASIC-approved external dispute resolution scheme such as the Credit Ombudsman Service. This will result in the Company having a much larger membership base and an increased caseload which will, in turn, place demands on the Company's resources.

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 \$6,674, 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 qualifications, experience and special responsibilities

Name	Qualifications	Responsibilities
GW Matthews	AM SFFIN FAICD FAIM AFAMI	Chairman. Company Director
JA Denovan	LL.B	Member Director. Partner, Gadens Lawyers
VA M Edema	BA LL.B	Member Director. Company Director
KG Lane	BA LL.M	Consumer Director. Principal Solicitor, Consumer Credit Legal Centre (NSW)
CL Uhr	LL.B	Consumer Director. Solicitor, Legal Aid Queensland
RA Venga	LL.B(Hons) LL.M FIFS	Company Secretary.

14. Meeting attendance

Name	Meetings held with Director	Meetings Attended
Graeme William Matthews	3	3
Victoria Anne Massey Edema	3	3
Katherine Gizelle Lane	3	3
Catherine Louise Uhr	3	2
Jonathan Alexander Denovan	3	2
Graeme William Matthews	3	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 10 October 2010, the registered membership of the Company was 13,364.

On behalf of the Board



GW Matthews AM

Sydney, 10 October 2010

