

Credit Ombudsman Service Limited

ABN 59 104 961 882

ANNUAL REPORT 2011

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Corporate Information

The Credit Ombudsman Service Limited ('COSL' or 'the Company') 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 its Rules to allow holders of both Australian Financial Services Licences as well as Australian Credit Licences and their authorised credit representatives to take up membership in COSL.

The Company's primary aim is therefore to provide consumers and its 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
- 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
- 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, Position Statements, public submissions, Determinations, case studies, Newsletters 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.

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

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

On behalf of the Board of the Credit Ombudsman Service Limited, I have the pleasure of presenting the Company's Annual Report for 2011.

Mr Graeme Matthews AM

As you may be aware, the Company's former Chairman, Graeme Matthews, passed away on 25 December last year.

Graeme's contribution to the betterment of the industry, as well as the interests of both consumers and Members, was widely acknowledged. COSL's Board, management and staff also benefitted enormously from his strategic vision and guidance over the years.

Composition of membership

Historically, COSL's membership has been skewed towards credit-related businesses, such as finance brokers, non-bank lenders, mortgage managers, aggregators, wholesale funders and securitisation trustees.

Building societies, credit unions, financial planners, small amount lenders and debt collection firms now also feature more prominently in the composition of our membership.

Effect of legislation

We have seen a further increase of 22% in our membership numbers this year, on top of the 46% increase the previous year. This is a direct result of the National Consumer Credit Protection Act 2009 which requires credit providers, financial intermediaries and other persons engaged in credit activity to join an ASIC-approved EDR scheme such as COSL. Up until then, membership of an EDR scheme for persons engaged solely in credit activities was entirely voluntary.

As at 30 June 2011, membership in COSL stood at 15,535.

Increased caseload

Predictably, the large increase in membership numbers has seen a marked increase in the number of complaints we receive. In fact, there was a 72% increase in the number of complaints we received this year compared to the previous year. One third of all complaints related in some way to financial hardship.

To this end, we have had to increase the number of our Case Managers by 46% this financial year. Almost all our Case Managers are legally qualified. This is to maintain the integrity of our complaint handling process which often involves an interpretation of the law as it may apply to a particular case.

We continue to monitor our capacity to handle the increased caseload. 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 increased workload.

Fees

Although regrettable, we had no alternative but to increase our membership fees and adjust our complaint fees (effective only on 1 September 2011) in order to ensure that we are properly 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. It is therefore one of COSL's constitutional objects that the Company 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.

Free complaint voucher

We continue to offer Members the annual free complaint voucher which allows them to offset the cost of complaint fees they may become liable for.

Based on complaints closed during the 2010/11 financial year, I am pleased to say that:

- 34% of COSL Members against whom complaints were made were not charged any complaint fees whatsoever (typically because the free complaint voucher was used to offset the complaint fees or because the fees were waived); and
- of the remaining 66% of COSL Members who were invoiced for complaint fees, the average complaint fee charged was only \$287.

Investing in the business

We have invested in the business by:

- continuing to upskill our Case Managers with appropriate training
- upgrading our website for better functionality for our Members, consumers and other stakeholders
- upgrading our IT and telephony infrastructure
- developing a real-time on-line complaint lodgement process (which will be completed in 2012)
- developing a real-time on-line membership and renewal application process (which will also be completed in 2012)
- commissioning an independent internal organisational review to improve efficiencies
- completing office renovations, including moving to open-plan office workstations, to increase our capacity to house new staff without having to relocate premises.

Independent Review

COSL recently commissioned an independent external review of its operations as required by the terms of COSL's approval under ASIC's RG 139 and Article 35 of the COSL Constitution. The Review is being conducted by The Navigator Group which performed the previous independent review in 2006.

The results of the Review will not be available until the end of 2011.

We invited all our Members, as key industry stakeholders, to participate in the Review by providing the reviewer with feedback on their dealings with COSL.

Among other things, the Review will address:

- (a) whether COSL has successfully or substantially implemented the recommendations of the previous independent review
- (b) whether COSL meets the dispute resolution scheme benchmarks described in ASIC's RG 139; namely, accessibility, independence, fairness, accountability, efficiency and effectiveness
- (c) the satisfaction levels of Complainants and Members with the operations of COSL.

Acknowledgements

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.

Ms Lane has indicated that she will step down as a director of the Company at its annual general meeting to allow for a smooth transition of Consumer Directors, both of whom would otherwise retire at the same time at the end of their tenure next year.

I also thank my Chief Executive, Mr Raj Venga, for his determination and continued drive to build on the Company's growth and effectiveness as an EDR scheme.

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

M Scanlon
Chairman
18 October 2011

Chief Executive's Report

This year has been one of the most challenging years for the Company given the significant (but anticipated) increase in membership and complaints and the consequent strain this placed on our operations, resources and funding. Despite this, we effectively managed our caseload and the quality of our output having properly resourced and up-skilled our case management team and continuously improved our complaint handling processes.

Despite the 72% increase in the number of complaints we received, the median number of days it took us to close a complaint (other than a complaint about financial hardship) was 81 days. The average number of days taken to resolve a complaint was 158 days (i.e. just over 5 months).

Internal Dispute Resolution (IDR)

We continue to strongly encourage our Members to resolve complaints 'internally' within their IDR process as far as possible. Our data indicates that more than 50% of complaints we receive have not been first addressed internally by the Member.

Except in exceptional circumstances, these were referred to the Member, with only about half being referred back to us because the complaint or part of the complaint could not be resolved by the Member through its IDR process. This illustrates the value of effective and timely IDR procedures.

It is entirely appropriate and important that a Member is given an opportunity to first resolve a complaint because the escalation of a complaint to us has:

- cost implications for the Member
- reputational implications since we are now required to report annually on the number of complaints received about a particular named Member.

IDR is also critical to complaints handling because in most cases the Member is in a unique position to gather internal documentation, investigate the complaint and respond directly to the Complainant. In fact, our experience suggests that delays are often encountered when a complaint is referred to us without having first been addressed by the Member.

Financial Hardship

Almost 34% of complaints we received related in some way to financial hardship.

The increase in the number of financial hardship complaints has in recent times been proportionally higher than the increase in the number of all complaints we received.

To the credit of my Financial Hardship Team, the median number of days it took us to close a financial hardship complaint was 45 days. 35% of all financial hardship complaints were closed in less than 30 days.

In about 72% of the cases we received, the borrower had been served with a default notice or the lender had commenced legal proceedings, repossessed the security (with or without obtaining judgment) or issued a notice to vacate.

Yet we achieved a satisfactory outcome in 46% of the financial hardship cases we closed. This suggests that not all lenders are, before issuing default notices or commencing enforcement action, properly considering:

- the possibility that the borrower may be in financial hardship; and
- whether a change in the borrower's payment obligations may be appropriate in the circumstances.

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:

- our Members
- 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 continue to be consulted and 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:

- (a) report to ASIC any systemic issues and matters involving serious misconduct by a Member; and
- (b) 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. The report will appear in COSL's Annual Report on Operations which will shortly be available on our website (www.cosl.com.au).

We resolve complaints in a number of ways:

- It can be as simple as directing a Complainant to the Member's IDR process.
- If the complaint has been through IDR, sometimes all it takes is for it to be again referred to the Member for their reconsideration, but this time based on our preliminary assessment of the merits of complaint.
- Our Rules specifically provide that if a Member makes a reasonable offer to settle a complaint and the Complainant does not accept it, we may close the complaint.
- For small claims of less than \$3,000, we have introduced an expedited process to keep complaint fees low.
- If a case is complex and the parties are entrenched in their respective positions, we conduct a full case investigation, which will sometimes result in a Determination being made by the Ombudsman.

What we will be doing in the next 12 months

- Publishing our 2010-2011 Annual Report on Operations
- Releasing the results of our Independent External Review by The Navigator Group
- Launching our new COSL website with improved user functionality and resources, including Member Web Portal with online renewal and database integration for Member record updating and document retrieval
- Introducing online Member Application and Complaint form completion, including web form and database integration
- Improve and develop stronger stakeholder engagement, consultation and communication strategies
- Implement significant reporting and data management improvements
- Continue to deliver Member complaint training workshops
- Further build capacity in our Case Management and complaint handling.

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 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 the Company's non-executive directors. Their whole-hearted support and guidance throughout the year has been instrumental in the Company's continued growth and success.

Mr Graeme Matthews AM

The passing of Graeme Matthews AM has been an enormous loss to COSL, its Board and its staff.

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 more than 15,000 members in 2011
- 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 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.

Ms Kat Lane

The retirement of Katherine Lane as Consumer Director at the Company's annual general meeting this year is another sad loss to the Company. In typical fashion, Kat Lane has put the interests of the Company before her own by electing to retire a year before her tenure expires. This will facilitate the seamless transition of Consumer Directors, both of whom would otherwise retire at the same time at the end of their tenure next year.

Kat Lane has been a non-executive director of the Company since its inception in 2003 and is responsible for many of its significant achievements over the years.

My Board, staff and I are indebted to her for her considerable input into the development and continued growth of the Company in the last eight years.

On a brighter note, we will continue to have dealings with Kat Lane in her capacity as consumer advocate and Principal Solicitor of the Consumer Credit Legal Centre (NSW).



R Venga
Chief Executive and Ombudsman
18 October 2011

Directors' Report

Your Directors submit their Directors' Report for the Financial Year ended 30 June 2011. This report is made in accordance with a resolution of the Directors passed on 18 October 2011.

1. Directors

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

Graeme William Matthews AM (up to 25 December 2010) – previous Chairman

Mark Edward Scanlon (since 1 April 2011 and current) – current Chairman

Katherine Gizelle Lane (whole year and current) - Consumer Director

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

Catherine Louise Uhr (whole year and current) - 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 comprises mortgage and finance brokers, mortgage managers, aggregators, originators, non-bank lenders, finance companies, small amount lenders, debt collection firms, trustees, financial planners, 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 \$131,664.

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

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 \$6,150, 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

GW Matthews

AM SFFIN FAICD FAIM AFAMI – Chairman. Company Director

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

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 whilst a Director	Meetings Attended
Graeme William Matthews	2	1
Mark Edward Scanlon	1	1
Victoria Anne Massey Edema	4	3
Katherine Gizelle Lane	4	4
Catherine Louise Uhr	4	4
Jonathan Alexander Denovan	4	2

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 18 October 2011, the registered membership of the Company was 15,565.

On behalf of the Board



M Scanlon
18 October 2011