

Chapter 1

Introduction

1.1 The Parliamentary Joint Committee on Corporations and Financial Services was established by the *Australian Securities and Investments Commission Act 2001* (the ASIC Act). Section 243 of the ASIC Act specifies the committee's duties, which include:

- (a) to inquire into, and to report to both Houses on:
the activities of the Australian Securities and Investments Commission (ASIC)...or matters connected with such activities, to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed...

1.2 This report is presented in execution of the committee's duty under paragraph 243(a)(i).

1.3 As the corporate, markets and financial services regulator, the Australian Securities and Investments Commission (ASIC) is responsible for monitoring the integrity of Australia's financial system. Areas within the Commission's remit include promoting financial literacy and consumer education; corporate, financial services and consumer credit regulation; and the supervision of trading on Australia's licensed equity derivatives and futures market.

1.4 In inquiring into ASIC's activities, the committee seeks to determine whether ASIC is fulfilling its statutory responsibilities. In considering ASIC's performance, the committee has regard to section 1 of the ASIC Act, which directs ASIC to:

- maintain, facilitate and improve the performance of the financial system and entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy;
- promote the confident and informed participation of investors and consumers in the financial system;
- administer the laws that confer functions and powers on it effectively and with a minimum of procedural requirements;
- receive, process and store, efficiently and quickly, information given to ASIC under the laws that confer functions and powers on it;
- ensure that information is available as soon as practicable for access by the public; and
- take all necessary action to enforce and give effect to the laws of the Commonwealth that confer functions and powers on it.

The public hearing

1.5 The committee held a public hearing on 21 June 2013 at the New South Wales State Library in Sydney. The hearing took the form of a roundtable comprising representatives from the key gatekeepers in Australia's financial services system: financial planners and financial advisers, research houses, custodians, trustees, responsible entities (REs) and auditors.

1.6 The roundtable was designed to examine some of the issues that were raised in chapter 7 of the committee's report into Trio Capital, and in particular the expectation gaps between what investors and the public expects gatekeepers and regulators to achieve, what is legally required of them, and what their roles involve in practice.¹ The committee was also interested not only in how the gatekeepers saw their own role and responsibilities, but in how they perceived the roles of other gatekeepers in the financial system.

1.7 At the roundtable, the committee took evidence from two gatekeepers representing each of Australia's financial services sectors: research houses, financial planners and financial advisers, custodians, trustees, REs, and auditors.

- Mr Richard Everingham, General Manager—Strategy and Development, Lonsec Research Pty Ltd;
- Mr Mark Thomas, Chief Executive Officer, van Eyk Research Pty Ltd;
- Ms Nerida Cole, Managing Director, Dixon Advisory;
- Mr Tony Graham, Executive Director, Macquarie Group Limited;
- Mr Pierre Jond, Chairman, Australian Custodial Services Association;
- Mr Paul Khoury, Deputy Chairman, Australian Custodial Services Association;
- Ms Karen Volpato, Senior Policy Adviser, Australian Institute of Superannuation Trustees;
- Mr Martin Codina, Director of Policy & International Markets, Financial Services Council;
- Ms Eve Brown, Senior Policy Manager—Trustees, Financial Services Council;
- Mr Royce Brennan, General Manager—Risk, BT Financial Group;
- Mr Justin Epstein, Executive Director, One Investment Group;
- Mr Graeme McKenzie, Partner, Ernst & Young;

1 Parliamentary Joint Committee on Corporations and Financial Services, *Inquiry into the collapse of Trio Capital*, May 2012, pp 123–124, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=corporations_ctte/completed_inquiries/2010-13/trio/report/index.htm (accessed 12 June 2013).

- Mr Tony Smith, Partner, Ernst & Young; and
- Mr Amir Ghandar, Policy Adviser—Audit & Assurance, CPA Australia (see Appendix 1).

1.8 The committee selected two representatives from each sector in order to gain the views of gatekeepers that operated a diversity of business models. For example:

- Lonsec Research and van Eyk Research fund their research via markedly different business models;
- Dixon Advisory operates as a financial advisory business whereas Macquarie Group operates at many levels as a provider of banking services, financial products, and financial advisory services; and
- One Investment Group operates as an external RE whereas BT Financial Group, amongst other services, operates internal RE services.

1.9 A brief overview of each of the gatekeeper businesses and industry organisations is given in Appendix 1. The different business models are covered in greater detail in chapter 2.

1.10 Following the roundtable, the committee took evidence from ASIC officials, including the ASIC Deputy Chairman, Mr Peter Kell. For the purposes of this report, it is important to note that the issues raised at the roundtable were not part of the discussion with the officials from ASIC. Several written questions that had relevance to the roundtable discussion were placed on notice for ASIC. ASIC's responses are incorporated into chapters 3, 4 and 5 of this report.

1.11 This report principally reflects the verbal evidence and written statements of roundtable participants. Copies of the Hansard transcript of the hearing have been tabled for the information of the Parliament, and are available on the committee's website.² The written statements are also available on the committee's website. Questions placed on notice, and the answers received, are published on the committee's website. The answers from ASIC and one answer from BT Financial Group regarding the merits of active asset management are included in Appendix 2.

1.12 The committee thanks all those who gave evidence for their time and their contribution to the inquiry.

Key issues and the structure of the report

1.13 This report deals with the key issues arising from the roundtable discussion with financial system gatekeepers, and includes ASIC's response to these issues.

2 Parliamentary Joint Committee on Corporations and Financial Services, *Oversight of ASIC*, http://www.apf.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=corporations_ctte/asic/index.htm (accessed 2 April 2013).

1.14 Chapter 2 looks at the financial system gatekeeper framework in Australia and provides background on research houses, financial planners and financial advisers, custodians, trustees, REs and fund managers, and auditors. The chapter covers the relevant gatekeeper business models and potential conflicts of interest.

1.15 Chapter 3 presents the evidence from the roundtable discussion with particular focus on the relationships between research houses, fund managers, and financial planners and financial advisers.

1.16 Chapter 4 presents the evidence from the roundtable discussion with particular focus on the interactions between custodians, trustees, REs, and the auditors of REs and the auditors of registrable superannuation entities. This discussion also covers key issues such as the responsibility for asset valuation, asset disclosure, and asset verification.

1.17 Chapter 5 presents the discussion of other issues arising at the roundtable including the regulation and oversight of self managed superannuation funds, integrated reporting, the detection of fraud, the challenges of new communications technology, the merits and drawbacks of passive index funds versus active asset management, and the balance between market efficiency and investor protection.