Chapter 1

Statutory oversight

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 report to both Houses on:
>
> > (i) 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 regulator of Australia's corporate sector, markets and financial services, ASIC is responsible for monitoring the integrity of Australia's financial system. Areas within the Commission's purview include regulation of corporations, financial advisors and consumer credit providers, and supervision of trading on Australia's licensed equity, derivatives and futures markets. The Commission may also advise the Minister about changes required to address concerns with the operation of the corporations legislation or the financial products or financial services industry, or to improve the efficiency of the financial markets.[1]

1.4 In inquiring into ASIC's activities, the committee sought to determine whether ASIC is fulfilling its statutory responsibilities as the corporate, markets and financial services regulator. In considering ASIC's performance the committee had regard to section 1 of the ASIC Act, which directs ASIC to:

- maintain, facilitate and improve the performance of the financial system and the 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, the information given to ASIC under the laws that confer functions and powers on it;

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1 *Australian Securities and Investments Commission Act 2001*, para 11(2)(b); ss.11(3).

- ensure that information is available as soon as practicable for access by the public; and
- take whatever action it can take, and is necessary, in order to enforce and give effect to the laws of the Commonwealth that confer functions and powers on it.

Gathering evidence

1.5 The committee held public hearings on 15 June 2011 in Canberra and 24 June 2011 in Sydney. The committee invited the Rule of Law Institute of Australia and Dr Carole Comerton-Forde, Professor of Finance, Australian National University, to give evidence at the hearing on 15 June. The committee appreciates the assistance provided by the Institute and Dr Comerton-Forde, and thanks the witnesses for their contribution to the oversight process. The committee also acknowledges ASIC's ongoing cooperation, and extends its thanks to ASIC for providing facilities for the hearing on 24 June.

1.6 This report reflects evidence taken at the hearings. The witnesses who gave evidence are listed in Appendix 1. Copies of the Hansard transcripts from the hearings have been tabled for the information of the Parliament, and are available on the committee's website.[2]

Additional information

1.7 A number of questions were placed on notice at the hearings. Those questions, and responses to them, are published in Appendix 2.

2 www.aph.gov.au/Senate/committee/corporations_ctte/asic/index.htm