

Tabled Document No 1

By: ASIC, Mr Greg Medcraft (Chairman)

Time/Date: 5.15 pm, 29 May 2012

## **SENATE ECONOMICS COMMITTEE BUDGET ESTIMATES HEARINGS**

### **OPENING STATEMENT**

29 May 2012

Words: 1300 words

Timing: 10+ minutes

- Thank you Chairman.

### **PAUSE**

- With me is Deputy Chair Belinda Gibson, Commissioners Peter Kell, John Price, and Greg Tanzer.
- Mr Price was appointed (23 March 2012) as a Commissioner at ASIC since we last appeared in front of this Committee. He's been responsible for Strategy and Policy at ASIC for some time and is now responsible for a number of important areas including Corporations and Financial Reporting and Audit amongst others.
- I've also just been appointed as the next Chairman of IOSCO.
  - I am honoured to be appointed because it's a reflection of the standing that ASIC and our staff have in the regulatory community.

## **PAUSE**

- Pleased to appear before the Senate Economics Committee today.
- Brief update to Members on ASIC's activities since we last appeared in February.
- We also want to first respond to some important issues about the collapse of Trio Capital and the report of the Parliamentary Joint Committee Inquiry.

## **PAUSE**

- As part of the Inquiry, ASIC reviewed its interactions with Trio and related entities both before the time of any investigation and during the time of the investigation. We did this to ensure that we had met our regulatory duties appropriately.
- From this review, we concluded that we had properly fulfilled our role.
- ASIC's risk based surveillance into hedge funds identified concerns with a Trio fund in 2009 and we are satisfied that this indicates that our processes worked.
- After commencing our investigations, we undertook prompt enforcement action. As a result of ASIC's investigation of Trio, to date more than 10 individuals have either been gaoled, banned by ASIC from providing

financial services, disqualified from managing corporations or have agreed to remove themselves from participating in the financial services industry for a combined total of over 50 years. Two of the individuals agreed to lifetime voluntary bannings.

- Nevertheless, we are committed to continually improving the way we work. Following the Trio Inquiry, we developed a forward plan of work. I would like to provide the Committee with an update on our progress.
- In the area of licensing, we undertook to strengthen the financial requirements for AFS licensees, commencing with responsible entities. We released enhanced financial requirements for responsible entities in November last year, including increased asset requirements. We will shortly release new financial requirements for issuers who offer OTC derivatives to retail clients. This year, we are also consulting on new financial requirements for a range of other licensee groups, including platform operators.
- In our forward program, we undertook to do further work to monitor compliance plans, auditors and committees. Since making our submission to the Inquiry, we have completed four compliance plan audit inspections, and are in the process of finalising a fifth inspection. We have identified a

number of issues from these inspections, and will consider what next steps to take once the final review is completed.

- We are also undertaking a policy review dealing with managed investment scheme constitutions, and will be releasing a consultation paper shortly.
- To improve the quality of information available to investors on hedge funds, we will be releasing new disclosure guidance for hedge funds in the coming months. The disclosure guidelines comprise 'if not why not' benchmarks and additional disclosure principles. They are based on common deficiencies we have identified in hedge fund product disclosure statements issued over recent years, including the PDS for the Astarra Strategic Fund.
- We note the Committee's concern that there may be an expectation gap about the nature of services provided by custodians, and the extent of the checks that they are required to perform in relation to funds. We are currently finalising an extensive review of the custodial sector. We will be releasing a detailed report on this shortly, which will include some clarification of custodians' duties. It will also contain guidance that licensees and product issuers should ensure that, in using the term 'custodian', this does not create a misleading and deceptive impression about the extent of the services they provide.

- And finally, we are continuing our significant program of financial literacy work, including through our consumer website, MoneySmart, and outreach programs.
- We can never entirely guarantee a system free from misconduct and fraud. However, the work ASIC and other regulators are doing, along with the Government's current reforms to the financial advice sector, should improve the strength and integrity of our regulatory regime, and better protect investors and financial consumers.
- We know that Government will make specific comments on the Trio report recommendations. We also note that a number of the broader report recommendations are consistent with suggestions that ASIC made in its submissions, for example:
  - the suggestions that reform be considered to strengthen the regime for compliance plans, compliance audits and compliance committees; and
  - the suggestion that reforms be introduced for the disclosure of underlying assets of managed investment schemes.

### **Delivering against our strategic framework**

- Update on delivery against ASIC's strategic framework.

- These are:  
Confident and informed investors and financial consumers  
Fair and efficient financial markets, and  
Efficient registration and licensing

## **1. Confident and informed investors and financial consumers**

**Education**

**Gatekeepers**

**Consumer behaviour**

### **Education**

#### **MoneySmart website**

- MoneySmart is going strongly and has won two awards, including one announced earlier this week. We've also had recognition from overseas about the extent of our financial literacy work.
  - almost 2 million unique visitors.
  - 1,450 Twitter followers and over 870 Facebook fans
  - 46,000 views of MoneySmart's many videos available via YouTube.
- The site has over 300 pages of content and 26 calculators and tools, including 5 mobile calculators.

## **FOFA**

- We're also doing a lot of preparatory work in relation to the FOFA reforms before Parliament.
  - We're also continuing to make use of our findings from the shadow shopping survey.
- Working with the industry to consult and give further guidance in this area.

## **2. Fair and efficient financial markets**

### **Market supervision**

### **Competition**

### **Corporate Governance**

### **Market Competition**

- We're about to release our ASX assessment report.
- We are also working on proposed changes led by the ASX to the listing rules.

### **Enforcement**

- Continuing our focus on maintaining integrity in the markets and ensuring good corporate governance.

### *Market integrity*

- Since July 2011, action on 22 market integrity matters.
- Action against 24 directors, 9 actions against auditors, insolvency practitioners, liquidators and auditors.

- Also active in dealing with financial services misconduct with 84 actions involving dishonesty, fraud, misleading behaviour and other problems.
- We're also making good use of the market disciplinary panel with 13 actions currently under way.

### **3. Registry and licensing**

#### **Focus on small business**

#### **Efficient registration and licensing**

#### **Business names**

- Yesterday we went live with a new national business names system. Really pleased about it. Now it is:
  - **Easier** – because you can do it all online and only need to do it once rather than separate state registers
  - **Cheaper** – savings to business are significant
  - **Quicker** – you can search and apply online. We also respond to 90% of calls within 60 seconds.
- Replaces eight state and territory systems, simplifying business registration in Australia by offering a single online service.
- Significance for ASIC
  - Over 84 million migrated data records
  - Over 1.6 million existing business name registrations transferred



- 33% increase in calls from 600,000 to 800,000 per year
  - 50% increase in search of the ASIC registers from 60 to 90 million per year
- The launch of this initiative, together with the joint Australian Business Number (ABN)/Business Name registration transaction scheduled for later this year, is expected to deliver approximately \$480 million in benefits to business, consumers and the Government over eight years.
- Under the new streamlined service, businesses only need to register their name once to have national effect and have the option of registering their name at a cost of \$30 annually, or \$70 for three years. Previously, a business operating and registering their business name in every state and territory incurred a cost of more than \$1,000 for the same period.
- Provides genuine time and cost benefits for Australian business, particularly small business.

## **Generally**

- We are continuing to position ASIC to manage changes in the economy and in our society. These types of things affect our regulatory perimeter and the work that comes from that.

## **Conclusion**

- That concludes our opening comments Chairman.
- We are ready to take your questions.

**ENDS**