

Opening Statement – Senate Estimates

Greg Medcraft, ASIC chairman

4 June 2014

(1,000 words)

- Good morning, Chairman.
- Thank you for this opportunity to address the Committee.
- Representing ASIC today are all of our Commissioners –
 - Deputy Chairman **Peter Kell**; and
 - Commissioners:
 - **Greg Tanzer**;
 - **John Price**; and
 - **Cathie Armour**.
- Supporting the Commission are Senior Executive Leaders:
 - Greg Kirk;
 - Warren Day;
 - Chris Savundra; and
 - Tim Mullally
- I have a brief opening statement.
- It covers ASIC's budget position and the latest developments in the Commonwealth Financial Planning matter.

ASIC's budget

- As has been reported, ASIC's budget will be cut by around **\$120 million** over four years.
- This is in addition to the increased efficiency dividend of **\$47 million** over four years, and other savings measures.
- In the 2014-15 financial year, **\$44 million or around 12%** has been cut from our operating budget.
- Our **average staffing levels** will reduce by 209. This is a change from 1,782 to 1,573.
- In anticipation of this cut, we have been proactive in conducting a voluntary redundancy campaign.
 - Over the coming weeks, we will be working with our business units to meet the remaining budget reduction.

PAUSE

- So, what does this mean for ASIC's operations?
- With reduced funding ASIC can still perform its statutory functions.
 - We will adjust our resource allocation to reflect the available funding to continue to achieve our strategic priorities of:

1. confident and informed investors and financial consumers;
 2. fair and efficient markets; and
 3. efficient registration and licensing.
- We will also look to mitigate risks arising from lower levels of activity.
 - But, some change is inevitable.
 - In particular, our **proactive surveillance will substantially reduce** across the sectors we regulate, and in some cases stop.
 - For obvious reasons, we do not want to identify to the market the areas where we will not be conducting proactive surveillance.
 - We will rely more on the intelligence we get from misconduct reports and the complaints we receive.
 - We will limit our risk-based approach to focus on those entities or activities that have the greatest market impact.
 - Where we do find that someone has intentionally broken the law, we will continue to do the best we can to ensure that the consequences are severe.

PAUSE

- Some examples of changes are:
 1. In our consumer cluster –
 - In our Deposit takers, Credit and Insurance team, there will be reduced proactive surveillance. As a result, they will focus on activity by entities that have the greatest market impact at the expense of smaller entities that have smaller customer bases.
 2. In our markets cluster –
 - We will be doing less proactive surveillance of debenture issuers, and fewer document reviews – for example, prospectuses;
 3. In our registry business –
 - There will be reduced levels of service to our registry customers and fewer process improvement activities, such as to online services.

Commonwealth Financial Planning

- On 16 May, ASIC lodged a correcting statement with the current Senate Inquiry into the performance of ASIC.
- We did so because some of our evidence to the Inquiry on Commonwealth Financial Planning (CFPL), both in our submissions and answers to questions, was incorrect.

- We had advised the Inquiry that **\$52 million** compensation was paid to CFPL clients.
 - In fact, **\$41.5 million** had been paid to CFPL clients and **\$10.5 million** to clients of another Commonwealth Bank-owned financial planning firm, Financial Wisdom Limited.
- We had advised the Inquiry that ASIC had negotiated a robust process for compensating CFPL clients.
 - However – contrary to our earlier evidence – two important measures from the original compensation process were not applied to all affected CFPL or Financial Wisdom customers.
 - The two measures that weren't consistently applied were:
 1. Upfront communication with all clients whose files would be subject to review; and
 2. The offer of up to \$5,000 for those clients to get independent advice on any compensation offered.
- To address the inconsistent treatment of those customers we imposed, by agreement with the bank, licence conditions on the AFSL's of CFPL and Financial Wisdom.
 - These conditions, which are being finalised, will require both businesses to provide those two measures to customers who did not receive them.

- This will provide over 4,000 customers with the opportunity to reopen the question of compensation and in doing so to have the benefit of \$5,000 to obtain independent advice.
- I emphasise that the inconsistencies in the methodology do not go to the quality of the file reviews or the adequacy of the compensation offered.

PAUSE

- ASIC regrets that we gave incorrect evidence to the Senate Inquiry and that the customers involved were potentially disadvantaged by the inconsistent treatment.
- We have sought to remedy this for the customers involved to the fullest extent possible through the licence conditions.
- Clearly, there were problems with the remediation process and confusion about what steps had been taken with different groups of clients.
- ASIC was keen that methodology originally agreed upon with the bank for compensating customers was applied consistently.
 - The bank was aware of that.

- Despite this, the methodology was changed in the two ways I have noted and the bank was not sufficiently upfront with ASIC in advising of its decision to change the methodology.
- This is disappointing.
- Despite this, it was ASIC's job to ensure the compensation process, both in methodology and implementation worked effectively.
 - In practice, there was ambiguity in communications between ASIC and the bank and with the independent monitor.
 - As a result, there were different interpretations of what was expected.
 - We should have controlled the process more tightly so that the departure from the original agreed methodology could not have happened.

PAUSE

- In conclusion, Mr Chairman, I reiterate ASIC's regret that we allowed the failings in the Commonwealth Bank compensation process to occur and that our evidence to the Committee was inaccurate.
- We are using our best endeavours to address the situation for:

- the many customers of the bank;
- And also, long-term improvements to achieve good outcomes for financial consumers in the future.
- We are very happy to take your questions.

ENDS