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Review of the Australian Securities and Investments Commission Annual Report 2017

House of Representatives
Standing Committee on Economics

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Chair's foreword

Trust is vital to a healthy financial services industry. However, trust in Australia's financial sector has been eroded by the development of a corporate culture in some institutions that places profit before customers and sales before service.

The reputation of Australia's banking and financial system has been damaged by shocking examples of misconduct, in particular by the four major banks and AMP. Evidence provided to the Royal Commission has exposed parts of the financial sector as having a corporate culture motivated by greed and lacking in moral leadership.

However, evidence of systemic failings also places the Australian Securities and Investments Commission (ASIC) in the spotlight because it is the regulator responsible for promoting investor and financial consumer trust and confidence, and ensuring fair, orderly and transparent markets.

ASIC needs to be tougher. Australians expect the big banks and others to fear their regulator. There have been too many examples where ASIC has not adequately penalised those it regulates. The heavy reliance on enforceable undertakings, for example, rather than seeking court-imposed penalties, has not met community expectations. Too many Australians believe that the banks have been let off 'scot-free' at the expense of banking customers, resulting in terrible financial losses and gross injustices.

The committee recognises that there is a new Chair and Deputy Chair of Enforcement of ASIC who are committed to taking a stronger stance on enforcement, supported by a range of tougher penalties recently introduced by the government.

On 22 June 2018 ASIC appeared before the committee, as part of the review of the regulator's 2017 Annual Report. The committee scrutinised ASIC on actions it is taking to restore trust, eliminate conflicts of interest and raise standards of professionalism in Australia's financial services industry, ASIC's surveillance and enforcement strategy, and new measures to strengthen ASIC.

The committee heard the government is undertaking significant reform of the banking and financial sector, including improving ASIC's ability to gather information, boosting its licensing and banning powers, and increasing criminal and civil penalties for corporate and financial misconduct. These reforms will ensure Australia's penalties are a credible deterrent to unacceptable behaviour.

The committee notes ASIC's call to restore trust, eliminate conflicts of interest and raise standards of professionalism in Australia's financial services industry and will continue to scrutinise ASIC's performance in promoting cultural change. Ultimately, it is up to the leaders and individuals in finance to treat their customers fairly, which is central to rebuilding trust in the services they offer.

Since the hearing, the government has announced a \$70.1 million package of new measures to further strengthen ASIC including \$26.2 million to help ASIC pursue the banks and other well-funded litigants in court for serious misconduct. ASIC will also receive \$8 million to embed dedicated staff within the big four banks and AMP to monitor governance and compliance activities.

The package also includes \$9.4 million to increase supervision of the superannuation sector, \$6.8 million to examine issues and pursue failings of corporate governance in large ASX companies, \$6.6 million to implement reforms to whistle-blower protection, and \$6 million to promote Australia as a world leader in regulatory technology solutions for the financial services industry. Ultimately, this will help rebuild trust in the financial system.

Funding has also been earmarked to improve consumer access to the Financial Advisers Register, to boost ASIC's enforcement work on the unfair contract term protections for small businesses, and for ensuring compliance by licensees and financial advisers with the Future of Financial Advice laws.

This commitment of new funding will enable ASIC to more closely supervise the big banks and better pursue and prosecute those who engage in misconduct in corporations and within the financial services industry.

The committee also took evidence on the poor response of one insurer, AAMI Insurance, to the 2015 Wye River bushfires in Victoria and heard that ASIC does not currently have regulatory oversight of the way consumers' claims are handled by their insurers because of an exemption in the Corporations Act. The committee does not accept that this excuses ASIC's lacklustre response and the inadequate penalty imposed on AAMI for making false or misleading statements in its advertising, after AAMI attempted to dramatically undercut insurance payouts to some policy holders who lost their homes in the bushfires.

On behalf of the committee, I thank the Chairman of ASIC, Mr James Shipton, and other representatives of ASIC for appearing at the hearing on 22 June 2018.

Sarah Henderson MP

Chair



Contents

Chair's foreword	iii
Membership of the Committee	vii
Terms of reference	viii
Abbreviations.....	ix

THE REPORT

1	Introduction	1
	Background	1
	Scope and conduct of the review	3
2	Current Issues in Financial Systems Regulation.....	5
	Overview	5
	Restoring trust in financial services	5
	ASIC's performance and lessons learnt	6
	Recent measures to strengthen ASIC.....	9
	Conflicts of interest in the financial sector	11
	Mortgage broker commissions	14
	Grandfathered commissions	16
	Professionalism and culture	16
	Consumer redress.....	19

Surveillance and enforcement	20
Fees for no service.....	20
Other cases.....	22
Poor response of insurers to disaster events	23
ASIC funding	25
Payments to charities.....	27
Conclusion	28

APPENDIX

Appendix A – Hearing and witnesses	31
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LIST OF TABLES

Table 2.1 Summary of ASIC revenue, appropriations and expenses, 2016–17	26
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Membership of the Committee

Chair	Ms Sarah Henderson MP
Deputy Chair	The Hon Matt Thistlethwaite MP
Members	Mr Adam Bandt MP Ms Julia Banks MP Mr Scott Buchholz MP Mr Trevor Evans MP Mr Jason Falinski MP (from 20 June 2018) Mr Kevin Hogan MP (until 27 March 2018) Ms Ged Kearney MP (from 21 May 2018) Mr Craig Kelly MP Mr Matt Keogh MP Mr Josh Wilson MP (until 10 May 2018)

Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Dr John White
Office Manager	Ms Jazmine Rakic



Terms of reference

The House of Representatives Standing Committee on Economics is empowered to inquire into, and report on, the annual reports of government departments and authorities tabled in the House that stand referred to the committee for any inquiry the committee may wish to make. The reports stand referred in accordance with the schedule tabled by the Speaker to record the areas of responsibility of the committee.



Abbreviations

AFCA	Australian Financial Complaints Authority
ANZ	Australia and New Zealand Bank
ASIC	Australian Securities and Investments Commission
CBA	Commonwealth Bank of Australia
CIO	Credit and Investments Ombudsman
FASEA	Financial Adviser Standards and Ethics Authority
FOS	Financial Ombudsman Service
GFC	Global Financial Crisis
NAB	National Australia Bank
SCT	Superannuation Complaints Tribunal