

Senate Economics Legislation Committee

Opening Statement - ASIC Chair James Shipton

Wednesday 20 February 2019

Length: 697 words

Introduction

- Good evening chair.
- On behalf of my colleagues, thank you for the opportunity to appear before the committee.
- Since our last appearance, we have some new members in the Commission.
- In late January, Karen Chester joined ASIC as a Deputy Chair.
- Ms Chester is well known to this committee having been deputy chair of the Productivity Commission, as well as having extensive experience in other parts of Government and with industry.
- Also, Sean Hughes re-joined ASIC as a Commissioner last December.
- Mr Hughes was the former Chief Executive of ASIC's peer regulator in New Zealand – the Financial Markets Authority. He, too, has long experience in banking and superannuation in addition to his two previous stints at ASIC.

Along with Ms Chester and Mr Hughes, joining me today are:

- Deputy Chair Daniel Crennan QC, and Commissioners Cathie Armour, Danielle Press and John Price.

- We also have Executive Directors Chris Savundra, Joanna Bird, Greg Kirk, Tim Mullaly and Warren Day, along with Chief Supervisory Officer Oliver Harvey and Senior Executive Leaders Jane Eccleston, Tim Gough and Laura Higgins

ASIC update on implementation of Royal Commission recommendations

- Chair, since we last appeared in this place the Government has released the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.
- Yesterday ASIC released an update on its planned actions responding to the Royal Commission's Final Report.
- This update is a crucial document for ASIC as it highlights our important work to date of putting ASIC on a more effective strategic footing.
- The Royal Commission's recommendations reinforce, and will inform the implementation of, steps ASIC has been taking as part of a strategic program of change that commenced in 2018 to strengthen our governance and our culture and to realign our enforcement and regulatory priorities.

The update covers:

- The Royal Commission’s recommendations directed at ASIC;
- ASIC’s extended remit and strengthened powers and penalties;
- The Royal Commission’s referrals to ASIC and related enforcement work;
- Our “Why not litigate?” posture and the establishment of an Office of Enforcement;
- ASIC’s broader strategic change program; and
- Policy and regulatory reforms advocated by ASIC.

Office of Enforcement

- Following the completion of an Internal Enforcement Review, led by Deputy Chair Dan Crennan QC, the Commission has also decided to establish a separate Office of Enforcement within ASIC.
- The Office will be responsible and accountable to the Commission.
- The Office:
 - will investigate and take enforcement action where there are contraventions of the laws we regulate.
 - will centralise enforcement decision-making processes and adopt a ‘why not litigate?’ enforcement stance.

- will functionally separate enforcement teams, as much as possible, from non-enforcement related contact with regulated entities.
- The impact of these changes (changes that were also identified as needed by the Royal Commission) will only become fully visible over time.
- However, as an early indication, since 1 February 2018:
 - there has been a 15% increase in the number of ASIC enforcement investigations on foot;and
 - a 50% increase in the number of ASIC enforcement investigations of misconduct by large financial institutions (or their employees or subsidiary companies).
- Chair, it would be remiss of me not to mention passage this week of crucial legislation that will boost significantly ASIC's ability to do its job.
- The *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Bill 2018*, will increase maximum prison penalties for the most serious offences and increase civil penalties for companies (now capped at \$525 million) and individuals. Significantly, the Bill introduces a civil penalty for breach of the cornerstone obligation of s912A - the 'efficiently, honestly and fairly' obligation.

- I should also acknowledge that yesterday the Parliament also passed a bill that significantly improves protections for whistleblowers who report misconduct about companies.
- ASIC will be responsible for enforcing the corporate whistleblower protection regime.

Conclusion

- Chair, in closing I would like to underscore one broad point - ASIC is very focused on enforcement and litigation.
- Corporate Australia should know that ASIC has the very clear will to take wrongdoers to court. As the Royal Commission found, that is what Australians expect of their regulator. And that is what ASIC will deliver.
- Chair we are now ready to take your questions.

ENDS
