

# Senate Economics Committee

## Opening Statement - ASIC Chair James Shipton

Wednesday 30 May 2018

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Good afternoon Chair

I am pleased to appear before the Committee today along with Deputy Chair Peter Kell and Commissioners:

- Cathie Armour; and
- John Price.

Also appearing are senior executive leaders:

- Sharon Concisom
  - Warren Day
  - Jane Eccleston
  - Greg Kirk;
  - Louise Macaulay; and
  - David McGuinness.
- Chair, with your permission I would like to acknowledge the important work of the Royal Commission.
    - I expect the Committee will have questions about various issues raised recently at the Royal Commission hearings, including

about evidence which was derived from ASIC's work and investigations.

- Given that the Royal Commission is ongoing, and is yet to make any findings or recommendations, it is important that we not comment or speculate on what the Royal Commission might find or may recommend.
- I am also aware that ASIC has ongoing investigations related to a number of issues covered by the Royal Commission hearings. Accordingly, there are limits to what we can publicly disclose about them today.
- Nevertheless, we appreciate the opportunity to speak about the public outcomes we have already achieved in matters that have been subject of the Royal Commission hearings.
- Accordingly, with your permission, I seek to table a folder of public statements and public reports by ASIC that relate to matters which have been raised by the Royal Commission as case studies.
- I also table, for broader context, other information regarding total enforcement outcomes and the very broad work we currently have under way.
  - In particular I draw the Committee's attention to the first document – "ASIC's Regulatory Activities". Activities that are aimed at ensuring that we have a fair, strong and efficient financial system for all Australians.

I also thought it would be useful for me to pass on some observations to the Committee of how I see Australia's financial system, and its regulatory structure, having returned to Australia a little over three months ago from almost 25 years working overseas.

- My observations include that there is:
  1. A trust deficit between the financial industry and the broader community;
  2. Insufficient imbedding of a professional mindset and culture in finance; and
  3. Insufficient attention, and mitigation, by the finance industry of conflicts of interests.
  
- These observations are very consistent with the reports and recommendations of ASIC in recent time.
  
- In fact, ASIC's pursuit of regulatory enforcement, prosecutions and consumer compensation is very consistent with the regulatory responses that I believe were warranted.
  
- Nevertheless, ASIC must continually look for new ways to do its job, to ensure it is evolving to respond to the harms and threats manifesting in Australia's financial system.
  
- And today, I would like to outline to the committee some of the new approaches ASIC is looking to deliver in response to the threats I just mentioned:

## **1. Enforcement:**

- Firstly – enforcement.
- We have used funding from our Enforcement Special Account over the last few years to fund a regulatory program – our ‘Wealth Management Project’ – that focuses on the financial advice sector.
- Much of what we saw in the financial advice round of the Royal Commission hearings was based on the work of this project.
- We want to expand and accelerate this intensive program.
- We are also looking at ways to build on our enforcement outcomes.
  - This could include making greater use of external resources for our investigations in order to accelerate response times.

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- The Government has also announced it has accepted, or agreed in principle, to all of the recommendations of the Taskforce that reviewed ASIC’s Enforcement Powers.
- These reforms include:
  - Significantly stronger and clearer rules about the obligation of licensees to report breaches to ASIC honestly and in a timely manner.

- A stronger ability for ASIC to take regulatory action against senior managers or controllers of financial services businesses.
- A new 'directions power', that will enable ASIC to direct licensees to undertake remedial actions such as consumer compensation programs.
- Stronger penalties against licensees in breach. For example, section 912A of the Corporations Act, that, importantly, requires firms to deliver financial services 'efficiently, honestly and fairly' does not currently incur a criminal or civil penalty. It would under proposed reforms.

## **2. Supervisory approaches**

- ASIC currently supervises firms it regulates through a combination of:
  - Risk-based surveillance, or reviews, aimed at a particular firm; and
  - through thematic reviews aimed at a sector or sub-sector.
- While these approaches can be very effective, they can be less intrusive and are generally based on sampling.
- These techniques will continue to have an important role to play. Nevertheless, over the coming years, we will seek to improve our work by adopting new supervisory approaches for Australia's largest financial institutions and important sectors.

- This will involve more intensive, day-to-day supervision, with better co-operation between our fellow regulators, especially with APRA.
- This approach will be more intrusive, enduring and, with onsite visits, more physical.

### **3. Adoption of regtech solutions**

- The third new approach is ASIC's role in encouraging adoption of regulatory technology solutions in the financial sector.
- ASIC believes Australia can position itself as a world leader in the development, and adoption, of regtech solutions, and we will look at new ways to encourage this.
- In closing, I expect there will also be further initiatives necessary to enhance our regulatory approach for tomorrow's threats.
- And, of course, we look forward to the recommendations that will come from the important work of the Royal Commission.
- And as the Treasurer confirmed earlier this month, ASIC is discussing with the Government what additional support we may need to support these new directions.
  - To this end we formally submitted our request for funding of these important initiatives on Monday. And I have spoken directly with the Minister for Financial Services and the

Treasurer on these ideas and have received a positive reception from them.

- Nevertheless, I am very conscious that there is a formal process to review and decide on these types of funding requests - a process that I very much respect and do not want to pre-empt.
- As always, ASIC looks to maximise the effectiveness of our work within our budget.
- Deciding what we do and don't do is one of the most difficult parts of ASIC's job.
- My job is to ensure that ASIC responds to circumstances strategically and with clear sense of priority.
- Thank you chair. We look forward to your and the committee's questions.

ENDS