

Budget Estimates

Opening Statement - ASIC Chair James Shipton

Wednesday, 10 April 2019

Length: Approx. 890 words

Introduction

- Good evening Chair.
- On behalf of my colleagues, thank you for the opportunity to appear before this committee.
- Along with Deputy Chairs Daniel Crennan QC and Karen Chester, also joining me are Commissioners Danielle Press and John Price.
- Commissioners Cathie Armour and Sean Hughes apologise for being unable to appear tonight.
- We also have Executive Directors Greg Kirk, Michael Saadat, Tim Mullaly and Warren Day tonight. Our Chief Financial Officer, Emily Hodgson, also joins us.

Maintaining the momentum and the *fairness* imperative

- The Royal Commission has now finished. However, ASIC's work in maintaining the momentum for reform and improvement in the financial services sector continues.
- As you know, ASIC's focus is on making Australia's financial system a *fair, strong and efficient* one for all Australians.
- And notably those three words - fair, strong and efficient - resonate well with a long-standing obligation of financial institutions under the Corporations law --- to act efficiently, honestly and fairly.
- Financial institutions now must embrace and embed in everything they do concepts of fairness for there to be meaningful cultural change in the industry.
- We welcome the Government's announcement of \$400 million in additional funding to give effect to ASIC's goals. We also welcome the Federal Court receiving \$35 million to extend its jurisdiction to corporate crime. These are important building blocks for the enhancement of our regulatory work.
- The additional funding allows ASIC to:
 - Give effect to our '*Why not litigate*' enforcement strategy since it will allow us to significantly increase the number of

cases we pursue and accelerate the speed of court-based enforcement outcomes;

- use the full extent of our new powers and penalties;
 - embed and expand our *new supervisory approaches* ;
and
 - play our part in implementing the Government's package of reforms and our new obligations and responsibilities following the Royal Commission. Importantly, this includes a proposed expanded role for ASIC to become the primary conduct regulator in superannuation.
- As mentioned, we are accelerating our court-based enforcement outcomes driven by our '*Why not litigate?*' stance. By way of update – from February 2018 to March 2019:
 - there has been a 15% increase in the number of ASIC enforcement investigations;
 - a 65% increase in enforcement investigations involving the big six (or their officers or subsidiary companies),
and
 - a 129% increase in wealth management investigations.
 - Also, yesterday we released ASIC's biannual overview of enforcement outcomes, priorities and cases during the

period 1 July 2018 to 31 December 2018. With permission Chair, I seek to table that document.

- Deputy Chair Crennan can elaborate on our enforcement statistics further.
- ASIC also welcomes the recent passage through Parliament of key financial services reforms contained in the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) legislation introducing:
 - a design and distribution obligations regime for financial services firms; and
 - a product intervention power for ASIC.
- We note this passage received extremely broad support in the Parliament.
- Together these new powers will enable ASIC to take more proactive action to improve standards and achieve **fairer** consumer outcomes in the financial services sector.
- Before I close, I would like to also briefly address some commentary to the effect that consumers are finding it harder to obtain credit, and that somehow the responsible lending obligations are contributing to this. This is not true.

- We have been administering the credit laws that have been in place for nearly a decade. These laws are eminently sensible, and there have been no changes to the core responsible lending obligations since they were first enacted. Nor has there been any change to our advocacy that lenders put these legal principles into practice reasonably and fairly. We understand house prices have fallen in some areas, and as a result fewer consumers are seeking finance. However, as the Governor of the Reserve Bank recently noted, this 'demand side' factor appears to be the principle contributing factor to current market conditions.
- It is also important not to confuse our new enforcement posture with responsible lending laws. Australians need to have confidence that fundamental consumer protections are being enforced. ASIC has been reviewing industry practices for many years, and particularly since 2016 – and well before recent changes in market conditions – we (alongside APRA) have observed much improved lending standards.
- I will also highlight here that because the laws are principles-based they are adaptable to changing technology. New data sources such as open banking will be a game changer: they will make it much easier for lenders to verify consumers' financial situation. Against this backdrop, ASIC has recently commenced a public consultation to update our guidance

on responsible lending. The responsible provision of credit is critical to the Australian economy.

Conclusion

- In closing, I would like to reiterate what I have said recently – meaningful *change* is the ultimate responsibility of financial institutions. Financial institutions must respond responsibly to the challenge.
- Chair, lastly I would also like to recognise that this is ASIC's last Estimates with Senator John Williams. Over the years, ASIC has had much engagement with Senator Williams – some of it particularly robust. But that has been, in the end, very fruitful for ASIC as Senator Williams has been a true advocate of a fair, strong and efficient financial system for all Australians. Thank you Senator for your service and all the best for the future.
- Chair, we are now ready to take your questions.

ENDS