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## **Australian Securities and Investments Commission**

### **PJC opening statement**

**15 March 2013**

Words: 1400

Time: 11 minutes

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- Thank you Chairman.
- Pleased to appear before the PJC this morning.
- With me are Commissioners Peter Kell, John Price, Greg Tanzer and Senior Executive Leaders Greg Yanco, Warren Day and Chris Savundra.
- Deputy Chair Belinda Gibson is abroad today and sends her apologies.
- I would like to update the Committee on our work since we last appeared in November 2013 and how we are delivering against our strategic framework.
- As a reminder, this framework is:
  - Confident and informed investors and financial consumers;
  - Fair and efficient financial markets; and
  - Efficient registration and licensing.

### **1. Confident and informed investors and financial consumers**

**Education  
Gatekeepers**

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## **Consumer behaviour**

### **Education**

#### **MoneySmart website**

- 4.6m unique visitors to the site since it launched.
- 14,033 Facebook likes
- 2,652 Twitter followers
- MoneySmart's 200 videos have been viewed 93,000 times
- 266,000 downloads of MoneySmart's 3 apps
- From 200 investor protection sites ranked by IOSCO, MoneySmart was one of only 10 sites rated "outstanding" and given a 5/5 rating.
- During our Unclaimed Money campaign in November 2012 over 700,000 people visited the site, 4 million searches were conducted and 18,000 people found money that might belong to them
- ASIC's MoneySmart Teaching professional learning program has already seen over 5,000 teachers receive professional learning. The target is 6,000 teachers by June 2013. During our Unclaimed Money campaign in November 2012 over 700,000 people visited the site, 4 million searches were conducted and 36,000 people found money that might belong to them



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## **Gatekeepers**

### **Trio & Paul Matters**

Recently a Trio investor advocate Mr Paul Matters made a number of claims about ASIC's Trio investigation and action of ASIC staff. These need to be addressed.

- Mr Matters said on ABC radio and on Youtube that he had been leaked a Trio Capital bank statement showing \$74 million had been lost immediately after ASIC became involved in the investigation.
- This is completely incorrect. The funds were distributed by the administrator to a number of subsidiary Trio super funds.
- ASIC officers are not in the business of leaking documents and this is a serious smear on the men and women who work at our organisation. Mr Matters should substantiate this allegation.
- Mr Matters has never contacted ASIC about this bank statement and the \$74 million. But we would consider meeting any Trio investors – not just Paul Matters.
- Our investigation continues. Last week ASIC permanently banned former Astarra chief investment strategist, Mr Eugene Liu, from providing financial services.
- This brings to 11 the number of people who as a result of our investigation have either been jailed, banned, disqualified or removed themselves from the industry for a total of more than 50 years.

## **Product manufacturers - *Debentures***

- Last month, ASIC released a consultation paper to reform debentures issued to retail investors.
- Changes to market conditions since the GFC and a number of business failures in the sector have prompted ASIC to review the regulation of the debenture sector.
- ASIC is proposing to strengthen the regulation of 'bank-like' debenture issuers who raise funds from retail investors and on-lend those funds. This will be achieved by introducing minimum capital and liquidity requirements.
- For the sector more broadly, we are proposing to enhance the role of debenture trustees and give them broad powers to obtain information from issuers and auditors.
- We are also proposing amendments to the information debenture issuers must provide to investors when they roll over their investments.

## **Financial advisers - *Macquarie***

- In January, ASIC accepted an enforceable undertaking from Macquarie Equities Limited (MEL) following a surveillance that found recurring compliance deficiencies by and in the supervision of MEL's advisers.
- The EU followed an ASIC surveillance started in December 2011, which reviewed MEL's compliance systems and a significant number of client files.



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- ASIC found MEL had failed to address recurring compliance deficiencies that involved a significant number of its advisers
- The EU requires Macquarie to put in place a plan to rectify the deficiencies, under the eye of ASIC and an external independent expert. It requires Macquarie to rethink significantly the way it monitors representatives and create a culture where compliance is central to giving advice.

### **Directors - *Whitehaven***

- In early January a hoax media release purporting to be from ANZ entitled "ANZ divests from Maules Creek Project" was disseminated to the media. The hoax media release included a false statement relating to ANZ involvement in lending funds to Whitehaven Coal and its Maules Creek Coal project.
- This affected the Whitehaven Coal share prices.
- The next day, ASIC formally commenced an investigation. We have formally engaged with Mr Jonathan Moylan from the Frontline Action on Coal and our investigation is continuing.

### **Auditors**

- Last December ASIC released its audit firm inspection report for the 18 months to 30 June 2012.
- The ASIC report covered inspections of 20 Australian audit firms and found auditors did not perform all of the procedures necessary to obtain reasonable assurance

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that the audited financial report was not materially misstated in 18% of the 602 audit areas that we reviewed over 117 audit files. The figure for the previous 18 months was 14%.

- While the financial reports audited may not have been materially misstated, the auditor had not obtained reasonable assurance the financial report as a whole was free of material misstatement.
- The results disappoint and frustrate me. The audit sector should consider itself on notice.

## **2. Fair and efficient financial markets**

### **Insider trading**

- Last November, former BG Group executive Dr Stuart Alfred Fysh was sentenced to 2 years jail with a minimum 12 months in prison, after being found guilty of 2 insider trading charges.
- In December, John Khoo and Jia Tan, pleaded guilty to ASIC insider trading charges which involved takeovers of Macarthur Coal and Caledonian Resources.
- Also in December, Elisa Rietbergen and Joseph Levi, were each sentenced to 18 months jail, to be released immediately, for an insider trading scheme involving Valad property group.
- Last month, former Hanlong Mining executive Calvin Zhu was sentenced to 15 months jail after pleading guilty last July to three insider trading charges.



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- Yesterday former takeover consultant Mr Ulf Lindskog got a suspended 12-month prison sentence and fined \$15,000 for insider trading involving the Spotless Group.

## **Financial markets infrastructure**

- In November, ASIC released market integrity rules to address market structure risks.
- The rules are about addressing changes in trading and market structure domestically and abroad. It looks at the trend towards more frequent, smaller trades, away from public markets, with implications for the price formation process.
- The rules are the result of consultation dating back to 2010.

## **Dark liquidity and HFT taskforces**

- Last July, ASIC set up two taskforces to consider dark liquidity and High Frequency Trading.
- Both promote market integrity by taking action against possible misconduct in the dark and through HFT.
- Both are undertaking a thematic review and gathering information, which includes sending questionnaires to participants and meeting with industry.
- This intelligence, together with international developments, has informed ASIC's position on whether new rules, guidance, or law reform is required.
- Both taskforces will report publicly on 18 March.

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### **3. Registry and licensing**

#### **Focus on small business**

#### **Efficient registration and licensing**

#### **Business names**

National Business Names register brought in last May. Key points:

- At the end of February over 220,000 new business name registrations received;
- Over 99% of applications submitted online, and close to 30% after business hours.
- Close to 5 million free searches conducted, 20% via mobiles.
- Since October 2012 and over the next 2 years, ASIC will contact close to 1.6 million business name holders to invite them to 'come online' via ASIC Connect.
- Over 380,000 renewals of grandfathered business names have been issued.

BUT overall Business Names is:

- **Easier** – because you can do it all online and only need to register a name once rather than separate state registers
- **Cheaper** – savings to business are significant
- **Quicker** – you can search and apply online.

#### **Small business survey**

- Recently completed an online survey of small business.
- 1573 responses – a statistically valid sample.



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- Survey responses came from all 17 industries (industries listed in accordance with ANZSIC classification).
- Almost half of the respondents suggested the ASIC website could have more information for small businesses.
- More than 50% of small business owners regard the ASIC website as the easiest channel for obtaining information.
- ASIC will use this information to improve its engagement with small business.

**ENDS**

