

**Chair's Tabling Statement, 16 May 2013:**  
**Statutory Oversight of the Australian Securities and Investments Commission**

On behalf of the Parliamentary Joint Committee on Corporations and Financial Services, I present the committee's report on the Statutory Oversight of the Australian Securities and Investments Commission, together with the evidence received by the committee.

This report is part of the committee's ongoing oversight of the Australian Securities and Investments Commission (ASIC) in which it seeks to determine if ASIC is fulfilling its statutory responsibilities.

As the corporate, markets and financial services regulator, ASIC is responsible for monitoring the integrity of Australia's financial system. Areas within ASIC's remit include promoting financial literacy and consumer education; corporate, financial services and consumer credit regulation; and the supervision of trading on Australia's licensed equity derivatives and futures market.

The inquiry focussed on key areas of ASIC's responsibilities as well as issues of particular interest to the committee relating to topical and significant matters before ASIC.

The standard of audit quality has been a key concern for ASIC in recent years. ASIC's most recent audit quality report found a further decline in auditing standards. In its quest to improve audit quality, Australia has two crucial and unique attributes. Firstly, it has an audit regulation framework, and secondly an audit review process, and in particular, ASIC's audit inspection program. ASIC is a statutory body under federal legislation and accounting and auditing standards and auditor independence are all legally enforceable under the Corporations Act. These factors contribute significantly to the robustness of the audit regulation framework.

The ASIC oversight hearings in March 2013 provided the committee with an opportunity to explore audit quality issues with some of the bodies involved in the auditing process, including the Auditing and Assurance Standards Board, the Financial Reporting Council, the Institute of Chartered Accountants Australia, CPA Australia, Treasury, and ASIC. The committee recognises that auditors play a crucial role in the system, and is keen to ensure that ASIC retains a strong focus in this area.

ASIC has responsibility for the supervision of real-time equities trading on Australia's domestic licensed markets. Part of ASIC's remit is to examine market changes and determine the adequacy of the existing regulatory regime.

ASIC's key objective is to promote investor confidence through fair and efficient markets.

Australia's financial markets are undergoing significant structural and behavioural changes. Two areas of evolution, both within Australia and globally, involve high-frequency trading and dark liquidity (also referred to as dark venues or dark pools). High-frequency trading and dark liquidity has been the subject of media attention and public concern.

On 18 March 2013, ASIC released two reports on high-frequency trading and dark liquidity. The committee has examined these reports and will be pursuing the issues raised in these reports at the next oversight hearing.

The committee's 2009 inquiry into financial products and services led to the introduction and passing of the Future of Financial Advice (FOFA) legislation to reform the financial services industry in Australia. ASIC undertook a consultative process on developing the FOFA reforms including well-attended workshops in capital cities around Australia. ASIC has now finalised its regulatory guides on the FOFA reforms and has indicated that it will take a constructive and facilitative approach to compliance in the first year.

The committee continues to play close attention to ASIC's ongoing investigation into the circumstances and aftermath of the collapse of Trio Capital. ASIC informed the committee that 11 people have now been 'jailed, banned or disqualified or have removed themselves from the industry'. ASIC also said that it continues to work closely with the Australian Crime Commission and the Australian Federal Police on the matter. However, the alleged mastermind behind the Trio fraud is still at large, and the committee reaffirms its bipartisan determination to ensure that the utmost is done to address the systemic concerns that the Trio fraud has exposed.

The system of financial advice services that ASIC oversees is supposed to be self-executing, and ASIC engages constructively with firms that report issues to ASIC promptly. However, ASIC investigates areas of higher risk, including the financial advice services provided by large investment firms. ASIC has accepted an enforceable undertaking from Macquarie Entities in regard to persistent breaches in its compliance systems by some of its financial advisers, and a failure to report those breaches to the regulator. The committee is keen to ensure that ASIC keeps a close watch on areas of high risk.

ASIC has also been responding to a number of recent collapses involving property funds and debenture issuers including LM Investments, Banksia

Securities, and Wickham Securities. On 22 December 2012, the Hon. Bill Shorten MP, Minister for Superannuation and Financial Services, foreshadowed regulatory reform to improve the financial strength of the debenture sector and more clearly differentiate the debenture sector from the APRA-regulated prudential sector. On 13 February 2013, ASIC released its consultation paper on debenture reform. The committee supports the moves to improve the resilience of the debenture sector by introducing mandatory capital and liquidity requirements and enhancing the role of debenture trustees.

ASIC has also been monitoring self managed superannuation funds (SMSFs) and taking action against misconduct related to SMSFs. ASIC has commissioned research on the SMSF industry in order to provide better guidance and education on the industry. The committee will be pursuing these matters at the next hearing.

Finally, the committee commends ASIC for its continued focus on education, including through its *MoneySmart* website, and ASIC's commitment to helping Australians understand the importance of diversification, risk reward, and 'if you don't understand it, don't buy it'.

On behalf of the committee, I would like to thank the industry organisations and professional bodies, and the officers of ASIC and the Treasury that assisted the committee during this inquiry.

I commend the report to the House.