



ASIC

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Regulatory compliance in the borderless community of 2001

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Introduction

Thank you very much for your kind invitation to speak to your seminar this afternoon.

For some of you (although I hope not too many), the acronym "ASIC" will be unclear. ASIC stands for Australian Securities and Investments Commission, an independent Commonwealth government agency which is required by law to ensure and enhance consumer protection and market integrity in financial markets. That legal obligation has a very wide ambit, covering securities and futures markets as well as insurance, banking and superannuation (or pension fund) sectors.

I am going to focus today initially on some broad aspects of consumer protection regulation, which underlie the financial markets which come under ASIC's regulation. These broad consumer protection considerations will also help me put into context the role of ASIC in the regulation of the financial markets in the 21st century and ASIC's approach to those regulatory and law enforcement challenges in an electronic environment.

The topics which I will discuss this afternoon include:

- why consumer protection regulation is important for the efficient operation of financial markets;
- cross-jurisdictional regulatory responsibilities since 1998;
- the coordination of activity between regulators;
- ASIC's e-commerce initiatives in regulation and enforcement; and

- Challenges in the electronic regulatory environment for regulators and consumers.

Why consumer protection regulation is important for the efficient operation of financial markets

The economic and political considerations which underpin consumer protection regulation, are applied commonly across the broad range of different sectors which constitute the Australian financial markets. These sectors cover products as diverse as bank deposits, shares, bonds, insurance, superannuation and other funds management vehicles (such as unit trusts).

Governments, legislators and regulators all appreciate that regulation involves costs to all stakeholders, particularly:

- to market participants, who offer financial products and services, as they generally incur the direct cost of compliance;
- to consumers, as some costs of service and product providers are often passed on to them; and
- to the taxpayers, as their contributions are often used to fund the regulatory agencies and their operations.

So, given that cost, is any form of regulation justified? The justification for promoting consumer protection in financial markets stems from an inherent balancing principle – namely, the need to ensure that consumers have sufficient confidence to place their funds in the hands of those who offer financial products and services. Without that confidence, there will be no free flow of investment capital through financial markets to fund economic

growth. Consumers will have no such confidence unless the financial markets are perceived to be a clean place to do business. Financial markets will not be perceived by consumers as a clean place to do business unless financial product and service providers operate with high levels of integrity and observe appropriate standards of conduct in their dealings with, or affecting, consumers.

This concept of "cleanliness" and its application to the promotion and distribution of products, particularly via electronic means, is one which we have given much emphasis to in our regulatory and enforcement work and which we will continue to make a major focus in our activities.

If strictly policed prohibitions against fraud and misconduct alone can keep fraudsters away, and healthy competition can drive the inept and inefficient operators away, then one might argue that any further regulation of the market has little justification to warrant the associated costs, such as those incurred through consumer protection regulation undertaken by ASIC, the ACCC or indeed many of the other regulatory bodies represented at this seminar.

However, regrettably, not only our own Australian regulatory experience but also the experiences of other well developed financial markets, such as the US and UK, have shown us that these measures alone have not been sufficient to promote the integrity and efficiency of financial markets. Financial products and services are increasingly more complex. For example, in the life insurance field alone, instead of risk-only products, there have emerged investment-linked life products. These investment-linked products are linked to other financial products, such as managed investment products, shares, bonds and other assets, which are in themselves increasingly more complex.

Distribution channels to consumers are increasingly faster, more sophisticated, and often delivered in a perceived "real-time" environment where the home-based midnight internet surfer is able to access a bewildering range of products and services from around the globe – without the introspection and consideration which a 10:00am meeting at his adviser's office in Collins Street might otherwise provide.

As a result, consumers do not necessarily have the expertise or the ability to understand the nature, or the suitability, of the financial products made available to them in financial markets, particularly those accessed through electronic means. This raises the real risk of consumers selecting unsuitable products, or financial commitments, with the attendant further risk of consumers becoming dissatisfied with products, services and their providers or their advisers, leading to inadequate and inefficient flow of investment funds to capital markets. Consumers' difficulties in choosing financial products and commitments that are suitable for their particular needs and financial circumstances are often exacerbated due to a number of reasons, which consumer protection regulation seeks to rectify.

If then I can start by flagging one continuing focus for this regulator in 2001, it is ensuring and enhancing the fairness and transparency of the distribution of financial services, products and advice to consumers, however that distribution occurs – electronically or by conventional means.

Regulatory responsibilities post-Wallis

However, before I go much further to discuss those challenges in the modern era, we need to understand the role which the various regulators of the financial markets play, post-Wallis. Let me re-state our roles.

The Australian Securities and Investments Commission (ASIC) is an independent Australian Commonwealth government body constituted by the Australian Securities and Investments Commission Act 1989. It was first established on 1 January 1991 as the Australian Securities Commission, to administer the Corporations Law. In July 1998, it received new consumer protection responsibilities and its current name.

ASIC's charter of responsibilities includes:

- Regulating and enforcing laws which promote honesty and fairness in financial markets, products and services and in Australian companies;
- Ensuring that investors and consumers act prudently and can rely on the integrity of the market, because ASIC enforces their rights, warns them of risks and takes action to improve standards of behaviour across the financial sector; and
- Underpinning the strength, growth and international reputation of Australia's financial markets.

ASIC regulates superannuation (pension) funds, insurers and deposit-taking institutions, by:

- Setting standards about what those institutions tell their customers;
- Monitoring their sales practices and compliance with codes of practice;

- Checking customer complaints systems;
- Cooperating with its co-regulator, the Australian Prudential Regulation Authority (APRA) on issues of joint regulatory interest and concern; and
- Investigating and taking action against misconduct.

ASIC also regulates finance sector intermediaries (such as dealers, advisers and brokers) who are involved in the distribution of information and sale of products and services to customers, by:

- Setting standards for their education, training and operations;
- Licensing and registering them before they start operating or dealing with customers;
- Recording their details and the names of their authorised representatives on public registers, which can be searched electronically;
- Monitoring the quality of the advice they give; and
- Investigating and pursuing misconduct through enforcement action.

As at 30 June 2000, ASIC employed 1,234 full time equivalent staff throughout each state and territory in Australia. Those staff act under the direction of three fulltime Commissioners, appointed by the Governor - General on the nomination of the federal Treasurer.

One of the key recommendations of the Wallis Inquiry, subsequently accepted by the Government, is that ASIC should be solely responsible for all market integrity and consumer protection regulation within the financial system. Essentially, ASIC has the jurisdiction of the former Australian Securities Commission, which was the corporate and market regulator, together with all

the consumer protection and market integrity aspects of the finance sector, including insurance, superannuation and banking.

The previous framework, based on four regulators whose boundaries were determined on institutional lines, has now been replaced by three agencies established on functional lines.

The co-ordination of activities between regulators

Given that change which only occurred 33 months ago, there remains a degree of concern about regulatory hiatus on the one hand, and regulatory overlap on the other. Indeed, it is a frequent theme on which our co-regulators and we are often questioned publicly.

ASIC's role concerns the relationship between institutions and individual consumers. ASIC aims to look after consumers ensuring they receive proper disclosure, are dealt with fairly by qualified people, continue to receive useful information about their investment and have proper complaints-handling procedures.

APRA, on the other hand, focuses on the overall viability of those financial institutions. APRA looks after the health of the institution as a whole so that the community can be confident in its ability to meet its obligations to its customers collectively.

The significant exception to the ACCC's role, specifically in relation to the financial services reforms post-Wallis, is that its role in consumer protection in the finance sector has been assumed by ASIC. One consequence of that

has been the mirroring of the consumer protection provisions under the Trade Practices Act in the ASIC Act 1989.

There are obviously overlaps between those issues relevant to examining the financial safety of an institution and those involved in promoting consumer protection and market integrity. The dividing lines are not always absolutely clear cut. The three agencies must therefore work closely together to ensure there are no regulatory gaps or overlaps.

How then is activity between ASIC, APRA and the ACCC coordinated?

- The Chairman of ASIC is a member of the APRA board;
- There are now mechanisms in the law to facilitate coordinated activity, including a law permitting cross-delegations of power between ASIC and APRA;
- We aim to ensure that compliance and enforcement activities involving both ASIC and APRA's jurisdiction are coordinated and rationalised where possible;
- We are ensuring that document lodgement procedures are as simple as possible and do not entail giving the same information to both ASIC and APRA;

All three agencies recognise that cooperation is vital to promote confidence in the financial system as well as the confident and informed participation of all stakeholders in the system. Memoranda of Understanding ("MOU") and Information Sharing Agreements have been signed by ASIC with both APRA and the ACCC. Within the framework of the MOU, we are working together to attempt to achieve compliance and enforcement outcomes.

ASIC and APRA have also formalised arrangements in areas of common interest where co-operation is essential for the effective and efficient performance of our respective functions. The MOU setting out these arrangements includes matters such as the establishment of a co-ordination committee, policy development, mutual assistance, information-sharing, and international representation in regulatory fora and training initiatives.

Under the MOU with APRA, the two agencies are to notify each other of any proposed changes in regulatory policy which affects the market or any regulatory decisions likely to impact on the other's area of responsibility. The coordination committee also seeks to ensure that there is continual exchange of information between ASIC and APRA.

The Wallis Report recommended restructuring the way that regulators conduct their businesses to ensure that the regulatory regime works in a practical, effective and efficient manner. The convergence of the financial sector is reflected in the establishment of the two regulators which have responsibilities of a functional kind across the whole of that sector.

ASIC's regulatory mandate also reflects the objectives of securities regulation identified by the International Organisation of Securities Commissions (IOSCO, which met last year in Sydney), namely:

- the protection of investors;
- ensuring that markets are fair, efficient and transparent; and
- the reduction of systemic risk.

ASIC aims to be a regulator that is capable of making balanced judgements based on a consideration of both the immediate and broader economic impact of our regulatory intervention, on both consumers and market participants.

We perceive that some might think that our charter and the oft-repeated focus on consumer protection means that ASIC is somehow captured by the consumer lobby. In response, might I make the observation that we are all consumers – regardless of our daily occupations. Second, let me remind you, that ASIC was assuming responsibilities previously exercised by a regulator with a high degree of credibility in the consumer movement, and needed to have some credibility itself if it was to succeed.

We cannot credibly claim to protect consumers if we have no established way of communicating, -both giving and receiving information, - from a diverse and scattered constituency. Industry has well-established means of talking with us, and through its representative bodies, we do hear of its concerns and we are able to share information and perspectives on issues. Our Consumer Advisory Panel, and our Office of Consumer Protection, are designed to ensure balance in our approach.

ASIC's e-commerce initiatives

ASIC maintains a keen interest in electronic commercial activity in the market. As the regulator of the securities and futures markets and consumer protection watchdog in the financial services sector, ASIC must ensure consumer confidence, commercial certainty, efficiency and market integrity irrespective of the medium employed.

ASIC's approach to electronic commerce is driven by a desire to maintain a consistency of regulation within these new channels, and to look to the future as a real-time electronic regulator. ASIC believes that electronic commerce has the potential to provide benefits to business and consumers alike in terms of efficiency, costs and choice. It also has the potential to generate innovative new problems which must be managed if business and consumers are to have confidence in electronic commerce systems.

ASIC's general approach to electronic commerce, and an essential part of the philosophical basis for developing its approach to regulatory and enforcement issues, is:

- The same types of regulatory mischief that occur in the electronic environment, also occur in the traditional markets;
- Technology is a positive development - a tool for changing and improving current market structures;
- ASIC is concerned with achieving regulatory objectives rather than developing technological solutions;
- ASIC will aim to be technology neutral in its policies;
- To the extent that it is consistent with good policy, ASIC will seek to ensure that regulatory requirements applying to electronic commerce are no more onerous than those applying to more traditional ways of doing business;
- ASIC will seek to ensure that consumers using electronic commerce have at least the same levels of protection as are provided by the laws and practices that apply to existing forms of commerce; and

- ASIC will pro-actively assess the impact of technological developments on efficiency, safety and equity of the financial system and will seek input from industry as appropriate.

A reflection of our regulatory philosophy in the areas we supervise can be divided into the following categories:

- **Electronic markets:** We have a keen interest in the approval and subsequent regulation of electronic equities and futures markets, in particular the introduction of direct to market (usually USA) electronic trading systems;
- **Initial public offerings:** We seek to ensure that IPO's by electronic means comply with the law on prospectuses and provide prospective investors with at least the same protections as in the physical world;
- **Illegal investments:** We pursue illegal investment schemes promoted via websites, bulletin boards and broadcast emails. These schemes are often promoted by inventors of web-based products who need funding support and turn to the web in the hope of attracting unsophisticated investors;
- **Unlicensed investment advice:** We continue to take action against advice given by persons without an appropriate licence or with no consideration of the needs of investors receiving the advice – who are often self proclaimed internet “financial gurus”.
- **Computer software advice:** There are escalating numbers of trading analysis software systems that generate buy and sell signals or provide interpretive information recommending or promoting the trading of securities (with no securities dealer's licence). The sale of these systems is often accompanied by

compulsory attendance at expensive (\$10,000 or more) training seminars;

- **Disclosure of interests:** We see continuing examples of non-disclosure of commissions and potential conflicts of interest by persons providing advice about securities;
- **Free stock offers and share hawking:** There is a growing trend towards website promotion through the offer of “free stock” in companies yet to be formed. These are frequently promoted as a means of encouraging web users to register with the site. The promotional activity is likely to involve consumer protection breaches such as “referral selling”, with more “free stock” offered if friends and acquaintances are referred;
- **False statements:** We are placing further emphasis on preventing the dissemination of false and misleading information about securities on the internet or in company announcements for the purpose of market manipulation, e-extortion or competitor attack;
- **Market manipulation:** There is a high potential for creation of false markets, manipulation of prices or volumes, and insider trading as a result of information disseminated about securities through Bulletin Boards, Chat rooms / internet discussion sites and promotional web sites, about which we have taken both enforcement action and published an interim policy proposal;
- **High yield trading schemes:** We are concerned about aggressive scheme promotions characterised by the offer of high returns in offshore investments. These “too good to be true” offers are often promoted by word of mouth emails and websites with information delivered to potential investors at “confidential” seminars; and

- **Promotion of “exotic” scams:** The transition of exotic investment, pyramid and "ponzi" -type schemes from the physical environment to the internet, is a natural but unwelcome development.

Given that spectrum of internet-based regulatory risk, what can be done about it by a regulator in ASIC's position?

Obviously, the challenges for ASIC and other law enforcement are substantial. History tells us that criminals and other market wrongdoers are early adopters of technology, with law enforcement frequently following behind. There are many reasons for this, not the least of which involves funding and resource-allocation issues.

Nevertheless, as new technologies are created and gain acceptance, legislatures and law enforcement regulators must adapt and apply new legislation and techniques to solve the challenges involved. Without wanting to utilise too simplistic an analogy, it could be said that the problems associated with the internet are not necessarily all that different to the challenges encountered by law enforcement agencies at the time of the introduction and adoption of the motor car early in the 20th century.

The motor car was affordable, it introduced speed and the ability to travel long distances in a short period of time and it accentuated the growth of crimes like bank robberies, smuggling and the transportation of illicit goods. Law enforcers had to adopt the technology themselves to counter that challenge and developed counter-measures such as vehicle registration to assist with identity, and police motor cycle and wireless motor car patrols.

What can we learn from that simplistic example which our regulatory ancestors faced 100 years ago?

In respect of the internet, the technology is obviously substantially more advanced but the challenges introduced by its adoption apply equally. Specifically the internet poses challenges such as:

- It is borderless and global in nature, while regulators are constrained by the geographical confines of their authority;
- The affordability and accessibility of system access, makes it a ready tool for abusers at every end of the social spectrum;
- The anonymous or "faceless" nature of the technology;
- The use of cryptography as a further mask to ready identification;
- The immediacy with which transactions can be conducted; and
- The lack of collateral information (eg fingerprints or eye witness ID).

ASIC's response to challenges posed by electronic commerce

I want to commence this final part of my presentation by saying something about the proactive work we have done with industry, which is aimed at enhancing economic efficiency and speed of delivery. Then I will address some consumer protection initiatives we have undertaken, and I will conclude with some remarks about our enforcement work in this area.

Electronic delivery of information

There has been a well-documented explosion in e-commerce capabilities to disclose information, both from a business to business (B2B) and business to customer (B2C) perspective. To some extent this has been spurred on by government initiatives. Here, the Government has allocated funds to a superannuation program (SuperECProgramme) which is designed to deliver cost and administrative efficiencies by the medium of new technologies.

Not surprisingly, some product providers are considering the extent to which they can discharge their legal reporting obligations (which ASIC administers) via the internet.

ASIC is minded to be generally facilitative of the use of the internet to deliver information. It aims to be technology neutral within the constraints of existing regulatory requirements and principles. This is reflected by the case-by-case approach ASIC has to date taken in relation to applications for relief for the delivery of part electronic application forms in life insurance. (Information Release 00/013, April 2000).

In the superannuation area, product providers have also sought and obtained case-by-case relief to ensure that disclosure proposals are within the parameters of the law.

In examining the extent to which disclosure documents can be provided by the internet, ASIC will consider a number of policy perspectives, including:

- Accessibility of a member or policyholder (including potential customers) to the internet. In one application for relief ASIC

received, we required the provider first to obtain a member's consent before distribution of information to that member by email;

- The extent to which technology can ensure that information and application forms which must be delivered together, are in fact delivered together;
- The extent to which the electronic version of information should replicate the paper version; and
- The extent to which the purpose or effect of signature requirements (in the case of point of sale materials) can be achieved by some other means.

Removing regulatory barriers to electronic distribution

Regulators face an unenviable task of balancing the legitimate business needs and expectations of industry – for efficient, quick and competitive methods of communication, with the requirements of protective legislation designed to ensure that customers are not disadvantaged by technological developments. This tension is best exemplified in areas where legislation has imposed an obligation on product providers to disclose information to consumers, but where technological changes mean that consumers need to make contact with the product provider to obtain the information they need, and to which they are entitled.

In essence, the potential antiquity of posted mail (whereby the information is delivered by the product provider to the consumer's address) and its replacement by email portals or website searches (through which the consumer goes to the product provider's electronic address to obtain

information) signifies a subtle, but fundamental shift in onus in the delivery of financial information.

In February 2000, ASIC took the proactive step of encouraging the development of a fully electronic system for offering securities. (PS150, 15/2/00 and IR00/066) ASIC's policy paper was issued following a 5 month public consultation period, preceded by the issue of a policy proposal paper for public comment.

Under this policy, issuers of securities will be able to make effective use of electronic technology when designing their electronic application processes, provided potential investors have electronic access to the same prospectus material and other information as do paper-based applicants.

ASIC also released a policy proposal paper on 5 October 2000, to allow fully electronic distribution of life and superannuation products. (IR00/032) The paper has been released for public comment on proposals to remove barriers to fully electronic distribution of life insurance and superannuation products.

Although ASIC has for some time been dealing with case-by-case applications for relief in relation to disclosure of documents by electronic means, the proposed policy will go further and allow life companies and superannuation trustees to receive and process applications electronically. The proposals are designed to ensure that issuers of life insurance and superannuation products are not disadvantaged in comparison to issuers of securities, and to maintain a consistent approach to regulation of electronic commerce across the financial services sector.

ASIC is particularly concerned to ensure that consumers who apply electronically for life insurance or superannuation products have full access to disclosure documents and are fully informed about their obligations. The policy proposals address three distinct issues:

- Direct distribution of life insurance and superannuation products using electronic applications;
- Electronic applications where intermediaries (agents or brokers) are involved; and
- Mixed-media distribution.

In relation to the latter issue, ASIC is concerned that if product issuers use a combination of paper based and electronic versions of disclosure documents and application forms, then there could be confusion for consumers if there is a difference in the way information is presented or if the content varies. To reduce that risk, it is likely ASIC will require issuers of mixed-media documents to ensure that the electronic and paper versions of documents remain substantially similar.

Consumer education

ASIC has taken a fairly aggressive position on education to drive home the message that consumers should not be tripped up by their own gullibility. The strategy had its most public exposition in what has become known as the April Fool's Day Millennium Bug Insurance cyber-scam, which was designed to educate consumers about the risks of investing on the internet. On 1 April 1999, ASIC set up a scam website offering a fake investment scheme in an effort to highlight the willingness of people to invest in companies about which they know nothing. Exposed a month later, ASIC's April Fools Day

Joke had succeeded in convincing more than 1400 people to seek out further investment information from the "site" and 233 people pledged over \$4 million to our scheme.

Allied with that hoax, in May 1999, ASIC launched the 'Gull Awards' which is located on the ASIC website. The Gull Awards feature precautionary, but eye-catching, tales of money and deceit and continue to alert consumers to investment scams and how to avoid them. The ASIC website now includes 'Internet Safety Checks' that highlight basic checks which should be made by consumers before investing in internet-based schemes. These tips include checks to ascertain whether a company exists, whether or not it has issued a prospectus, whether the people involved hold an investment adviser's or dealer's licence or a proper authority from a licensed dealer.

ASIC has also drafted a series of 'Consumer Alerts' which have been placed on ASIC's new FIDO site (" Financial Information Delivered On-Line"). The Consumer Alerts relate to the risks associated with on-line trading, spam-scams and warnings in respect of investment advice from bulletin boards, chat rooms / internet discussion sites and on-line investment newsletters.

Last week (19/3/01), on the 5th anniversary of our website, we announced plans to expand our internet services to provide more assistance to investors and finance professionals. Our FIDO site now attracts 21,000 visitors per month, (just 8 months after its launch) and receives double the number of contacts than our telephone-based Infoline service.

The ASIC website provides the following services:

- Free company searches and company alerts – there have been 4.1 million searches on the site in the last 12 months.
- Free licensee and broker searches – we list the details of 36,000 representatives of 2,000 licensed dealers, as well as details of 1,200 insurance brokers.
- OfferList – 2,233 prospectuses and offer documents have been listed online, enabling investors to check that those documents have been lodged.
- Jointly with the Securities Institute, we have published an online directory of 115 organisations offering information about money and finance. The information directory is targeted particularly at consumers living in remote or rural locations who may find it difficult to obtain a range of accessible independent advice suitable for their needs.

We have also announced plans to expand the website to include:

- An online complaints system for investors, consumers and creditors to report on misconduct in financial services, markets or companies, and
- An online licence application system for investment advisers, investment managers, insurance brokers and agents and other financial services organizations who will need a licence under the proposed Financial Services Reform legislation, if enacted.

We know that consumer protection and disclosure issues via the internet are also of interest to the ACCC, given recent publicity surrounding its survey of 299 Australian sites in conjunction with a worldwide sweep of 3000 sites by 48 international agencies.

Finally in this area of consumer protection, I want to make a few comments regarding our ongoing work on the Electronic Funds Transfer (EFT) Code of Conduct. Last month, we released our second report on compliance with the payments system codes of practice and the EFT Code, based on compliance reports from members between April 1999 and March 2000. Our report revealed:

- The number of disputes regarding EFT transactions has increased from 42 complaints per million transactions to 64 complaints per million.
- The number of complaints involving unauthorised ATM and EFTPOS transactions remained static at 30% of all EFT complaints, with the majority being resolved in favour of the card-issuer. Most unauthorised transactions occurred as a result of cardholder negligence with the PIN.
- Two thirds of EFT complaints related to system malfunctions which were for the most part resolved in the customer's favour.

A final version of the EFT Code is likely to be issued next month, covering all forms of electronic banking – telephone, internet and stored value cards. We anticipate that the Revised Code will be operable from April 2002.

ASIC's Electronic Enforcement Unit

The Electronic Enforcement Unit (EEU) commenced operation from 15 July 1999. It has been established with a team consisting of expertise in legal, investigative, internet, web-based technologies and surveillance spheres.

EEU has observed a substantial increase in internet based complaints in the past 12 months. Some of these do not entirely fall into ASIC's jurisdiction, though often they cross a number of jurisdictions - for example a Pyramid scheme that involves an investment product and referral selling. As indicated earlier, such schemes (which are not designed with regulatory comfort in mind), necessarily require close interaction and information-sharing between agencies.

The current focus areas for EEU include:

- providing expert assistance on all operational investigations, analysis of all internet based complaints and establishment of liaison arrangements with ISP's, industry and other law enforcement agencies. To date, EEU has supported 230 national and international matters since its inception;
- trialling of the 'webhound' for the provision of automated internet surveillance;
- the development of an electronically published enforcement resource ('the e-Enforcement knowledge base') containing electronic guidelines, model affidavits, expert statements, protocols, contacts and various other litigation support tools to assist in case preparation;
- the establishment of an "enforce.net" network of trained ASIC enforcement staff capable of undertaking entry level internet based investigations and litigation throughout Australia; and
- the establishment of a Global enforce.net internet-based discussion forum for international members of the securities regulation community. Clearly, in an era where international geographical borders are no obstacle to internet traffic, it is vital that our national regulatory confines do not imperil the ability to

pursue undesirable internet-based conduct spanning across those borders.

We have also undertaken a range of enforcement activities aimed at preventing or stopping some of the regulatory risks I identified a little earlier in this presentation.

These enforcement actions have included:

- In February 1999, ASIC obtained injunctive relief against Stephen Matthews, the publisher of an Internet site called *The Chimes Index*, to prevent investment advice being provided in breach of the Corporations Law. Mr Matthews' contravention of those injunctions subsequently saw him gaoled for contempt of Court.
- We obtained an enforceable undertaking from Paritech Pty Ltd in 1999 not to market, advertise, distribute or sell the computer software package Omnitrader until Paritech obtained an investment adviser's licence;
- An enforceable undertaking was accepted from Martin Leigh Davies-Roundhill in 1999 to cease promoting an investment offer which he had posted to 25,000 newsgroup sites through his home computer;
- Federal Court orders were obtained against Investors International Pty Ltd and its Director Stuart Arthur to prevent illegal fundraising on the web;
- An injunction was also obtained against Netlink Ltd to restrain website promotion of investment opportunities in an internet based product;

- An enforceable undertaking was obtained to restrain the provision of unlicensed futures advice on the internet;
- We accepted an enforceable undertaking from American-based Online Investor Advantage to cease providing unlicensed investment advice in Australia and promoting buy and sell signal software on its website;
- In August 1999, ASIC joined the US Securities and Exchange Commission's campaign to stop internet based free share offers being widely and aggressively promoted via email ;
- In a world "first", we charged two Australians with making false and misleading statements that were likely to induce the purchase of securities of NASDAQ-listed Rentech Inc, via spam (bulk) emails and bulletin board postings.
- We obtained an enforceable undertaking from an 18 year old university student arising from a posting made on an Australian based bulletin board (internet discussion site) purporting to be from the Coles Myer CEO, Dennis Eck. The posting referred to upcoming profit figures and made speculative claims in relation to the value of Coles Myer Ltd shares and warrants.
- Further enforceable undertakings and injunctions have been obtained against trading software promoters and vendors, in conjunction with an EEU national campaign throughout Australia, arising from the provision of unlicensed investment advice, and false and misleading statements associated with their sale.

Conclusion

I think you will see the challenges ahead for all of us. The territories we police are vast and include the new realms of cyberspace. The regulatory powers of investigation and action which we have been given were designed in an age when the full ramifications of the electronic era had not yet arrived. In order to keep pace with these regulatory challenges, and to serve the stakeholders we are charged to protect, we need to remain open to change, ready to adapt our investigative methodologies and willing to experiment.

We also need to ensure that the jurisdictional gaps between us are not widened, and that wherever possible, we approach similar risks in a consistent way. Opportunities such as this present a rare chance to learn and share.