



**ASIC**

Australian Securities & Investments Commission

## Opening address: Creating confidence to grow

*A speech by Greg Medcraft, Chairman,  
Australian Securities and Investments Commission*

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### **CHECK AGAINST DELIVERY**

#### **Introduction**

Thank you, Chris and Uncle Chicka, for your warm welcome to Gadigal Country.

Good morning everyone. Welcome to the 2015 ASIC Annual Forum, our 20<sup>th</sup> Annual Forum.

On behalf of my fellow Commissioners – Peter Kell, Cathie Armour, John Price and Greg Tanzer – I welcome you to this event.

The ASIC Annual Forum is an excellent opportunity to discuss what is happening in our financial services and markets, and there is plenty to talk about given the once in a generation review of our financial system completed late last year.

This year, we have a number of eminent speakers who will contribute to what I hope will be an extremely engaging and thought-provoking two days.

#### **Conference information and services**

First, let me go over some housekeeping matters. Wifi will be available throughout the Hilton conference venue. The access code is specified on your program schedule in your lanyards.

The ASIC Annual Forum app is available for download. On the app you will find the conference program and other useful information. This year you can use the app to submit anonymous questions for plenary sessions. We will also be using the app for live polling – be sure to download it if you haven't done so already. If you have any trouble, you can visit the helpdesk in the exhibition area outside the ballroom.

This year, we also have a live Twitter feed at 'hashtag ASIC Forum' (#asicforum).

Lastly, each session is recorded and webcasts will be available after the conference.

## **Creating confidence to grow**

Now that the housekeeping is out of the way, I'd like to discuss our conference theme, 'creating confidence to grow'.

The aftermath of the global financial crisis still casts a shadow. There is a renewed focus on economic growth and a recognition that to do this we need to get back to fundamentals. In particular, the fact that growth is underpinned by trust and confidence.

That is why this year's Forum will:

- discuss the balance between growth and stability
- challenge the assumption that regulation inhibits innovation, and
- ask how we can boost consumer trust and confidence and, therefore, participation in our markets.

Today, I'd like to talk about the Forum theme in terms of:

- ASIC's role in creating trust and confidence
- the challenges to trust and confidence, and
- how ASIC provides the 'right nudge' to respond to these challenges.

## **ASIC's role in creating trust and confidence**

ASIC plays a vital role in creating trust and confidence. Our fundamental objective is to allow markets to fund the real economy and, in turn, economic growth. This contributes to improved standards of living for all Australians.

For markets to do their job, investors need to have trust and confidence in them. Without it, you don't have a market. Making sure Australians have trust and confidence in our markets is at the heart of everything we do and is reflected in our regulatory strategic priorities of:

- investor and consumer trust and confidence, and
- fair, orderly and transparent markets.

Our first strategic priority has three areas of focus:

- *Education*: Investor responsibility for investment decisions remains core to our system. We empower investors and consumers through our financial literacy work conducted under our MoneySmart brand.
- *Gatekeepers*: We hold gatekeepers – such as directors, advisers, auditors, product manufacturers and market participants – to account. ASIC is a law enforcement agency, first and foremost, and 70% of our regulatory resources are devoted to surveillance and enforcement.

- *Consumer behaviour*: We recognise how consumers really make decisions, which I will talk about later.

Our areas of focus for our second strategic priority – fair, orderly and transparent markets – are:

- our role in market supervision
- surveillance of market conduct, and
- our corporate governance work.

In particular, our Market Analysis Intelligence (MAI) system allows us to gather and match data to detect suspected misconduct in real time.

## Challenges to trust and confidence

My next topic is the challenges to trust and confidence in our markets. At ASIC, our focus is on being proactive and forward-looking so we are well positioned to manage our challenges, which are:

- getting the right balance between a free market-based system and investor protection
- digital disruption to existing business models and channels;
- structural change in our financial system through:
  - growth of capital markets, and
  - movement of savings from the banking sector to the super sector.
- financial innovation-driven complexity in products, markets and technology. Much of this is driven by the digitisation of our economy, and
- globalisation, which also affects:
  - products
  - markets, and
  - technology.

## Responding to challenges to trust and confidence

So how does ASIC respond to our challenges in ensuring people have trust and confidence in our markets? We respond with the ‘right nudge’ by:

- balancing a free market based-system and investor protection
- facilitating innovation, and
- boosting trust and confidence.

I will talk about each of these topics in turn.

## Balancing a free market based system with investor protection

### Fear versus greed

Balancing a free market-based system with investor protection often boils down to the fear versus greed equation. The disincentive to break the law must be greater than the potential gain.

ASIC's law enforcement targets the fear side of this equation in terms of:

- First, the fear of getting caught. As part of our detect, understand and respond approach, we gather intelligence on potential and actual wrongdoing from:
  - our proactive and reactive surveillance
  - breach reporting
  - reports from whistleblowers and the public, and
  - data gathering, matching and analytics.
- Second, ASIC's law enforcement targets the consequences of getting caught:
  - For these consequences to be an effective deterrent, we need penalties that inject so much fear it stops people from breaking the law.
  - We need tougher penalties for white collar crime to provide the 'right nudge'.
  - Only then will fear overcome greed.

### User-pays funding model

Another area where we want to see 'the right nudge' is in the use of ASIC's resources. Those who participate in our markets should have a price signal for the cost of ASIC's oversight to incentivise them to meet the outcomes the Australian Government expects.

To provide this, ASIC should have a user-pays funding model, as recommended by the Financial System Inquiry. Under a user-pays system, those industries needing the most attention would pay the most.

### Digital disruption and cyber resilience

My next topic is digital disruption and cyber resilience. Digital disruption offers:

- new forms of access
- greater competition, and
- greater efficiency.

It provides business with new ways of creating and sharing value with their customer. For example, think of the potential of:

- digital currencies;
- peer-to-peer lending, and
- robo-financial advice.

However, a key risk of the digital age is cybercrime. It poses a systemic risk to our markets. Firms must respond by being cyber resilient through granular risk management systems. Boards should also be aware of cyber risk as part of their risk oversight role.

For critical infrastructure, we must develop a consistent language to communicate the capability and maturity of an organisation's cyber resilience. Adopting the same standard around the world – such as the US National Institute for Standards and Technology (NIST) Framework used in the United States – would provide a consistent baseline needed to tackle this global problem.

At ASIC, we are keen to help firms reach their desired level of cyber resilience. Last Thursday, we released our cyber resilience report, which:

- considers how obligations to manage cyber risks might arise in the laws that ASIC administers, and
- explains how the NIST Framework can assist firms to assess and mitigate cyber risk.

## **Facilitating innovation**

My next topic is how regulation can facilitate innovation. I will do this by talking about:

- ASIC's work to facilitate innovative businesses, and
- how we use insights from behavioural economics to shape our work.

## **Facilitating innovative businesses**

ASIC is committed to encouraging innovation in our financial services and markets. I am pleased to announce that ASIC will be launching an innovation hub in the upcoming financial year so that innovative start-ups and FinTech businesses can navigate the regulatory system quickly and easily.

For example, ASIC is considering:

- ways to streamline common application processes, including applying for or varying a licence
- giving innovative businesses a dedicated contact in ASIC and more opportunities to talk about issues with ASIC decision makers, and
- developing an innovation portal on our website – a one-stop shop for innovative businesses to access information and services directly targeted at them.

Next year, ASIC will also be introducing a live web chat facility for our registry business. Starting with simple registration inquiries, it will allow businesses to resolve issues in real time by engaging directly with an ASIC employee.

To businesses wanting to introduce ground-breaking financial products or services that genuinely benefit consumers – ASIC is open for business. We are ready to help.

## **Using behavioural insights**

Using insights from behavioural economics also fosters innovative and targeted regulatory outcomes based on how people really behave.

ASIC is increasingly relying on evidence-based behavioural insights to improve the outcomes we achieve. For example, behavioural economics principles are used in our pilot project on digital financial product disclosure using key fact statements and optional online self-assessments.

We also recently released research that explored:

- possible behavioural ‘biases’ impacting decisions about investing in hybrid securities, and
- using the ‘right nudge’ in ASIC's communication with directors of firms in liquidation to encourage better compliance.

## **Boosting trust and confidence**

My final topic for today is boosting trust and confidence and, therefore, participation in our markets. There are a number of ways to do this and many will come up during the Forum. Right now, I just want to concentrate on one – culture.

Trust and confidence in our markets is dependent on our gatekeepers having a culture that emphasises the best interests of their customers.

Many companies have learnt the hard way, through ASIC’s enforcement work and/or media scrutiny, that it is not enough to simply pay lip service to the client’s best interests. It should be embedded in the day-to-day of how employees conduct themselves. The tone has to be set from the top, and now is the time to act.

At ASIC, poor culture is like a red rag to a bull, and tells us there are likely to be other regulatory problems within an organisation.

## **Conclusion**

Ladies and gentlemen, thank you for listening. Before our first plenary session starts, we have a video message from our Treasurer, the Honourable Joe Hockey.