My time at ASIC and the work of IOSCO and the FSB on asset management and liquidity

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

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Introduction

Good evening and thank you for the very kind invitation to speak to you again.

I'd like to acknowledge Dan and his continued hard work in representing the interests of your industry. This advocacy is critical and I see that it contributes to positive developments in the international policy debate.

What I'd like to do tonight is:

- first, to give you some reflections about my time to date as Chairman of ASIC
- second, to update you on some recent Government announcements on ASIC and what this means for us going forward, and
- third, to update you on the work that the Financial Stability Board – on which I sit – and IOSCO – which I Chair – are currently doing in the asset management space.

Reflections as Chairman of ASIC

As you probably know, I have had the privilege to be Chairman of ASIC for five years now. I am also happy to say that the Government has recently announced that I will continue in my role for another 18 months.

In these past five years, my vision has focused on three things:

- positioning ASIC as a strong, strategic and proactive regulator ready to meet our ongoing and future challenges

- increasing transparency by making more information publically available about our strategy and operations, and
- emphasising the importance of stakeholder engagement and public communications.

Strong, strategic and proactive regulator

We are in a time of rapid change – technology is traveling at a faster pace than ever.

Innovation and digital disruption demand that we be at the forefront of new developments, and that we constantly think about new risks that may threaten investor trust and confidence.

Over the last five years, I have focused on positioning ASIC as a strong, strategic and proactive regulator. Part of this journey means ensuring we can stay ahead of new developments and risks. We have introduced a number of initiatives to help us. These include:

- establishing our Emerging Risk Committee, which identifies risks on the horizon
- last year, setting up an Innovation Hub to help start-up businesses navigate the regulatory environment, and which in turn provides us with valuable information about fintech developments
- establishing a Behavioural Economics Unit within ASIC to better understand behavioural biases and how this can inform our regulatory strategy, and
- strengthening our External Advisory Panel (EAP) – constituted by respected senior business executives and directors, academics and consumer advocates. The EAP is really the pinnacle of a framework of advisory panels that we now have in place.

All of these initiatives contribute to enabling us to better detect misconduct – and in turn this enables us to be focused on taking enforcement action where we see poor outcomes for investors and financial consumers.

Increasing transparency

For a regulator to do its job, people need to know that we have strong powers and that we are prepared to use them. We also want to be accountable for the work that we do.

To this end, I have sought to improve the transparency of our processes and lifted our communications with stakeholders.

We now:

- publish information on our approach to enforcement, which shows how and when we take action
- issue ASIC's Corporate Plan, which details our assessment of the big risks faced by those using the markets we regulate and how we will manage these over the four years ahead
- release information on how we use our compulsory powers

- publicise all regulatory outcomes we achieve – this also includes resolutions by agreement
- report on the outcomes of enforceable undertakings, and
- publish a six-monthly enforcement outcomes report.

Stakeholder engagement

One of ASIC's regulatory tools is engagement. We see that engaging with our stakeholders contributes significantly to us achieving our strategic priorities.

We have done this by engaging with boards, CEOs and senior executives on a regular basis, which enables us to raise problems with boards and senior executives directly when we see them occurring. It enables us to hear directly about matters of interest or concern from our stakeholders, and it enables us to give frank feedback to boards or share at a thematic level with industry associations the issues we are seeing.

Recent Government announcements

So, turning now to recent announcements for ASIC that you have probably heard about.

Just last month, on 20 April, the Government made a number of important announcements for ASIC. I would like to mention these briefly to you.

Law reform

First, law reform. The Financial System Inquiry (FSI)[1] – also known as the Murray Inquiry – made a number of recommendations for law reform. I see this law reform as critical to further progressing our ability to be a stronger, more proactive and strategic regulator. In particular, the FSI recommended:

- a product intervention power
- a product governance obligation, and
- the review of ASIC's enforcement regime, including penalties.

The Government has now committed to accelerating this law reform.

Industry funding model

Second, ASIC will also be moving to an industry funding model.

For a number of years, I have campaigned for a user-pays funding model for ASIC. I believe that the cost of regulation should be borne by those who create the need for it.

[1] Financial System Inquiry, *Financial System Inquiry: Final report*, December 2014.

The Government has now announced that ASIC will move to an industry funding model as recommended by the FSI. Industry funding will establish price signals to drive economic efficiencies in the way resources are allocated and improve ASIC's transparency. We expect the industry funding model to commence in the second half of 2017.

Funding

Third, combined with this move to industry funding, the Government also announced a $127 million reform package.

This includes $61 million to enhance ASIC's data analytics capabilities and our data management systems. This will allow us to implement a program of change we had been developing, but previously did not have the resources to implement in a timely way.

It also includes $57 million to enable increased surveillance and enforcement in key areas of risk, including financial advice, responsible lending, life insurance and breach reporting.

These measures go to further strengthening our ability to proactively detect and respond to risks and misconduct.

Capability Review

Finally, along with these announcements, the Government also released the report of the Capability Review of ASIC. The FSI recommended that regulators undergo period capability reviews and we volunteered to be first cab off the rank.

The Capability Review made 34 recommendations and we support most of these recommendations. Many of the areas identified by the review are areas where we have significant change projects underway, and we have commenced further initiatives to ensure that we are well positioned to meet our future challenges.[2]

I see that all of these changes are incredibly positive for ASIC and will continue the journey we have already been on to:

- increase our ability to be a strong, proactive and strategic regulator
- continue to bring greater transparency to our processes, and
- enhance our engagement with our stakeholders.

[2] Media Release (16-119MR) *ASIC welcomes significant reforms*, 20 April 2016.

The work of the FSB and IOSCO on asset management

I would like to turn now to talk about the asset management space. I spoke to you on this topic exactly six months ago – and I am pleased to note that a lot of progress has been made in that time.

You will all remember the concerns that the asset management industry could be a threat to global financial stability. The ICI, IOSCO and industry more generally were rightly concerned about the FSB's approach.

Last year, IOSCO decided to push back. We urged the FSB to first focus on better understanding asset managers and funds and any risks they pose before designating any funds or managers as systemically important financial institutions (SIFIs) or imposing any new regulation. Our efforts on this were successful.

Current work of FSB

The current work of the FSB is now proceeding through the Standing Committee on Supervisory and Regulatory Cooperation (SRC). The work of the SRC involves getting a proper understanding of how the industry works, how risk might be transmitted and what can be done about it. The understanding the SRC reaches will underpin the FSB's future approach to policy on asset management.

The SRC looked at three key possible sources of structural vulnerability. In order of importance they are:

- liquidity mismatch between fund assets and fund units, and associated run risks
- leverage in funds, and
- operational risks and challenges in transferring assets between managers.

There are also two minor work streams – one on pension and sovereign wealth funds and the other on securities lending activity.

The main work streams are being jointly led by markets regulators – with ASIC leading the work stream on liquidity mismatch.

Our input is critical. It means the recommendations we end up with will have the benefit of expertise in asset management markets and how they are regulated.

The SRC plans to produce a report for public consultation over the northern summer, with recommendations for future policy.

Those recommendations will be much more targeted than some of the earlier suggestions. They will be designed to address liquidity risk, leverage risk and to a lesser extent the orderly transfer of assets.

Unfortunately, there is a strict embargo on the recommendations that were discussed in Tokyo before Easter. What I can say, however, is that the further work that is envisaged in this area will be undertaken by IOSCO and will involve our usual consultation with industry and with groups such as yours.

IOSCO's work

IOSCO is also working in the asset management space.

In November last year, IOSCO published *Standards for the custody of collective investment schemes' assets*.

And in December, IOSCO published the report *Liquidity management tools in collective investment schemes*, based on survey responses from 27 IOSCO members. The report described the liquidity management tools already available in each jurisdiction and gave feedback on members' experience of using them.

IOSCO has also conducted a comprehensive survey on the data collected by asset managers. The aim is to understand and address the gaps in this information. IOSCO is continuing to work on the need for better information.

IOSCO is also continuing its work on fees and expenses for collective investment schemes, with work in both areas expected to be finalised this year.

IOSCO has also embarked on a comprehensive study on secondary market liquidity for corporate bonds. It will assess claims that liquidity has decreased. This work feeds into the FSB deliberations on structural vulnerabilities, and in particular the claim that managed funds are threatening liquidity and thus financial stability. Hard evidence should show whether this is true or not.

Finally, IOSCO has been doing its own work on asset management policy, which it has been feeding into the FSB's work and which will also feed into future policy decisions by IOSCO. It has created three working groups:

- the first, on data gaps, is developing a report based on IOSCO's earlier work to: take stock of the data collected by regulators and others; identify data gaps, particularly those affecting risk monitoring; and make recommendations to reduce those gaps
- the second, on liquidity risk management, is examining existing practices and assessing options for additional IOSCO guidance, and
- the third, on loan origination funds, is assessing whether further guidance is needed in relation to these funds.

All of this work is important because it will help us to address some of the misunderstandings and preconceptions which have driven the debates in this area to date. More importantly, it will help us find where the real risks and gaps in regulation are, so they can be addressed.

Why this work matters and where we are heading

So why does the work of the FSB and IOSCO matter? It matters because the decisions to be made this year will govern how funds and fund managers are regulated.

We can't afford expensive and unnecessary regulation that will stifle growth and distort the efficient investment of funds.

Interventions by IOSCO (fuelled by input from the industry) have meant that future regulation should be more targeted, more suitable and more appropriate.

And where are we heading with this work?

The FSB will come out with recommendations soon. It will be important that industry continues to respond to them and give the FSB and IOSCO the benefit of your understanding.

There will be a great deal more policy work ahead to convert those recommendations into something more concrete. And IOSCO will be doing most of that work.

I expect IOSCO to ensure that any new policy involves sensible measures that will be targeted to the right areas, will help manage risk and will strike an appropriate balance between the desire to reduce risk and the need to allow markets and funds to operate efficiently. New policy must be evidence-based and industry will be consulted before decisions are made.

Conclusion

To conclude, the development of policy on asset management has at times been difficult. It is still an ongoing story but we are now in a much more hopeful place. I think we're getting there.

Again, thank you for the opportunity to speak on both ASIC and on the FSB and IOSCO.

I'm very happy to take questions and to carry on discussing these points throughout the evening.