

29/09/2023

Senator Andrew Bragg  
Chair  
Senate Economics References  
Committee  
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CANBERRA ACT 2600

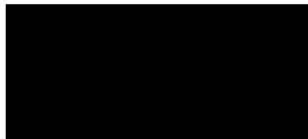
By email to: [Economics.Sen@aph.gov.au](mailto:Economics.Sen@aph.gov.au)

Dear Chair and Secretariat,

Please find attached a supplementary public submission responding to evidence provided in the Committee's public hearings dated 23 and 24 August 2023.

We would appreciate the opportunity to make public submissions relating to matters of interest to the Committee ahead of public hearings in order that we can assist the Committee and witnesses to understand ASIC's approach to the relevant matters in question.

Yours sincerely,



**Sarah Court**  
A/g Chair  
Australian Securities and Investments Commission



**ASIC**  
Australian Securities &  
Investments Commission

# **Inquiry into Australian Securities and Investments Commission investigation and enforcement**

**Further submission by the  
Australian Securities and  
Investments Commission: Specific  
matters raised by witnesses during  
the 23–24 August 2023 public  
hearings**

29 September 2023

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## Overview

- 1 This submission responds to evidence provided by witnesses to the inquiry during the Committee hearings on 23 and 24 August 2023.
- 2 We have listened to the evidence presented to the Committee. We value reports of potential misconduct, particularly from industry associations, as these can provide valuable intelligence to inform ASIC's regulatory and enforcement activity.
- 3 We acknowledge there is scope to improve our responsiveness to reporters of misconduct, particularly industry associations and whistleblowers.

## 1. Engagement with professional bodies and industry associations

- 4 We have considered the evidence from industry associations about their engagement with ASIC. We appreciate engagement with industry associations and note that professional bodies have subject matter expertise and are well placed to provide intelligence on a variety of topics such as unlicensed financial advice, scams, and information about members of the regulated population— including registered liquidators and mortgage brokers. We note that not all matters raised by industry associations and professional bodies fall within ASIC’s jurisdiction.
- 5 As outlined in our response to *Question on Notice Set 20*, the number of reports from industry bodies varies. We usually receive around ten reports each year.
- 6 We consider and review all reports from industry associations. Where relevant we use information from these reports to assist our investigations. In other cases, these reports are assessed and recorded for intelligence purposes, however no specific action is taken for a range of reasons including:
- the information relates to breaches outside of ASIC’s jurisdiction;
  - the report alerts ASIC to publicly available information;
  - the subject has had disciplinary action taken against them, are no longer in the industry and further ASIC action is not warranted; or
  - the matter is already being investigated and the report provides no new information.
- 7 We note the evidence from the Australian Restructuring Insolvency and Turnaround Association (ARITA) to the effect that ASIC has lost paperwork it submitted to us. We dispute that submission. In each case referred to us by ARITA we spoke to or corresponded with ARITA about the matters raised.
- 8 However, while we do have avenues for engagement for industry bodies, we acknowledge there is scope to improve both our avenues for industry bodies to efficiently raise issues with us, and our engagement with those bodies after we have considered their concerns.

## 2. ASIC regulation of financial advice

- 9 We note evidence to the Committee from the Financial Advisers Association Australia regarding ASIC’s regulation of the financial advice sector and associated levies.

## Industry funding model

- 10 ASIC's budget is set by government. We efficiently manage the resources allocated to us by prioritising the most significant threats and harms in our regulatory environment. This is reflected in the allocation of levies under the industry funding model (IFM).
- 11 In June this year, the government released the [Final Report on the Review of ASIC's Industry Funding Model](#) (IFM). The review found that the settings of the ASIC IFM remain broadly appropriate and substantial changes to the model should not be made. The report suggested some refinements be made by the government.
- 12 Further information about the IFM and levies is set out in our answer to *Question on Notice Set 49*.

## Unlicensed advice

- 13 Questions were raised during the Financial Advisers Association of Australia's appearance about the extent of unlicensed financial advice activity in Australia. ASIC receives frequent reports of misconduct and intelligence about unlicensed conduct and regularly takes action, including enforcement action, where we find evidence that unlicensed advice has been provided.
- 14 ASIC has also proactively worked to identify unlicensed conduct. For example, in 2021 we conducted a review to understand the evolving landscape in relation to social media financial influencers, following which ASIC published Information Sheet 269 *Discussing financial products and services online* ([INFO 269](#)).
- 15 Some examples of ASIC's recent enforcement action include:
- In January 2023, former financial adviser John Wertheimer was convicted and sentenced in the Perth District Court for providing a financial service on behalf of a person who carries on a financial services business while unauthorised to do so, and for engaging in dishonest conduct in relation to a financial service.
  - In July 2022, Nizi Bhandari, of Victoria, was charged with engaging in dishonest conduct in the course of carrying on a financial services business and providing unlicensed personal financial product advice. The trial has not yet commenced.
  - In May 2022, Walter Yaolong Guan, of New South Wales, was banned from providing financial services for five years after ASIC found his financial services licence authorisation did not permit him to trade shares on or operate managed discretionary accounts.<sup>1</sup>

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<sup>1</sup> Mr Guan has appealed ASIC's decision. The appeal is ongoing.

- In February 2023, ASIC banned former mortgage broker and property spruiker Christine Childs of Queensland, from providing financial services for eight years, for carrying on an unlicensed financial services business in recommending clients buy property through their superannuation, including through newly created self-managed superannuation funds.
- In November 2021, following ASIC's investigation and enforcement action, the Federal Court found Melissa Caddick and her company, Maliver Pty Limited carried on an unlicensed financial services business.

### 3. Nuix case

16 We note some of the matters raised in relation to Nuix Limited are addressed in the outline of our investigations in our supplementary submission of August 2023 and our answers to questions on notice regarding this matter, including *Question on Notice Set 46*.

#### **Persons interviewed by ASIC**

17 Mr Krolke gave evidence to the Committee that ASIC did not interview him or most of his senior colleagues. In fact, ASIC interviewed 13 Nuix executives as part of the now finalised investigations involving Nuix. These executives were interviewed on matters relating to all aspects of ASIC's investigations relevant to their roles, including, where relevant, knowledge of material information which formed part of suspected inside information for the Black Hat insider trading investigation. ASIC has also conducted a number of examinations and interviews, including of Nuix executives, in relation to our continuing insider trading investigation.

18 We did not interview Mr Krolke because, at the relevant time, his role as Vice President of Technology Services was not directly relevant to finance and the preparation of forecasts or the suspected inside information.

#### **Evidence relating to insider trading**

19 Given questions raised during the public hearing on 23 August 2023 we reiterate that, while we were aware of substantial circumstantial evidence in this case, we considered the evidence to be insufficient to refer the matter for consideration of criminal charges.

20 As noted in our supplementary submission, without direct evidence, any allegation that Stephen Doyle communicated inside information to Ross Doyle would depend on an entirely circumstantial case.

- 21 That is, the court would be required to draw an inference that the communication of inside information occurred based only on the circumstantial evidence available, without any direct evidence of the communication. In such a case, we would need to exclude—either beyond reasonable doubt in a criminal prosecution or to the Briginshaw standard of proof in civil penalty proceedings (the balance of probabilities but with stronger evidence needed)—all reasonable hypotheses consistent with innocence.
- 22 In circumstances where there was direct evidence in the form of documents to support aspects of the explanations provided by Ross Doyle in his section 19 examination about his trading and the structure of his holdings of Nuix shares, there was insufficient evidence to negate all hypotheses consistent with innocence and therefore to prove a case to the requisite standard of proof. Therefore, on the basis of the evidence gathered during the investigation, it was decided there was insufficient evidence to refer the matter to the CDPP.

## 4. Magnis case

### **Mr Peluso's evidence regarding confidential information shared with investors**

- 23 Mr Peluso asserted there was evidence of insider trading in the case of Magnis. Mr Peluso indicated he believes this was the case because investors told him the chairman of the board provided them with confidential information:

*CHAIR: We will look at a couple of those allegations. An example is insider trading. What do you think is the main evidence that there was insider trading at Magnis?*

*Mr Peluso: The main evidence was that I would receive calls from investors. They would ring me with information that there's no chance they could have unless you worked at Magnis. Sometimes, Senator, they would call me with information that not even I knew. This is the alarming piece. They would call me and say, 'Hey, listen. I've spoken to the chairman. He's told me that X, Y and Z is going to happen. An announcement is going to go to the market. Often family had been buying shares. They would ask, 'Why hasn't it happened?' I'm saying, 'I'm sorry, I'm not sure what you're talking about.' This happened on a continual basis. This happened in my time. There were certainly other members of the executive where the same thing was happening to them, be it our CFO or the company secretary. This was not something that wasn't known by many people in the organisation. There was nothing we could do to stop him. So they would get information. They were aware that announcements were pending. They were trading on it and then*



*would get upset when those announcements weren't made in the timeframes specified to them. I would see the names of these people appear on the share registry buying before announcements were made. I approached the chairman many times, and many others did as well, to try to get him to stop, and he would just deny it. I would then remind him and say, 'Frank, you need to remember that I was one of those shareholders. You did exactly the same with me. When I got here, I found out that you did it with 20 or 30 other people.'*

*CHAIR: Okay. Is the evidence that Magnis executives were trading on their own account, or were they using other people to do this?*

*Mr Peluso: They were providing information to other shareholders and they were trading on that information. My view was they were trading for their own personal gain, not necessarily that of the chairman providing the information.*

...

*CHAIR: Okay. ASIC have argued that they undertook a detailed review and did not review any communications with current or potential shareholders that would support insider trading allegations. That's their evidence.*

*Mr Peluso: I'm probably in shock. I gave names, phone records and dates of conversations with certain individuals. I provided information on when people were given information well before the market and when they were calling me upset that they and various family members traded in the lead-up to an announcement. I'm not sure what else I can do.*

- 24 As outlined in our supplementary submission of August 2023 and our answers to *Questions on Notice Set 12 and Set 45* regarding this matter, we took detailed investigative steps to gather evidence about the information communicated, including the execution of a search warrant.
- 25 As set out in our supplementary submission, our investigation revealed evidence of the confidential communications referred to in Mr Peluso's evidence to this inquiry. However, we found no evidence to show these communications amounted to 'inside information' under the law.
- 26 In order for communications to be considered 'inside information' for the purpose of s1043A(2) of the *Corporations Act 2001*, a reasonable person must expect it to have a material effect on the price or value of the financial product. As noted in our supplementary submission, the information shared was not sufficiently material to constitute 'inside information' for the purpose of s1043A(2). The communications contained general commentary about what the company was doing and generally promoted buying Magnis shares. To the extent that any information was later announced to the market, it did not appear to generate any significant market reaction.

## 5. IRexchange case

- 27 As set out in our responses to *Questions on Notice Set 15* and *Set 47* regarding this matter, this matter is ongoing. As noted in those responses, we are conducting an investigation into suspected misconduct by several directors, officers and advisors of IRexchange Limited (IRX). We are unable to provide further comment on this ongoing matter.
- 28 We acknowledge Mr Baillieu's evidence about ASIC's lack of engagement after he provided information to inform ASIC's investigation. However, there are limits to the information that ASIC is able to disclose publicly and confidentially about an ongoing investigation. While ASIC is constrained from sharing information, we acknowledge that we could have better communicated with Mr Baillieu as to whether the investigation was continuing.

## 6. Greywolf case

- 29 ASIC received reports of misconduct between 2010 and 2022 about Greywolf Resources NL (Greywolf), including one report of misconduct from Mr Garry Delaney on 22 November 2012. Issues raised included misleading statements, offers without a prospectus, failure to lodge financial statements, failure to retain sufficient books and records, failure to pay back loans, possible related party transactions, possible misappropriation, possible insolvency and failure to hold shareholder meetings.
- 30 While we received reports about money owed and disclosure, we did not receive reports from shareholders of Greywolf about investor losses prior to the airing of the Four Corners program in August 2022.
- 31 We assessed each report and took action relating to misleading statements, failure to lodge financial reports, and fundraising disclosure. In particular:
- We wrote to Greywolf in 2010 in relation to potentially misleading statements on the company website, which were taken down; and
  - We wrote to Greywolf about its non-lodgement of financial reports and subsequently commenced Local Court proceedings in 2013 and 2016. We withdrew the court actions when the financial reports were lodged.
- 32 In respect of other allegations, we decided not to pursue these because:
- there was little evidence of money having been received from retail investors; or
  - there was insufficient material provided to support the allegations; or
  - there were avenues for aggrieved parties to take their own private actions; or

- there were competing priorities among the numerous other reports of misconduct to ASIC that revealed more substantial misconduct.

33 In respect of Mr Delaney's reports of misconduct, we received one such report on 22 November 2012 about Greywolf which raised concerns the directors of Greywolf were intending to misappropriate funds, but did not identify specific information which would support that view. We spoke to Mr Delaney on 23 November 2012 to find out more about his report. After assessing the information available to us, we wrote to Mr Delaney on 2 January 2013 and advised that we would not be taking any action and that our decision did not affect his private rights.

34 ASIC did not receive any other complaints from Mr Delaney or from his solicitor about Greywolf. ASIC received an unrelated complaint from Mr Delaney on 7 February 2017 about a different company. We spoke to Mr Delaney on 10 February 2017 about the complaint and at the end of the conversation, we advised that ASIC would not intervene in a private legal dispute.

35 For further information see our answer to *Question on Notice Set 48* regarding this matter.

## 7. Courtenay House case

36 Mrs Barnett gave evidence to the Committee regarding outcomes for investors from the operation of unscrupulous investment schemes such as Courtenay House. Investor losses arising from these schemes are concerning and we expend significant resources to combat these schemes, including investor education, conducting surveillance, issuing warnings and undertaking enforcement action. In some of these cases the conduct is not evident until ASIC receives a number of complaints. Once we commence an investigation, ASIC may not be able to share that information with investors, so as not to prejudice the investigation.

37 In the case of Courtenay House, ASIC received four complaints from the public prior to the commencement of our investigation, rather than 10 as indicated in Mrs Barnett's evidence.

38 Prior to these reports, ASIC received a report from a member of the public in August 2012 about the D&D Global Markets Fund (ASRN 115 250 443), which Courtenay House later took over as the investment manager in June 2015, renaming it to Courtenay House Capital Investment Fund. At the time of the report in August 2012, the D&D Global Markets Fund was not operated by Courtenay House or its officers, rather the report was about the previous operator of that fund, an unrelated entity.

39 In September 2014, ASIC officers conducting an investigation in relation to a different matter became aware of information about Courtenay House

which raised concerns. The ASIC officers registered an internal activity to consider these concerns. This activity was considered together with the two reports of misconduct received in January and February 2015 noted below.

40 Two reports from the public were received in January and February 2015 about Courtenay House, alleging unlicensed conduct and misleading representations made to investors. In response to these reports, ASIC issued a warning letter to Mr Iervasi on 31 March 2015 requesting he remove the Courtenay House website and cease unlicensed conduct. In May 2015, we confirmed that Mr Iervasi did remove the website and the contact phone number.

41 A further report was received about Courtenay House in March 2016 from a licensed financial planner as noted in Mrs Barnett's evidence. The report alleged that the scheme was offering unlicensed financial advice and that purported returns were unrealistic. Following consideration of the issues, and a further report from an anonymous witness in January 2017, ASIC commenced a formal investigation into Courtenay House in March 2017.

42 We note Mrs Barnett's evidence relating her experience of seeking compensation under the 'act of grace' mechanism. In her evidence, Mrs Barnett observed that ASIC has 'acted as judge, jury and witness'. She notes 'this medieval, archaic form of having ASIC decide, answer and, in many cases, distort facts disallows the Department of Finance from being an impartial arbiter'. The act of grace mechanism is administered by the Department of Finance and ASIC does not have a decision-making role in this process. It is intended to be a remedy of last resort so the availability of compensation through other means will be considered.

43 In its response to Finance with respect to SR Group's act of grace application on behalf of Courtenay House investors, ASIC submitted that any response at that time might prejudice current legal proceedings and any other actions or inquiries ASIC may take with respect to Courtenay House. At the time, criminal proceedings had been commenced against Mr Tony Iervasi and Mr Athan Papoulias. The criminal proceeding against Mr Iervasi is ongoing. Mr Papoulias has since pleaded guilty and been sentenced in the criminal proceeding commenced against him and charges have been laid against Mr David Sipina.

44 Further information regarding act of grace payments can be found on the Department of Finance website: [Act of Grace Payments | Department of Finance](#).

45 For further information see our answer to *Question on Notice Set 50* regarding this matter.

## 8. Yates case

- 46 Ms Walker gave evidence to the Committee regarding Graham Yates. Ms Walker's reports of misconduct about Mr Yates were received by ASIC in December 2021. ASIC had received two previous breach reports concerning Mr Yates in 2019, however, no action was taken as ASIC understood Mr Yates was no longer operating in the industry.
- 47 When we approached Ms Walker for further information about her claims about ongoing conduct, the evidence provided suggested the conduct was aged and not ongoing, and related to a dispute about the transfer of clients from Mr Yates to another adviser. ASIC did not take any further action.

## 9. Kalkine case

- 1 We note Ms Abood's evidence referring to Kalkine. As noted in our answers to *Question on Notice Set 9* and question 5 of *Question on Notice Set 49*, ASIC has an open investigation into Kalkine Pty Ltd. We have interviewed multiple investors and reviewed transcripts of many call recordings. We have not yet reached a conclusion in relation to the allegations that Kalkine is providing unlicensed financial advice.

## 10. Select Vantage / Merlito case

- 2 We reject allegations by Mr Schlaepfer in his evidence to the Committee that we have acted unprofessionally, with unfair bias, or that we used 'clandestine tactics'.

### **Our concerns and investigative steps**

- 3 In November 2014, we became concerned that Select Vantage Inc (Select Vantage) and Merlito Securities Company Ltd (Merlito), companies ultimately owned and controlled by Mr Daniel Schlaepfer, were engaging in a form of market manipulation known as 'layering'. We were concerned that Select Vantage's traders were attempting to create a false impression of demand in thinly traded stocks by placing significant numbers of buy orders at prices the stocks were unlikely to trade, creating upward pressure on the share price.
- 4 Select Vantage was incorporated in Anguilla in 2011 and has been domiciled in the Cayman Islands since 2017. Merlito was a Hungarian financial services company whose only client was Select Vantage.
- 5 The business model of Select Vantage involved trading activity of approximately 1,800 individual traders organised in pods, located at various places around the world. They were authorised to use the company's capital

to day trade on stock markets to which Select Vantage had direct market access through brokers.

6 About half of Select Vantage's traders were domiciled in China and because of the closeness of the two countries' time zones many of them traded on the Australian market. Select Vantage's Chinese traders were active on the ASX and Chi-X. They were authorised by Select Vantage to trade through Merlito's direct access relationship with Macquarie Securities (Australia) Limited (Macquarie).

7 Mr Schlaepfer had a background as a trader with a company called Swift Trade Securities Pty Ltd. Through a series of transactions, the business of Swift Trade was acquired by Select Vantage.

8 At the time Select Vantage came to ASIC's attention in 2014, ASIC was aware that Swift Trade and its principal, Mr Peter Beck, had been the subject of various regulatory action by authorities overseas in previous years, including for allegations of layering

See: [Recommendation for Administrative Monetary Penalty Payment Order for Market Manipulation by Select Vantage Inc. \(fsa.go.jp\)](#); [DECISION NOTICE: 7722656 Canada Inc formerly carrying on business as Swift Trade Inc \(fca.org.uk\)](#)

9 In 2012, the Japanese regulatory authority (the SESC) identified that two pods of Select Vantage traders were trading together in an attempt to manipulate the market. The action involved 20 traders, all of whom were located in China. Their services were terminated. Select Vantage was fined the equivalent of \$500.

10 The trading activity of concern to us was conducted through Macquarie. Under the law, market participants like Macquarie are required to maintain robust controls in relation to trading activity that they facilitate. They also have a duty to detect and deter potential market misconduct to support market integrity and to provide financial services efficiently, honestly and fairly. It was in this context and on the basis of our strong concerns about Select Vantage and Merlito's trading activity, that we communicated with Macquarie and other market participants.

11 The Committee has heard evidence that our investigation did not identify any single particular set of fraudulent trades. This is because the trading of concern involved placing a number of *orders* which we suspect were placed to create a false or misleading appearance of the demand for a particular stock, and which were not intended to trade.

12 Between February 2015 and September 2020, we conducted an investigation into suspected market manipulation by Select Vantage. Our investigation involved:

- obtaining information from Select Vantage and third parties on both a voluntary and compelled basis;

- conducting voluntary and compelled interviews with Mr Schlaepfer and other individuals;
- analysing Select Vantage's trading activity; and
- making requests of international regulators to obtain books and information on our behalf. In relation to one such request, after a failure by Select Vantage to comply, the Cayman Islands Monetary Authority won an appeal in the Court of Appeal of the Cayman Islands in 2017 to enforce an order requiring Select Vantage to comply with the direction to provide information and documents.

See: [CIMA Wins Appeal Against Non-Licensee Trading Company](#)

13 Our investigation identified that the Select Vantage traders who engaged in the trading of concern were based in China. We assessed that there was little prospect of obtaining evidence that would enable us to prove the identity and intent of individual traders to the requisite standard for civil penalty or criminal action. As a result, we closed our investigation in September 2020.

14 Separately, we conducted an investigation into Macquarie for failing to comply with the market integrity rules in respect of the trading conducted for Select Vantage. In June 2017, Macquarie paid a penalty of \$505,000 after the Markets Disciplinary Panel issued an infringement notice.

See: [17-198MR Macquarie Securities pays \\$505,000 in infringement notice penalty | ASIC](#)

## **Defamation proceedings**

15 In October 2016, Mr Schlaepfer commenced civil defamation proceedings against ASIC and an ASIC executive.

16 At first instance, the court found that the alleged defamatory imputations and innuendos about Mr Schlaepfer were not conveyed, ASIC had made out the statutory and common law defences of qualified privilege, ASIC did not act with malice, and that the innuendo that Select Vantage and Merlito had engaged in market manipulation was substantially true.

17 On appeal, the Court of Appeal held that the alleged defamatory innuendos and imputations about Mr Schlaepfer were conveyed, however the primary judge was correct to find that the defence of qualified privilege at common law was made out. Accordingly, the appeal was dismissed.

18 As part of its consideration of the appeal, two judges found that the evidence adduced by ASIC was insufficient to establish that Select Vantage or Merlito were engaging in market manipulation. The third judge accepted the primary judge's conclusion that Select Vantage's traders were engaging in market manipulation.



## 11. iSignthis case

- 19 We reject the allegation in Mr Hart’s evidence to the Committee that ASIC pressured ASX to suspend trading in the shares of iSignthis Ltd (iSignthis) (now known as Southern Cross Payments Ltd). We also reject the allegation that ASIC officers acted unprofessionally during the investigation or contrary to ASIC’s obligations as a model litigant in the proceedings against iSignthis.
- 20 On 7 December 2020, ASIC commenced civil penalty proceedings against iSignthis and its managing director and chief executive officer, Nickolas John Karantzis.
- 21 The proceedings allege breaches by iSignthis of its continuous disclosure obligations and allege false and misleading representations relating to:
- (a) three integration agreements between iSignthis and its customers, Corp Destination Pty Ltd, Fcorp Services Ltd and IMMO Servis Group s.r.o.; and
  - (b) statements by iSignthis about the suspension and termination of its commercial relationship with VISA.
- 22 The proceedings also relate to Mr Karantzis’ involvement in those alleged breaches by iSignthis, as well as breaches of directors’ duties and his failure to take reasonable steps to ensure information that he gave to ASX was not false or misleading.
- 23 The trial of the matter has concluded and judgment has been reserved.

### **Our concerns and investigative steps taken**

- 24 The Committee has heard evidence criticising the conduct of our investigation and alleging inappropriate engagement with third parties. We reject any suggestion that we acted inappropriately.
- 25 We commenced our investigation 2 October 2019. We had been making enquiries into iSignthis’ compliance with its disclosure obligations since September 2019, following a fall in its share price after the publication of a research report by Ownership Matters. We were particularly interested in the significant increase in iSignthis’ reported revenues during H2 FY18 which resulted in the issuance of performance shares to the directors of iSignthis and others, and the fact that revenue declined significantly in the following half year (H1 FY2019).
- 26 We reviewed documents which gave rise to concerns that iSignthis may have breached its continuous disclosure obligations by failing to disclose information about three service agreements which formed a significant majority of the increased revenue recognised in FY2018 and which was not recurring. Those documents had been obtained under an unrelated, earlier



surveillance of iSignthis' financial report for the year ended 30 June 2018. That earlier surveillance did not consider iSignthis' compliance with its disclosure obligations.

- 27 Our investigation was later expanded, as it progressed, to involve suspected false or misleading statements by iSignthis and breaches of directors' duties by its officers.
- 28 In June 2020, we further expanded the investigation to include ASX announcements and other statements made by iSignthis and its CEO about the circumstances surrounding the suspension and ultimate termination of its relationship with VISA in March 2020. We had identified inconsistencies in the explanations being provided to ASX, and were concerned that iSignthis had failed to disclose that its commercial relationship had been terminated by VISA, and that the true cause of the suspension and termination was VISA's concerns that iSignthis was not operating and maintaining an appropriate anti-money laundering program.
- 29 It is a standard and necessary part of our investigative process to contact third parties to obtain information relevant to our investigation. In this case, we did contact a number of service providers and customers of iSignthis relevant to the matters we were investigating. We contacted VISA after we had concerns about iSignthis' disclosures about the suspension of its relationship with VISA.

### **Other matters**

- 30 The evidence provided to the Committee referred to the fact that ASIC investigators travelled to London to interview a witness. This did not occur. We interviewed the London-based witness by video-link from Australia.