



ASIC

Australian Securities & Investments Commission

Abacus Chairs and CEO's Forum

Speaking notes for address by Greg Medcraft, Chairman, Australian Securities and Investments Commission

Grand Ballroom, Sheraton on the Park, Sydney

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Introduction

Thank you Louise Petchscler. It is a great pleasure to be speaking to the Abacus national conference.

First, I would like to recognise the work Abacus has been doing – some of it with ASIC – on behalf of its members, particularly on:

1. training and competence for credit licensees;
2. home loan and credit card reforms;
3. the ePayments Code; and
4. consumer credit insurance.

I will have more to say about some of these topics in a moment.

More broadly, I want to recognise the challenges many mutuals are facing.

As this audience knows, the Government is acting to introduce a competitive and sustainable banking system, especially around:

1. empowering consumers to get a better deal (*anticipates ASIC's role on exit fees and consumer awareness and education*);
2. supporting smaller lenders to compete with big banks;
3. securing the long-term safety and sustainability of our financial system.

ASIC has been involved in parts of this package, including:

- the Key Facts Sheet (KFS) for home loans;
- account portability review;
- exit fees; and
- credit card reform legislation.
- ASIC continues to liaise with Treasury on key aspects of this package.

ASIC priorities

Ladies and gentlemen, I would like to outline ASIC's strategic outcomes and how the mutual sector fits into this picture.

Key outcome 1 – confident and informed investors and financial consumers

This has three elements:

1. Education – MoneySmart, schools, new media
2. Gatekeepers – credit reforms, exit fees, ePayments Code
3. Consumer behaviour – advertising, new media, business model, suitability

Sub topic 1: Education

Education: Investor responsibility for their investment decisions remains core to our system. Understanding risk / reward and diversification is paramount.

- 'MoneySmart' – **600,000 unique visitors** since its March 2011 launch.
- *Helping Our Kids Understand Finance*
- New media – YouTube, Twitter and Facebook
 - 710 followers on Twitter.
 - 410 people 'liking' ASIC on Face book, and
 - 5,800 views of our 14 YouTube videos.

Sub-topic 2: The gatekeepers

Holding the 'gatekeepers' of the financial service system to account is another important aspect.

- Gatekeepers, in the widest definition of the term, includes accountants, directors, advisers, custodians, product manufacturers, market operators and participants.
- ADIs are gatekeepers and in this regard, there has been recent legislation that affects their role.

Credit reforms

From 1 January 2011 all entities (ADIs and non-ADIs) wishing to engage in credit activities must hold an Australian Credit Licence.

The key concept – suitability. Licensees must not enter into a credit contract with a consumer if the credit contract is unsuitable for the consumer.

ASIC's surveillance and compliance work on credit includes:

- National program to identify unregistered and unlicensed credit activity.
- Focus on responsible lending in the home loan and payday lending markets, consumer leases for whitegoods and other domestic goods, and debt reduction and consolidation schemes.

ASIC's impression is that members of the mutual ADI industry (credit unions, mutual banks and building societies) understand their responsible lending obligations and because of their ongoing commitment to compliance, represent low compliance risks.

Key facts sheets – From 1 January 2012, lenders will need to provide potential borrowers with a simple one-page 'key facts sheet' showing how much they will pay every month and over the life of their loan, and where they can shop around so they can compare lenders side-by-side. ASIC acknowledges the tight implementation timeframe and will work with industry to meet this timeframe.

Indeed, ASIC continues to work with industry on a range of issues related to the new credit regime.

- We recently published a consultation paper on the training requirements for credit representatives providing credit assistance to consumers on home loans, including credit representatives who work inside lenders.
- Abacus and others had raised concerns with us about the training requirements. We heard those concerns, and we are now consulting on some proposals to modify the training requirements. We encourage you to provide us with feedback on the proposals.

Exit fees

Legislation banning exit fees for new home loans started 1 July 2011.

ASIC has issued guidance – RG 220 *Early termination fees for residential loans: unconscionable fees and unfair contract terms*. This includes:

- the costs and losses that can be included in exit fees;
- the types of loss that should not be recovered through exit fees; and
- the limited circumstances where a lender may vary exit fees during the life of a mortgage.

The law and ASIC's guidance does not prevent lenders, including smaller lenders, from using flexible pricing, including by offering discounted establishment fees or honeymoon-rate loans.

Ongoing monitoring by ASIC and consumer education (through MoneySmart – e.g. savings through switching to a cheaper mortgage with another lender). ASIC will consider relief on a case-by-case basis.

Likely to boost competition in the home loan market (ability for mutuals to draw customers from banks, for instance).

Self-regulation has a significant role to play and industry standards are critical in terms of complementing regulation. They provide guidance on how to comply with the law and go beyond the law in setting standards, particularly in areas such as ethics.

ePayments Code

ASIC working on a new ePayments Code. Protections in cases for fraud and unauthorised transactions. It is voluntary.

New code follows extensive review of the previous EFT code – widespread consultation between ASIC, industry and consumers.

The Code is a product-neutral and plain English document that will cover all consumer electronic transaction, not just those from traditional banking organisations.

ASIC has been responsible for the EFT Code since 1998 and is required to review it periodically.

The new Code will regulate electronic payments including ATM, EFTPOS and credit card transactions (including contactless transactions), online payments, internet banking and BPAY.

All banks, credit unions and building societies signed up to the EFT Code and ASIC expects all will continue with the new ePayments Code.

Existing subscribers have an 18-month transition period.

Transition to commence in September and expect subscribers to be with the new Code by March 2013.

Sub-topic 3: Consumer behaviour

Recognising how investors and consumers make decisions

Advertising

I would like to announce the release today of an ASIC consultation paper on the advertising of financial products and advice.

This guidance is about confident and informed investors and financial consumers.

Consumers are heavily influenced by ads. Often, with financial products, there is a temptation to rely on the ads alone and not seek more information.

For promoters, there is a tendency to focus on the product's advantages and to give less prominence to the unattractive features.

Our guidance aims to help promoters and publishers present ads that are accurate, balanced and help consumers make appropriate decisions.

It contains real examples of where we have raised concerns with promoters and as a result the ads have been changed.

The draft guidance sends a clear message to those promoting financial products that they need to do more about explaining the risks as well as the benefits of products in their ads.

We encourage industry to strive to do more than simply meet the minimum requirement not to be misleading and deceptive, but rather to actually take a role in ensuring ads help investors and consumers make better decisions.

I would like to recognise the work Abacus has done in this area with its Financial Product Advertising Manual. This is a document that has been in existence for some time and which is a very helpful resource for Abacus members.

I commend Abacus's foresight with this document and welcome its input on our draft guidance.

New media – YouTube and Twitter

Business model and its risks

Suitability

That is ASIC's first outcome – confident and informed investors and financial consumers.

Priority 2 – fair and efficient financial markets

There are two parts to this:

Sub-topic 1: Market supervision

In August 2010, ASIC increased its role in the facilitation of fair and efficient markets by assuming the market supervision function previously performed by ASX.

Sub-topic 2: Market Competition

March 2011 – ASIC published its competition timetable.

April 2011 – ASIC published Market Integrity Rules.

October 2011 – Chi-X starts operating (at the earliest).

ASIC continues to engage with industry on a number of issues relating to implementation of the new Market Integrity Rules.

Priority 3 – efficient registration and licensing, with particular focus on small business

Let me turn now to the third ASIC priority, which is efficient registration and licensing.

A large part of our organisation is dedicated to collecting corporate and company information – and information on regulated professions – so that it is available to others.

- Later this calendar year ASIC will launch a new service for searching our public registers through the ASIC website.
- We will cut red tape for customers, move towards our goal of 100% online services, and add value to the Australian economy. This service will directly assist the SME sector.
- Our new service will:
 - Make it easier to look across registers to find relevant results. For example, only one search to find out if an individual is a director, licensee, representative, banned or disqualified person;
 - Provide more informative results. For example, when conducting an identical name check, we will also provide results for similar names (currently we only provide exact matches).

- Allow fee-based searches to be done via our website using a credit card (for the first time); and
- Save money for those who want to search online without the services of a third party information broker. As a guide, a current extract will cost \$9 from ASIC but may cost \$25 from a broker.

How do we set our priorities?

Those are the ASIC priorities I see over the coming five years.

I also wanted to give you some background on our approach to setting priorities. These are:

1. our legislative responsibilities;
2. systemic or regulatory risk;
3. the expectation gap between what stakeholders expect and what ASIC is doing; and
4. government policy objectives.

Key drivers

The key drivers we use to achieve our priorities are:

- engagement with industry and stakeholders;
- surveillance;
- guidance;
- education;
- deterrence – we will continue to focus on taking on the big cases and pursue wrong-doers.

We recently decided to publish guidance on how we approach our compliance and deterrence role:

- evidence
- cost vs regulatory benefit
- level of harm or loss; and
- policy advice.

Conclusion

Ladies and gentlemen, I hope you can see from what I have talked about today, ASIC will continue to work hard to meet our priorities over the next few years:

- Confident and informed investors and financial consumers;
- Fair and efficient financial markets; and
- Efficient registration and licensing.

So, thank you for the opportunity to speak to you today.

I look forward to working with you over the coming years.

I am happy to take questions now.