



ASIC

Australian Securities & Investments Commission

Senate Estimates: Opening statement

*Greg Medcraft, Chairman,
Australian Securities and Investments Commission*

4 June 2014

CHECK AGAINST DELIVERY

Good morning, Chairman.

Thank you for this opportunity to address the Committee.

Representing ASIC today are all of our Commissioners:

- Deputy Chairman Peter Kell, and
- Commissioners:
 - Greg Tanzer
 - John Price, and
 - Cathie Armour.

Supporting the Commission are Senior Executive Leaders:

- Greg Kirk
- Warren Day
- Chris Savundra, and
- Tim Mullally.

I have a brief opening statement.

It covers ASIC's budget position and the latest developments in the Commonwealth Financial Planning Limited matter.

ASIC's budget

As has been reported, ASIC's budget will be cut by around \$120 million over four years.

This is in addition to the increased efficiency dividend of \$47 million over four years, and other savings measures.

In the 2014–15 financial year, \$44 million or around 12% has been cut from our operating budget.

Our average staffing levels will reduce by 209. This is a change from 1,782 to 1,573.

In anticipation of this cut, we have been proactive in conducting a voluntary redundancy campaign.

Over the coming weeks, we will be working with our business units to meet the remaining budget reduction.

So, what does this mean for ASIC's operations?

With reduced funding, ASIC can still perform its statutory functions.

We will adjust our resource allocation to reflect the available funding to continue to achieve our strategic priorities of:

- confident and informed investors and financial consumers
- fair and efficient markets, and
- efficient registration and licensing.

We will also look to mitigate risks arising from lower levels of activity.

But, some change is inevitable. In particular, our proactive surveillance will substantially reduce across the sectors we regulate, and in some cases stop.

For obvious reasons, we do not want to identify to the market the areas where we will not be conducting proactive surveillance.

We will rely more on the intelligence we get from misconduct reports and the complaints we receive.

We will limit our risk-based approach to focus on those entities or activities that have the greatest market impact.

Where we do find that someone has intentionally broken the law, we will continue to do the best we can to ensure that the consequences are severe.

Some examples of changes are:

- In our consumer cluster – In our Deposit takers, Credit and Insurance team, there will be reduced proactive surveillance. As a result, this team will focus on activity by entities that have the greatest market impact at the expense of smaller entities that have smaller customer bases.
- In our markets cluster – We will be doing less proactive surveillance of debenture issuers, and fewer document reviews – for example, prospectuses.
- In our registry business – There will be reduced levels of service to our registry customers and fewer process improvement activities, such as to online services.

Commonwealth Financial Planning Limited

On 16 May, ASIC lodged a correcting statement with the current Senate Inquiry into the performance of ASIC. We did so because some of our evidence to the Inquiry on Commonwealth Financial Planning Limited (CFPL), both in our submissions and answers to questions, was incorrect.

We had advised the Inquiry that \$52 million compensation was paid to CFPL clients. In fact, \$41.5 million had been paid to CFPL clients and \$10.5 million to clients of another Commonwealth Bank-owned financial planning firm, Financial Wisdom Limited.

We had advised the Inquiry that ASIC had negotiated a robust process for compensating CFPL clients. However, contrary to our earlier evidence, two important measures from the original compensation process were not applied to all affected CFPL or Financial Wisdom customers.

The two measures that were not consistently applied were:

- upfront communication with all clients whose files would be subject to review, and
- the offer of up to \$5,000 for those clients to get independent advice on any compensation offered.

To address the inconsistent treatment of those customers, we imposed – by agreement with the bank – licence conditions on the Australian financial services (AFS) licences of CFPL and Financial Wisdom. These conditions, which are being finalised, will require both businesses to provide those two measures to customers who did not receive them.

This will provide over 4,000 customers with the opportunity to reopen the question of compensation and, in doing so, to have the benefit of \$5,000 to obtain independent advice.

I emphasise that the inconsistencies in the methodology do not go to the quality of the file reviews or the adequacy of the compensation offered.

ASIC regrets that we gave incorrect evidence to the Senate Inquiry and that the customers involved were potentially disadvantaged by the inconsistent treatment.

We have sought to remedy this for the customers involved to the fullest extent possible through the licence conditions.

Clearly, there were problems with the remediation process and confusion about what steps had been taken with different groups of clients.

ASIC was keen that methodology originally agreed upon with the bank for compensating customers was applied consistently. The bank was aware of that.

Despite this, the methodology was changed in the two ways I have noted and the bank was not sufficiently upfront with ASIC in advising of its decision to change the methodology. This is disappointing.

Despite this, it was ASIC's job to ensure the compensation process, both in methodology and implementation, worked effectively.

In practice, there was ambiguity in communications between ASIC and the bank and with the independent monitor. As a result, there were different interpretations of what was expected.

We should have controlled the process more tightly so that the departure from the original agreed methodology could not have happened.

In conclusion, Mr Chairman, I reiterate ASIC's regret that we allowed the failings in the Commonwealth Bank compensation process to occur and that our evidence to the Committee was inaccurate.

We are using our best endeavours to address the situation for the many customers of the bank, and also, long-term improvements to achieve good outcomes for financial consumers in the future.

We are very happy to take your questions.