Maintaining trust and confidence in our dynamic markets

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

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CHECK AGAINST DELIVERY

Introduction

Thank you, John, for that introduction and to the Finance and Treasury Association for inviting me to speak today.

Today, I'd like to discuss three topics:

- ASIC's role
- the environment in which we operate, and
- how ASIC and industry can ensure resilient financial markets by:
  - mitigating the risk of financialisation of our markets
  - maintaining good corporate governance
  - facilitating market-based financing, and
  - ensuring that those who participate in our markets are cyber-resilient.

Afterwards, I'm happy to take questions.

ASIC's role

Markets cannot perform their fundamental purpose – funding the real economy and, in turn, economic growth – if investors and issuers do not have trust and confidence in them. This was a clear lesson from the global financial crisis.

Our fundamental objective is to allow markets to allocate capital efficiently to fund the real economy and in turn economic growth. This contributes to improved standards of living for all Australians.

Making sure Australians have trust and confidence in our markets is at the heart of everything we do. It is what drives the excellent men and women who work at ASIC.

People work at ASIC for good reason. Since joining ASIC from the private sector, I am continually amazed at the passion, dedication and resilience of our staff.

Our dynamic environment

Now, I'd like to move on to my next topic – the dynamic environment in which ASIC operates.

We are living in a time of rapid innovation and change, as always – and this is only likely to increase.

Change brings opportunity, but also risk.

In this age of innovation, the five key external challenges I see for ASIC – as Australia's integrated financial services and markets regulator – are:

- getting the right balance between a free market-based system and investor trust and confidence issues. At ASIC, we have a particular focus on:
  - deregulation, and
  - ensuring that the participants we regulate have a culture and systems that emphasise the best interests of their customers
- digital disruption to existing business models and channels
- structural change in our financial system through the growth of market-based financing, which is largely driven by superannuation
- financial innovation-driven complexity in products, markets and technology. Much of this is driven by digitisation of our economy, and
- globalisation, which affects:
  - technology
  - markets, and
  - products.

While these things are all challenges, they also present opportunities to fund economic growth. Industry and regulators need to continue working together to harvest the opportunities while mitigating the risks.

So how does ASIC respond to these challenges to ensure that people have trust and confidence in our markets?

We do this through our strategic priorities of:

- promoting investor and financial consumer trust and confidence
- ensuring fair, orderly and transparent markets, and
- providing efficient and accessible registration of participants in the financial system.

In achieving our strategic objectives, a key aspect of what we do is identifying and dealing with those who break the law and holding gatekeepers to account. Approximately 70% of our regulatory resources are devoted to surveillance and enforcement.

We do this to the best of our ability through our **detect, understand** and **respond** approach.

Let me unpack each of these.

We **detect** misconduct and the risk of misconduct by gathering intelligence through:

- surveillance – both proactive and reactive
- breach reporting
- reports from whistleblowers and the public, and
- data gathering and matching (e.g. our MAI surveillance system).

We **understand** by analysing the intelligence we receive.

And, depending on our resources and powers, we **respond** by:

- educating investors – this is through ASIC's award winning financial literacy work, largely conducted under our MoneySmart brand.
- providing guidance to gatekeepers
- communicating the actions we take
- disrupting harmful behaviour (e.g. our work in stopping misleading advertising)
- taking enforcement action, which can be:
  - punitive (e.g. jail)
  - protective (e.g. disqualification from managing a corporation)
  - preservative (e.g. court action to protect assets)
  - compensatory (e.g. action to recover damages for those who have suffered loss)
  - corrective (e.g. a court order to make corrective disclosure), and/or
  - a negotiated outcome (e.g. an enforceable undertaking), and
- lastly, providing policy advice to Government.

We do the best we can with our resources and powers to catch those who break the law. For those who intentionally break it, we will do all that we can to ensure the ramifications are severe.

Of course, the vast majority of people comply with the law and have nothing to worry about.

Ensuring resilient financial markets

As the aftermath of the global financial crisis continues, so does innovation and structural change in our financial markets.

This means that regulators like ASIC need to focus on regulating for:

- real people, who do not always act rationally – here, insights from behavioural economics can help
- financial markets, to maximise their potential to fund economic growth while mitigating the risks, and
- globalisation, given the increasing interconnectedness of financial markets.

Today, I'd like to talk about regulating financial markets.

Markets assist fundamentally in funding the real economy – and in turn, economic growth.

Markets need to be sustainable and resilient so that investors, particularly retail investors, can participate in them with confidence. In equity and debt capital markets, with no confidence you have no real investors and, without them, no market.

Four things that I consider important for resilient, fair, orderly and transparent markets are:

- mitigating the risk of financialisation of our markets
- maintaining good corporate governance
- facilitating market-based financing, and
- ensuring that those who participate in our markets are cyber-resilient.

I'll expand on each of these in turn.

Financialisation of our markets

First, mitigating the risk of financialisation of our markets. At their core, markets assist in funding the real economy and in doing so help fuel economic growth. Markets do not simply exist to feed on themselves.

The financialisation of markets – for example, through high-frequency trading, dark liquidity and speculative trading – creates new risks for market resilience.

Financialisation has the potential for parasitic outcomes that can destroy confidence and potentially stall economic growth. To be clear – this does not mean a need for more regulation. We need industry to mitigate this risk for themselves.

Mitigating the risk of financialisation of markets is particularly important to Australia, not just in our equity markets, but also in our commodity markets – Australia is a significant commodity exporter that uses commodity derivatives.

Corporate governance

The second feature of resilient financial markets is good corporate governance. This includes from both:

- directors, and
- auditors.

Directors set the culture in their organisation. Directors should ensure that their stewardship drives the right compliance culture in their organisation. If we find that a company's culture is lacking, it is a red flag that there may be broader regulatory problems in the company.

The second group is auditors. The decline in audit quality around the world means that we need to strengthen the current system.

Facilitating market-based financing

The third matter I wanted to mention is facilitating market-based financing, which plays an integral role in funding economic growth.

This is true both domestically and internationally.

Domestically, this is through:

- initiatives to facilitate long-term financing for infrastructure, and
- initiatives like crowdfunding and multi-tiered equity markets to provide access to capital for SMEs.

Internationally, we can facilitate market-based financing by reducing barriers to the flow of capital through passporting.

Cyber-resilience

Lastly, to be resilient markets also need to be cyber-resilient.

Advances in technology have led to the rise of cybercrime around the world. The links between market players and infrastructure mean that the impact of a cyber-attack can spread quickly and has the potential to dangerously affect:

- the integrity and efficiency of global markets
- the protection of investors, and, ultimately,
- trust and confidence in the financial system.

Cybercrime is a systemic risk, and I have been saying for some time now that I think it is the next black swan event. It is also an issue that's captured the interest of global policy makers, including the G20.

So, how do we counter the threat of a cyber-attack? Cyber-resilience through risk management is vital.

For organisations, risk managements systems must be granular enough to ensure a good level of resilience in an organisation.To this end, the International Organization of Securities Commissions (IOSCO) – which I chair – is considering what we can do to promote consistency in regulation and the sharing of information.

In the United States, the White House has released its Cybersecurity Framework. It aims to help organisations manage cyber-risks by establishing an analytical framework for:

- identifying and protecting against cyber-risks; and
- detecting, responding and recovering from a cyber-attack.

Conclusion

I'd like to conclude by reiterating ASIC's fundamental objective – we exist to allow markets to allocate capital efficiently to fund the real economy and in turn economic growth.

A key part of this is ensuring resilient, fair, orderly and transparent markets underpinned by investor and issuer trust and confidence.

Both ASIC and industry have a role to play in ensuring this by:

- mitigating the risk of financialisation of our markets
- maintaining good corporate governance
- facilitating market-based financing, and
- ensuring that those who participate in our markets are cyber-resilient.

Thank you.