



ASIC

Australian Securities & Investments Commission

ASIC explained: Who is the corporate watchdog, what does it do and why should Australians care?

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CHECK AGAINST DELIVERY

Thank you Maurice and good afternoon everyone. It's great to be here at the National Press Club. I have long enjoyed this venue as a guest where I have been privileged to hear many thoughtful speeches from eminent men and women, both from here and abroad.

For me, this is my first time addressing the Club and I think it is also the first time ASIC has spoken here. So, thank you for the opportunity.

Ladies and gentlemen, as you know, the Financial System Inquiry final report was provided to Government last Friday. I do not want my remarks to be a discussion about that very significant piece of work.

What I want to do is give you a better idea of ASIC, by discussing three things:

- ASIC's role and why we matter to Australians
- our challenges to ensuring that investors have trust and confidence in our markets, and
- how we respond to those challenges – both now and in the future.

ASIC's role and why we matter to Australians

So what is ASIC's role and why should anyone care?

You should care because what we do touches the lives of all Australians. This is because our fundamental objective is to allow markets to fund the real economy and, in turn, economic growth. This contributes to improved standards of living for all Australians.

In order for markets to do their job, investors need to have trust and confidence in them. Without it, you don't have a market. Making sure Australians have trust and confidence in our markets is at the heart of everything we do. It is what drives the 1,700 excellent men and women who work at ASIC, and do so for good reason – because they believe in the public interest.

The markets we oversee are based on three pillars:

- investor freedom of choice and responsibility
- gatekeepers – such as the directors, advisers, auditors, product manufacturers and stock exchanges – who have responsibilities under the law, and
- the law itself, which sets out the rights and responsibilities of those in the markets ASIC oversees.

I will talk about these three pillars a little later.

On an individual level, you should care about ASIC because we probably touch your life in one way or another through:

- superannuation
- credit
- if you have a small business, or
- because understanding finance and money is critical at any stage of life.

Superannuation

Around 14 million Australians have a super account. Generally, super doesn't have a guaranteed outcome – which is why you should be interested in your super. And one day, each and every one of you will retire.

Super is often invested in equity and debt capital markets and the funds management sector – all of which are regulated by ASIC. And, with super growing, our regulatory perimeter is increasing.

In fact, as of the middle of this year, Australia had super assets of \$1.85 trillion, with Treasury estimating that by 2030 this will increase to \$5.1 trillion.

Ladies and gentlemen, my point is this – we matter to Australians because of superannuation. We matter because most Australians have a lot of skin in the game. And that is the game ASIC is in.

Credit

We also matter because many Australians have credit cards, mortgages or personal loans. Over 4.8 million Australians have a mortgage, for example.

With fast accelerating house prices and historically low interest rates, we want to make sure Australians do not find themselves in over their heads with unaffordable debt – and help make sure they are treated fairly.

This is why ASIC oversees our consumer credit laws, including the responsible lending and payday lending laws.

Small business

Small business is the engine room of our economy and we support small business through:

- our registers – we help give people trust and confidence about the identity, location – and, in some cases, the financial position – of people they are dealing with. We are the custodians of information on more

than two million Australian companies – many of them are small businesses

- taking action against directors and others who engage in illegal phoenix activity, which can harm small businesses, and
- when things go wrong – which, unfortunately, they do from time to time – we help make sure liquidators treat creditors fairly.

Understanding finance

Lastly, we matter to Australians because of our work to help them understand finance and money.

Our objective is to empower Australians about finance and money at every stage of their lives. We give our children – tomorrow’s adults – the skills they need to establish good financial habits through our MoneySmart Teaching program. We are rolling out learning about finance and money from kindergarten to Year 12 in our 9,400 schools over the next decade. We have already reached over 3,000 schools and trained over 10,500 teachers.

ASIC’s MoneySmart website and apps, which are freely available to all Australians, give people the tools they need to make more confident choices about their money. ASIC’s MoneySmart website – moneysmart.gov.au – has been visited nearly five million times in the last year, a 30% increase on the year before. It has over 550 pages of information – from getting on top of one’s credit card debt to choosing the right mortgage or managing income during retirement.

Of those Australians that have visited the site, brand surveys reveal that nearly 90% of people have taken some positive action on their finances or money as a result of visiting the site. Through MoneySmart, ASIC is boosting understanding about finance and empowering people – young and old – to help themselves.

Challenges

So what are the challenges to ensuring that investors have trust and confidence in our markets?

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 to investor trust and confidence. At ASIC, our focus is on being proactive and forward looking so we are well positioned to manage the challenges to trust and confidence in our financial system.

These challenges are:

- getting the right balance between a free-market based system and investor trust and confidence, with a particular focus on:
 - deregulation – making it easier and less costly for markets to do their job, and
 - ensuring that the gatekeepers we regulate have cultures and systems that emphasise the best interests of those they have responsibilities to
- digital disruption to existing business models and channels, which I will talk about later
- structural change in our financial system through:
 - the growth of capital markets, and
 - the movement of savings from the banking sector to the super sector
- financial innovation-driven complexity in products, markets and technology. Much of this is driven by the digitisation of our economy, and
- globalisation, which affects:
 - technology
 - markets, and
 - products.

Responding to these challenges

So how does ASIC respond to our challenges in ensuring investors have trust and confidence in our markets – both now and in the future?

Responding to today's challenges

Today, the response to our challenges is shaped by our strategic priorities of:

- promoting investor and financial consumer trust and confidence
- ensuring fair, orderly and transparent markets, and
- providing efficient and accessible registration.

To meet our priorities, we enforce the law. Put simply, ASIC is a law enforcement agency – 70% of our regulatory resources are devoted to surveillance and enforcement.

We hold gatekeepers to account 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 Market Analysis and Intelligence (MAI) surveillance system).

We *understand* by analysing the intelligence we receive.

And, depending on our resources and powers, we *respond* with the right nudge to the three pillars of investors, gatekeepers and the law:

- For investors, we educate them.
- For gatekeepers, we:
 - provide guidance to gatekeepers about the law and how to apply the law
 - communicate the actions we take to provide the right deterrence message
 - disrupt harmful behaviour (e.g. our work in stopping misleading advertising), and
 - take enforcement action – such as sending criminals to jail, removing bad apples from the industry and securing compensation for investors.
- Lastly, for the law, we respond by 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.

Responding to future challenges

In the future, the five challenges I outlined earlier, if not properly managed, could undermine trust and confidence in our financial system.

I want to discuss how we think our challenges should be managed in the future. I will focus on the challenges of:

- balancing a free-market based system with investor and consumer trust and confidence, and
- digital disruption.

The right nudge

Balancing a free-market based system with investor and consumer trust and confidence is all about the right nudge to shape behaviour.

User pays funding model

One area where we want to see ‘the right nudge’ is in the use of ASIC’s resources.

Those who participate in our markets should have a price signal for the cost of ASIC’s oversight to properly incentivise them to meet the outcomes the Government expects. To provide this, ASIC should have a user pays funding model.

Such a model would provide economic incentives to drive the regulatory outcomes set by Government. A user pays system would mean participants in our financial system need to pay for ASIC’s oversight, based on a system of levies and fees. Those industries needing the most attention would pay the most.

Penalties

Another area where we need the right nudge is in penalties for white collar crime.

Earlier this year, ASIC released a paper that showed, when it came to non-criminal penalties, Australia was out of line with most international jurisdictions.¹

And that is a problem. Everyone knows that when someone is thinking of breaking the law, the possibility of getting caught and facing jail or a massive fine is a big deterrent.

Breaking the law in the financial sector seems to be a trade-off between fear and greed. So, Australia needs penalties that amplify the fear and suppress the greed. Australia needs penalties that will scare the pants off people.

My message to potential law breakers is simple – don’t even think about breaking the law. ASIC is watching. And we will act.

Fixing the financial advice sector

The last area where the right nudge is important is in the financial advice sector.

¹ Report 387 *Penalties for corporate wrongdoing* (REP 387).

Super generally doesn't guarantee an outcome. Because of this, Australian investors need to have trust and confidence in financial advice. In fact, Australian investors *deserve* to have trust and confidence in financial advice.

I have long been passionate about lifting trust and confidence in this sector. Only one in five Australians get financial advice. With recent high-profile cases of advisers mis-selling financial products, this is sadly no surprise. The industry needs to get its house in order.

One initiative that goes a long way towards building trust and confidence is a national exam for financial advisers. I see the exam as a co-regulatory solution that would provide national assurance to all Australians that:

- financial advisers were tested in a secure environment
- financial advisers meet a minimum level of competence tested at a university-degree level, and
- financial advisers' training has ethics as a core component.

Responding to digital disruption

My final topic for today is responding to digital disruption.

Traditional business models are being disrupted by new digital strategies at an accelerating pace. This change is being driven by innovations in mobile, video and networking technologies. Digital disruption provides greater:

- access
- competition, and
- efficiency.

In the financial sector, digital disruption offers the potential for new and unimagined forms of:

- intermediation, like crowdfunding, and
- in some cases, disintermediation – here crypto currencies come to mind.

Both regulators and industry must be flexible in their response and work together to harvest the opportunities while mitigating the risk to investor trust and confidence.

At ASIC, we take a collaborative and technology-neutral approach to facilitating innovation where it does not compromise investor and consumer trust and confidence. We are a proactive and forward-looking regulator, and are constantly on the watch for emerging risk.

One such risk we've identified is cybercrime. And the response is all about cyber-resilience. Cyber-resilience through risk management.

An example of the sobering effect of cybercrime comes from earlier this year, when 76 million households – over three times Australia’s population – and seven million small business accounts were reported to be compromised in a cyber attack on JPMorgan Chase in the United States.

Cybercrime is a global problem that requires a global solution. For critical infrastructure, we must focus on developing a consistent language around identifying, evaluating and, most importantly, communicating the relative level of an organisation’s cyber-resilience.

This is not just an issue for institutions – it’s an issue for individuals too. It matters every time you give your personal information to an organisation.

Conclusion

Ladies and gentlemen, what ASIC does matters and what we do gets results. We touch the lives of all Australians, and with compulsory superannuation nearly all Australians have skin in the game.

We are an organisation made up of outstanding men and women. These are passionate, dedicated and resilient people who work at ASIC for good reason – and that is because they believe in the public interest and the outcomes we achieve.

And for Australians, that is an excellent reason to be doing the job.

Thank you.