



ASIC

Australian Securities & Investments Commission

Parliamentary Joint Committee: Opening Statement

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

*Parliamentary Joint Committee
20 March 2015*

CHECK AGAINST DELIVERY

Introduction

Good afternoon, Chairman. Thank you for this opportunity to address the Committee. Representing ASIC today are all of our Commissioners – Deputy Chairman Peter Kell, and Commissioners Cathie Armour, John Price and Greg Tanzer.

Supporting the Commission are Senior Executive Leaders Louise Macaulay, Greg Kirk, Warren Day, Chris Savundra and Tim Mullaly.

Chairman, I have a brief opening statement covering:

- NAB Wealth
- ASIC media releases
- payday lending
- studies on behavioural economics, and
- cyber resilience.

NAB Wealth

I wanted to briefly update the Committee on our investigation into NAB Wealth. We have served 10 notices on NAB using our compulsory powers and gathered substantial information.

We are now looking at how NAB identified and then dealt with problem advisers. We will also consider how they conducted remediation and whether they should have reported misconduct to ASIC.

It is a significant investigation and an ongoing operational matter; therefore, we are unable to comment further.

Media releases

The NAB Wealth matter highlighted ASIC's practices around media releases and enforcement matters.

Our practice of sending media releases to external entities has been that, with a negotiated outcome – and only with a negotiated outcome such as an Enforceable Undertaking – ASIC will generally provide the party with our media release shortly ahead of publication.

This is done separately from the negotiation of the resolution and after the conclusion of that negotiation. We consider this is an appropriate courtesy in circumstances where the entity has:

- agreed to resolve the matter
- chosen to cooperate rather than contest the issues, and
- committed to the steps ASIC considers necessary.

It also has practical benefits. For example, entities have the opportunity to:

- correct factual errors, or
- provide updated figures on compensation paid or customers impacted.

It is imperative that ASIC media releases are accurate, particularly when the issues involved may be market sensitive. We are reviewing our policy on sending media releases to external parties – mainly because there have been inconsistencies around:

- whether all entities have been provided with media releases, and
- timing – that is, how long before publication are entities given the media release.

Our updated policy, currently being documented, will be that media releases are generally provided to all entities involved in negotiated outcomes and they will be provided 24 hours before publication.

Payday lending report

My next topic is our recent payday lending report. This week ASIC launched a groundbreaking report into the payday lending sector which found that the industry continues to struggle when it comes to meeting their obligations under consumer protection laws.

We reviewed 288 consumer files for 13 payday lenders, who are responsible for more than 75% of payday loans in Australia, and found the actions of some lenders fell short of the law. This included conduct that risks breaching responsible lending obligations.

The payday lending sector was worth around \$400 million in loans written last year – and is still growing. It is important that this sector operates properly, especially when these loans are aimed at financially-vulnerable consumers. This is why ASIC is putting the payday lending sector on notice to improve its practices.

Consumers in financial difficulty should also be aware that there may be alternatives to taking out a payday loan. For example, most utility companies and mortgage providers are required to have hardship relief programs in place that consumers can access if they are having financial difficulties.

Behavioural economics studies

ASIC also released two reports on behavioural economics this week. These reports explored:

- possible behavioural ‘biases’ impacting investors’ decisions to invest in hybrid securities rather than bonds or shares, and
- how ASIC’s communication with directors of firms in liquidation can encourage better compliance.

Undertaking evidence-based studies about how people think and behave in the real world is going to be increasingly important to smarter regulation. These behavioural studies provide valuable insights into how people make decisions and how ASIC and industry can use those insights to improve consumer outcomes.

Cyber resilience

Yesterday ASIC released a major report on cyber resilience. This is a crucial document because the linkages within the financial system mean that the impact of a cyber attack can spread quickly – potentially affecting the integrity and efficiency of global markets and the trust and confidence in the financial system.

We hope that ASIC’s report will help the entities we oversee to improve their cyber resilience, particularly when it comes to identifying, evaluating and communicating their level of cyber resilience. The report also highlights how cyber risks should be addressed when complying with legal and compliance obligations, particularly those relating to risk management and disclosure.