



ASIC

Australian Securities & Investments Commission

Building trust and confidence: ASIC priorities

*A speech by Greg Medcraft, Chairman,
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CHECK AGAINST DELIVERY

Introduction

Good morning everyone. Once again, it's great to be speaking at the Annual Stockbrokers Conference. My topic today is building trust and confidence: ASIC priorities.

Trust and confidence in markets is the key to helping them fund the real economy and create economic growth. ASIC's 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.

This is dependent on Australians having trust and confidence in our markets and is reflected in our twin regulatory strategic priorities of:

- investor and financial consumer trust and confidence, and
- fair, orderly, transparent and efficient markets.

As professionals in the stockbroking industry and gatekeepers for our markets, I know you appreciate the fundamental importance of trust and confidence in underpinning markets.

Our focus at ASIC is on being proactive and forward looking to meet our strategic priorities and face our challenges which are set out in our four-year Corporate Plan.¹ This is particularly important given the rapid pace of technological change. To this end I'd like to:

- update you on our Market Entity Compliance System and our Market Analysis and Intelligence surveillance system
- give you an overview of the Government announcements made in April this year about ASIC, and
- talk about how we are responding in the markets area by outlining the three priorities that we see for market integrity.

Update on Market Entity Compliance System and Market Analysis and Intelligence surveillance system

ASIC continues to invest in technologies that assist us to identify complex crimes and patterns of behaviour.

Market Entity Compliance System

It is one year since we rolled out our Market Entity Compliance System (MECS) to industry. Industry has provided positive feedback on MECS and has reported that MECS has made the process for lodging, reviewing and tracking ASIC forms and notices simple and efficient. It is an example of ASIC using technology to assist market entities in complying with the law.

Currently, around 400 individual users from 150 market entities are registered on, and use MECS. And to date, market entities have submitted over 1,000 applications and notifications through MECS.

Market Analysis and Intelligence surveillance system

ASIC is upgrading its Market Analysis and Intelligence (MAI) surveillance system to capture new data from market platforms and product innovations.

In late-2015, a new investment product market was launched on Chi-X, facilitating the quotation and trading of warrants (with exchange traded funds to follow). This year, new trading platforms will be introduced to ASX and ASX24.

The emergence of new platforms and products creates entirely new data streams that must be integrated into ASIC's market surveillance.

¹ [ASIC's Corporate Plan 2015–16 to 2018–19: Focus 2015–16.](#)

The MAI surveillance system was purpose-built with the agility to incorporate new data into its processes. This allows us to keep pace with innovation and maintain our ability to survey the marketplace.

Government announcements

You would have heard some significant changes for ASIC that the Government announced last month. We welcome these changes, which have several significant components.

First, the additional funding announced will enable further surveillance and enforcement in areas such as financial planning, responsible lending, life insurance, and misconduct and breach reporting. It will also allow us to build on our capacity to better identify and assess risks and misconduct through data analytics.

We will be able to assess large quantities of data and information effectively, to spot trends and patterns and use this to focus our surveillance and enforcement resources in the areas that pose the biggest risks. This means that ASIC can identify wrongdoing earlier and respond more quickly.

Second, there is the Government's support for the introduction of an 'Industry Funding Model'. ASIC has long believed that those who generate the need for regulation should pay for it. We have worked with Treasury to consult with industry and we look forward to continued engagement with those we regulate to see Industry Funding work well.

Third, is the Government's response to the Capability Review.² The Capability Review provided us with the chance to consider the capabilities we need for the future to ensure trust and confidence in the markets we regulate, and to deliver improved market outcomes for the Australian community.

Fourth, we welcome the Government's commitment to ensuring the key recommendations from the Financial System Inquiry are implemented as a matter of priority. We will work with the Government and Treasury to make sure the regulatory framework allows ASIC to most effectively address market misconduct and contains appropriate incentives for firms to put their customers first.

We have a lot of important work to continue over the next few years.

Market integrity priorities

Finally, I want to talk about our priorities for market integrity. Market integrity matters to us all. Financial markets facilitate the raising of capital and the efficient allocation of resources and risk. They can't do this without the trust and confidence of investors.

² [Fit for the future: A capability review of the Australian Securities and Investments Commission](#), A Report to Government, 20 April 2016.

If you don't trust that our markets are operating fairly, you won't invest your money in them. If lots of people feel and act this way, market liquidity will decrease.

ASIC's Market Integrity Group is responsible for ensuring that Australia's financial markets are fair, orderly, transparent and efficient. Our three priorities in this area are:

- cyber resilience
- conduct risk – often driven by poor culture, and
- handling of confidential information and conflicts of interest.

Cyber resilience

With the risk and sophistication of cyber-attacks growing faster than traditional firewall and antivirus technology can keep up, organisations need strategies to prevent, detect and respond to cyber risks.

Because we see cyber risk as a key threat to our strategic priorities, ASIC is seeking to assist our regulated population in their efforts to improve their cyber resilience. In March 2015, we published our Cyber Resilience Health Check³ to help our regulated population improve cyber resilience by:

- increasing awareness of the risks
- encouraging collaboration between industry and government
- providing health check prompts to help businesses consider their cyber resilience, and
- identifying how cyber risks should be addressed in the regulatory context – including considering board oversight of cyber risks.

Following this report, in March this year, we also released our Cyber Resilience Assessment Report⁴ which sets out several good practices for cyber resilience, and identifies key questions that directors and board members should seek to ask of their executives.

We acknowledge that complete cyber-security can never be achieved, but a comprehensive and long-term commitment to cyber resilience is essential to retain investor and financial consumer trust and confidence.

We have established our markets cyber risk taskforce which is working on cyber resilience in collaboration with our stakeholders, our peer regulators locally and internationally, and with government as it seeks to implement its recently launched cyber strategy.

³ Report 429 *Cyber resilience: Health check* (REP 429).

⁴ Report 468 *Cyber resilience assessment report: ASX Group and Chi-X Australia Pty Ltd* (REP 468).

Conduct risk

We are at an exciting time in history, when technological innovation is rewriting almost every industry including the financial services industry. This is digital disruption in action – it is radical, fast, and innovative. In this environment, maintaining a culture that puts your customer first is imperative. Firms that do not have a good culture risk losing their customers to firms that do.

Reputation is actually the biggest threat to the sustainability of an organisation. AON's latest Global Risk Management Survey showed that damage to brand and reputation had jumped to 'Number 1' in this year's risk rankings, up from Number 8 two years ago. And the biggest threat to reputation is poor conduct.

ASIC sees good or bad conduct being driven by the culture of an organisation. We are undertaking a suite of work in respect of culture and conduct in the markets area, including:

- reviewing appetite, attitude and approach to conduct risk by investment bankers and stockbrokers
- examining the management of conflicts of interest, and
- reviewing the handling of confidential information.

Let me speak a little more about this aspect of our work.

Confidential information and conflicts of interest

The leakage of confidential, market-sensitive information about a listed entity threatens market integrity by creating selective access to information. This may damage investor confidence and increase the risk of insider trading.

The handling of confidential information and management of conflicts of interest is an ongoing area of focus for ASIC. Since the publication of our report on the handling of confidential information⁵ in 2014, we have continued our work in this area.

Last year we established a taskforce to review how market intermediaries manage these issues. The taskforce has identified a number of risk areas. These risks are being tested through a review of policies and procedures, meetings with intermediaries and a review of specific transactions. Where serious misconduct has been identified we will refer matters to our enforcement team. Risk areas where we have identified poor practices include:

- Treatment of confidential, market sensitive information:
 - not having adequate policies for identifying and handling confidential, market sensitive information
 - lack of appropriate separation of research, sales and corporate advisory teams, and

⁵ Report 393 *Handling of confidential information: Briefings and unannounced corporate transactions* (REP 393).

- lack of robust supervision of wall-crossings and restricted lists where staff come into possession of confidential, market sensitive information.
- Research – the potential for lack of independence, including when initiating coverage and valuing companies. This is particularly a concern where research is involved in a capital raising transaction.
- Staff and principal trading:
 - staff and principal trading around research coverage or capital raising transactions
 - staff and principal participation in capital raising transactions that the intermediary is advising on, and
 - trading contrary to research recommendations by people with influence over research decisions.

In terms of next steps, we will publish the findings of this taskforce in a report in the next two months and we intend to consult on proposed guidance later in 2016.

Intermediaries should review their processes and controls for handling confidential information and managing conflicts of interest.

We will discuss these controls and our expectations in more detail in our report.