



ASIC

Australian Securities & Investments Commission

Senate Economics Committee – ASIC Chairman Opening Statement

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

*Senate Economics Committee
31 May 2017*

Introduction

Good morning chair.

I am pleased to appear before the committee today.

With me are Deputy Chairman, Peter Kell, and Commissioners:

- Cathie Armour, and
- John Price.

Also appearing today are Senior Executive Leaders:

- Joanna Bird,
- Sharon Concisom;
- Warren Day;
- Gerard Fitzpatrick;
- Greg Kirk; and
- Michael Saadat.

Chair, I have a brief opening statement which details some of our enforcement outcomes.

In the 12 months to May 2017, ASIC has secured 240 enforcement results.

In this period, ASIC obtained over \$804 million in compensation, remediation or returns of investor funds and over \$9.7 million in fines, penalties or infringement notices.

In the 12 months to May 2017, ASIC cancelled, suspended or placed conditions on 25 AFS licences, with six additional AFS licensees voluntarily handing in their licence. 22 people were banned permanently.

Chair, in the three months since we last testified specific enforcement outcomes include, in May:

- The Queensland Supreme Court ordered ex officers of former fund manager **MFS** to pay \$205 million in compensation and banned them from managing companies.
- **Motor Finance Wizard** refunded over \$11 million to more than 1500 consumer lease customers after an ASIC probe revealed the company failed to meet responsible lending obligations.
- ASIC also accepted an enforceable undertaking from **Macquarie Bank** in relation to the bank's wholesale foreign exchange businesses, following an ASIC investigation.

In April:

- Former Managing Director **Steven Noske** was gaoled for 18 months' and fined \$20,000 for insider trading.
- Queensland businessman **Craig Gore** was arrested and charged with 15 offences, following a long ASIC investigation. Mr Gore faces 12 counts of fraud relating to obtaining \$800,000 from self-managed super investors.
- The Federal Court fined Mr **Lindsay Kobelt** \$167,500 for engaging in unconscionable and unlicensed conduct in providing "book-up" credit to Indigenous people in remote South Australia.
- Also in April, Queensland car-yard lender **Channic** was ordered to pay over \$1.2 million after breaching consumer credit laws and dealing unjustly with vulnerable Indigenous consumers.

In March:

- **Citibank** refunded \$5 million to around 230,000 customers, for failing to properly disclose information on international credit card fees, following an ASIC investigation.
- **Dr Roger Munro** was arrested and formally charged with five counts of fraud following an ASIC investigation. Each charge carries a maximum 12 years gaol.
- Also in March, ASIC accepted enforceable undertakings from **Westpac** and **ANZ** in relation to the banks' wholesale foreign exchange businesses, following a long investigation.

- ASIC also started civil penalty proceedings against **Westpac** for contraventions of home-loan responsible lending laws and its failure to properly assess if borrowers could repay their loans.

Chair, I should point out that enforcement outcomes do not always go our way. Our cases are decided by judges, juries and magistrates and, in the criminal arena, are prosecuted by the Commonwealth Director of Public Prosecutions.

Last week, a Sydney magistrate rejected ASIC's 11 charges of procuring insider trading against former investment banker Mr Darren Thompson.

But win or lose, these outcomes show ASIC's continued commitment to market integrity and ensuring consumers can have trust and confidence in our financial system.

The outcomes also show ASIC is on the job. Where we see misconduct, we will take action, no matter who you are. The public would expect nothing less.

Enforcement review

ASIC is primarily a law enforcement agency.

As the committee knows, following the recommendations of Murray, there is currently a review into ASIC's enforcement regime, including the issue of ASIC being able to ban people from managing firms providing financial services

At the moment, we can only ban people from directly providing the services, not from managing that process.

- That might help deal with bad apples, but it doesn't tackle problems with the tree.

Thus we welcome this aspect of the review. We note that the draft proposal has not yet been issued, and we look forward to this.

ASIC sees this power as vitally important. It is crucial to the effectiveness of such a banning power that the trigger for banning people from management is appropriate.

- It won't be effective if we can only ban those that themselves have directly committed breaches of the law.

The role of managers should be to take reasonable steps to ensure compliance with the law by the people they are managing.

- We need to be able to remove managers who seriously fail that standard and whose management failings have contributed to misconduct in a firm and thus losses to consumers.

Chair, we are now happy to take questions.