



ASIC

Australian Securities & Investments Commission

Parliamentary Joint Committee on Corporations and Financial Services – Opening statement by ASIC Acting Chair Peter Kell

Opening statement by Peter Kell, Acting Chair, Australian Securities and Investments Commission

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1 December 2017

Good morning Chair.

I am pleased to appear before the committee today.

I appear today as ASIC's Acting Chair. With me are commissioners:

- Cathie Armour, and
- John Price.

Also appearing are senior executive leaders:

- Warren Day
- Jane Eccleston
- Greg Kirk
- Tim Mullaly
- Louise Macaulay;
- Doug Niven
- Michael Saadat, and
- Chris Savundra

Chair, I have a brief opening statement.

First, ASIC notes the Government's announcement yesterday on a Royal Commission. This is, of course, a matter for Government and we have no comment to make other than we will cooperate in any way we can.

Chair, I also wanted to highlight some work ASIC is doing around lending and loan fraud.

ASIC has made tackling loan fraud a priority since we became the national consumer credit regulator in 2010.

We have taken a substantial amount of enforcement action, and have achieved significant results through administrative action and the courts.

We will continue to take enforcement action where that is appropriate. However, we are also tackling loan fraud more broadly by launching an industry-wide project.

This project has been made possible by the additional funding ASIC received last year. The aim of the project is to examine the type and level of loan application fraud currently faced by industry and their practices for preventing, detecting and responding to it.

ASIC will publish a report which outlines the level of identified consumer harm and the practices of industry – both good and bad.

We know, for example, that lenders will terminate an employee or broker's accreditation where there is misconduct. But there is a risk that 'bad apples' may move around the industry.

The review will be completed in September 2018 and likely include major banks, a selection of non-major banks, non-banks as well as major aggregators.

This work is separate to ASIC's ongoing investigative and enforcement action.

ASIC work to date

In terms of our enforcement action, I want to highlight that:

As at October 2017, ASIC has undertaken investigations in relation to over 100 individuals or businesses for misconduct relating to loan application fraud since 2010.

Of those actions, we have seen:

- **15** criminal convictions (via the Commonwealth Department of Public Prosecutions),
- **Around 80** administrative actions against individuals or companies (eg banning, suspension or licence condition).

Only last month, the Victorian County Court sentenced Mr Najim Shah to five years jail for his role in the Myra Home Loans fraud. This was a fraud which involved false documents being created to support \$170 million in loan applications.

Also, as a result of the same investigation charges have been laid against a CBA officer for conspiracy to defraud CBA of \$36 million.

Notwithstanding Mr Shah appealing his sentence, a strong message is being sent about the consequences of such misconduct.

Chair, I also wanted to update the committee on another matter.

On 9 November 2017, ASIC disabled a 'search retrieval' service on its website, after being alerted to an issue with the service.

The issue with the service is that a person, through using another person's email address, would have been able to view on their screen that person's recent paid search attempts.

No-one's personal details could have been revealed, such as credit card information, nor has there been a breach in disclosure of ASIC's internal data.

Also, the company or other search documents themselves contain only publicly available information.

The service began in May 2017 to allow the on-line retrieval of a company search for 90 days after the purchase via the ASIC Connect service, using a receipt number or email. Before such requests were handled by phone.

There were 6,760 retrieval searches between 13 May and when the service was disabled on 9 November.

Along with shutting down the service, ASIC has also published an alert on website seeking anyone who might think they might be affected to contact ASIC.

Also, ASIC has individually emailed around 770 users to notify them of the issue and invite them to contact us.

ASIC recognises the importance of complying with its privacy obligations and has consulted the Office of Australian Information Commissioner.

We are also investigating the matter, including how the issue arose and how we can ensure it does not happen again.

I should point out that ASIC's main search function for people looking up companies and other registers is unaffected. People can still search ASIC's databases via our website or an information broker.

Chair, we are now happy to take your questions.