



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

25 March 2024

**JOSEPH LONGO
CHAIR**

Ms Lyn Beverley
Committee Secretary
Parliamentary Joint Committee on Law Enforcement

By email only: le.committee@aph.gov.au

**PARLIAMENTARY JOINT COMMITTEE ON LAW ENFORCEMENT INQUIRY INTO THE
CAPABILITY OF LAW ENFORCEMENT TO RESPOND TO CYBERCRIME – ASIC
RESPONSE TO SUBMISSION MADE BY IFW GLOBAL INVESTIGATIONS PTY LTD**

Dear Committee Secretary

The Australian Securities and Investments Commission (**ASIC**) welcomes the opportunity to respond to the submission made to the committee by IFW Global Investigations Pty Ltd (the **submission**).

Our response is confined to comments in the submission regarding ASIC. The comments concern ASIC's approach to cyber-enabled fraud and scams.

ASIC's approach to commenting on our regulatory activities is explained in [INFO 152](#). ASIC has a strong policy of transparency, and we are committed to communicating publicly about our regulatory activities. Our ability to comment on operational matters is limited by factors including the need for ASIC to safeguard confidential information; by privacy law; and by the potential for the untimely release of information to jeopardise investigations or subsequent proceedings.

We welcome tip offs about people or companies that break laws ASIC administers. We also encourage that scams be reported to Scamwatch, run by the National Anti-Scam Centre.

We note ASIC's previous submission to this Inquiry, dated December 2023.

Context

Combating scams is one of ASIC's core strategic projects. Our work includes:

- disrupting investment scams including by working with our website takedown service provider to remove or limit access to investment scam and phishing websites. In the period 1 July 2023 to 15 March 2024, over 5,000 investment scam and phishing websites have been taken down through this service.
- working with other government agencies and industry to coordinate scam disruption activities, including the National Anti-Scam Centre (**NASC**). ASIC and the Australian Competition and Consumer Commission (**ACCC**) co-led the first NASC fusion cell, focused on combating investment scams. Participants in the fusion cell included representatives from government, law enforcement and industry. Industry participants included banks, telecommunication providers, digital platforms, digital currency exchanges, and other payments providers.
- Influencing our regulated population to strengthen their scams prevention, detection and response capabilities.
- developing communications to support consumers, including publishing consumer education and awareness resources on ASIC's [Moneysmart](#) website.
- publishing an [Investor Alert List](#), which consumers can use to help inform themselves as to whether an entity they are considering investing in could be fraudulent, a scam or unlicensed in Australia.
- taking targeted enforcement action where appropriate to deter scams and hold scammers to account.
- working with foreign regulators and law enforcement agencies on cross-border scams.

ASIC is Australia's corporate, markets, financial services and consumer credit regulator. We are charged with promoting market integrity and consumer protection across the Australian financial services sector. The scope and aims of our scams work reflect our jurisdiction. We seek to reduce the incidence of investment scams and their impact on Australian consumers, and to harden the Australian financial system against scammers.

We are one of a number of Australian agencies whose remit touches scams, and only one agency whose remit includes investment scams. For example, both the Australian Federal Police and Australian state police have jurisdiction to prosecute scams and fraud, including investment scams. We are committed to cooperating and sharing information with other agencies where permitted,

to support their investigations and enforcement activities. We participate in a range of initiatives, both domestically and internationally, to foster cooperation, share information, and coordinate anti-scam efforts. Our work is one part of the government's Fighting Scams Initiative to disrupt scams and protect Australians from financial harm.

There are promising early signs that initiatives across government and industry are working to reduce scam losses, including to investment scams. For example, there has been a 38% decrease in losses to investments in the October to December 2023 quarter compared to the same quarter in 2022.

Enforcement and cross-border scams

We note the comments in the submission regarding ASIC's approach to enforcement, including regarding cybercriminals located offshore.

ASIC's approach to enforcement is explained in [INFO151](#). ASIC is not in a position to take enforcement action with respect to all consumer harm reported to us. Each year, we assess thousands of reports about misconduct. We carefully consider how to respond to all potential contraventions of the law, but we cannot undertake a formal investigation of every matter that comes to our attention. Instead, we are selective about the matters we pursue to ensure we use our resources to target misconduct effectively.

Before taking enforcement action with a cross-border element, ASIC must first consider whether we have jurisdiction in relation to the matter. We must also consider a range of practical factors including the prospects of gathering sufficient evidence overseas, obtaining assistance from international counterparts, whether another agency is already investigating the conduct, and the resources required to pursue a cross-border investigation.

A recent example of where ASIC has taken targeted enforcement action in relation to suspected scam conduct is the charges laid against two Melbourne men in February 2024, who are alleged to have been involved in a sophisticated self-managed super fund scam targeting Australian investors ([24-015MR](#)).

In December 2022, a Melbourne woman was sentenced to five years and six-months imprisonment for her role in a major international criminal syndicate, which stole millions of dollars from the superannuation and share trading accounts of victims using fraud and identity theft. The prosecution followed a joint operation conducted by ASIC and the Australian Federal Police as part of the Serious Financial Crime Taskforce ([22-363MR](#)). ASIC also engaged with industry to address underlying vulnerabilities identified through the matter, which improved standards and resulted in the publishing of [INFO 237 Protecting against share sale fraud](#).

We engage closely with peer regulators and overseas law enforcement agencies on cross-border matters, including on requests for assistance with

enforcement activities. We share and receive information and mutual assistance regarding scams under a number of bilateral and multilateral MOUs, including the *IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information*.

We also know that the complex and multi-jurisdictional threat posed by scams cannot be addressed through traditional enforcement alone. Our approach to scams reflects the need for a proactive, whole-of-ecosystem response to this threat. We are committed to using a range of innovative and data-driven approaches to intervene, disrupt and deter scams. For example, our work with our website takedown service provider to remove or limit access to investment scam and phishing websites. We are also committed to contributing to, and positively influencing, the response to scams globally.

Company registration

We note comments in the submission regarding registration of Australian companies by cybercriminals.

ASIC registers companies in accordance with the requirements of the *Corporations Act 2001*. Over 3.3 million companies are currently registered in Australia.

Company registration does not guarantee the quality of a company or the legitimacy of its activities. It does not represent ASIC endorsement.

The circumstances in which ASIC may initiate deregistration of a company include:

- the company has not paid its annual review fee within 12 months of the due date;
- the company has not responded to a Company compliance notice, has not lodged any documents in 18 months, and we think it's not in business; or
- the company is being wound up and there is no liquidator.

It is an offence to provide false information to ASIC when registering a company. ASIC will review any evidence to support allegations that a company or its officeholders have provided false information to ASIC consistent with our general approach to enforcement outlined in [INFO 151](#).

Information shared by overseas regulators and law enforcement

We note comments in the submission about information provided to ASIC by “a European law enforcement agency”. The submission suggests that this information is “not publicly known”.

As explained above, ASIC and our foreign counterparts share information with each other about cross-border misconduct. ASIC considers any information

shared with us, and how we can best use the information in our regulatory activities. Information is often shared subject to confidentiality and permitted use requirements. Those requirements can be wide and varied. For example, there may be limits on ASIC's ability to use information in civil or criminal proceedings, ASIC may be limited to using the information for certain regulatory activities or intelligence purposes only, and/or the information may be provided on the basis that its existence and content cannot be disclosed outside of ASIC.

Adherence to these conditions ensures our ability to continue to receive valuable cooperation and information from overseas partners. Any deviation from conditions imposed could significantly jeopardise future cooperation by those partners.

Accordingly, ASIC will not comment on the existence or otherwise of information of the kind described by the submission.

The submission also refers to information having been provided by IFW Global to Australian authorities. ASIC welcomes tip offs about misconduct in our jurisdiction. Our approach to dealing with such information is explained in [INFO153 How ASIC deals with reports of misconduct](#).

Investor alerts

We note comments in the submission regarding investor warnings.

ASIC is committed to developing consumer education and awareness resources to support consumers. This includes contributing to, and amplifying, resources and messaging of the National Anti-Scam Centre.

Warnings are one tool used by ASIC, as part of our approach to disrupting investment scams. For example, through our [Investor Alert List](#) we publish alerts about entities we are aware could be fraudulent, a scam or unlicensed in Australia.

Our publication of alerts and public warnings is consistent with the practice of peer regulators overseas, and we consider issuing warnings serves a public interest purpose. In the period 8 November 2023 (date of launch) to 15 March 2024, the Investor Alert List has been viewed by approximately 54,000 users.

Your sincerely

CHAIR