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Review of the Australian Securities and Investments Commission Annual Report 2018

House of Representatives
Standing Committee on Economics

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Chair's foreword

On 16 October 2019, the committee scrutinised the Australian Securities and Investments Commission (ASIC) on its performance and regulatory responsibilities. This was the committee's first hearing with ASIC since the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission) released its final report.

The Royal Commission found that Australia's financial sector suffered from a lack of moral leadership and a corporate culture motivated by greed. Evidence provided to the Royal Commission exposed shocking and widespread examples of misconduct and highlighted systemic failings throughout the banking and financial services sector. Revelations of further misconduct have continued to come to light following the conclusion of the Royal Commission.

The community expects the big banks and other financial institutions to be held to account and to fear their regulator. However, the Royal Commission found that ASIC had a 'deeply entrenched culture of negotiating outcomes rather than insisting upon public denunciation of, and punishment for, wrongdoing'. Commissioner Hayne emphasised that compliance with the law is not a matter of choice and that 'negotiation and persuasion, without enforcement, all too readily leads to the perception that compliance is voluntary'.

The Government has been working to implement the Royal Commission's recommendations and strengthen financial regulators to ensure a fair, strong, and efficient financial system for all Australians. In April 2019, the Government introduced a design and distribution obligations regime for financial firms as well as product intervention powers.

This will assist consumers to obtain appropriate financial products by requiring issuers and distributors of financial products to have a customer-centric approach to designing, marketing, and distributing financial products. It will also allow

ASIC to regulate, or if necessary, ban potentially harmful financial and credit products where there is a risk of significant consumer detriment.

In this report the committee scrutinises ASIC's progress implementing the changes recommended by the Royal Commission. It considers ASIC's program of change, including its new enforcement strategy, which focuses on increased and accelerated court-based outcomes and the use of new and tougher penalties; and its more intensive supervisory approach, which aims to improve the culture and behaviour of financial firms. The committee also scrutinises the advice ASIC is providing to the public for accuracy.

It is essential that we restore trust, eliminate conflicts of interest, and raise standards of professionalism in Australia's financial services industry. This will require not only the efforts of Government and regulators but the efforts and actions of leaders and individuals within the sector.

On behalf of the committee, I thank the Chair of ASIC, Mr James Shipton, and other ASIC representatives for appearing at the hearing.

Tim Wilson MP
Chair



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Membership of the Committee

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Mr Craig Kelly MP

Mr Andrew Laming MP

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Terms of reference

The House of Representatives Standing Committee on Economics is empowered to inquire into, and report on, the annual reports of government departments and authorities tabled in the House that stand referred to the committee for any inquiry the committee may wish to make. The reports stand referred in accordance with the schedule tabled by the Speaker to record the areas of responsibility of the committee.



List of abbreviations

ANZ	Australia and New Zealand Bank
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001 (Cth)</i>
ATO	Australian Tax Office
BEAR	Banking Executive Accountability Regime
BRC	Board Risk Committees
CBA	Commonwealth Bank of Australia
CCM	Close and Continuous Monitoring program
Corporations Act	<i>Corporations Act 2001 (Cth)</i>
DDO	Design and Distribution Obligations
NAB	National Australia Bank
National Credit Act	<i>National Consumer Credit Protection Act 2009 (Cth)</i>
OFR	Operating and Financial Review
RBA	Reserve Bank of Australia
ROA	Return on Assets
Royal Commission	Royal Commission into the Misconduct in the Banking, Superannuation and Financial Services Industry
SMSFs	Self-Managed Super Funds
TCFD	Task Force on Climate-related Financial Disclosures