



ASIC
Australian Securities &
Investments Commission

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Inquiry	Oversight of ASIC, the Takeover Panel and the Corporations Legislation
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Committee member	Senator Deborah O'Neill

Question

CHAIR: And put in processes and policies, which was the subject of Mr Gentilin's first book. Let me just give you these two sentences. He explains why he's writing a second book. Having seen systems and governance and aspiration fail, he has discerned:

... that humans have a predisposition towards dishonesty, especially when the circumstances are favourable. This conclusion leads us to one of the central themes of this book: the importance of "institutional arrangements". This is a term you will read a lot in this edition. If we accept that a predisposition towards dishonesty exists (something the research clearly suggests we should), then to avoid ethical failure we must focus obsessively on putting in place institutional arrangements that reduce the likelihood of us succumbing to our flawed nature.

And that is why professionals such as doctors, lawyers, accountants, teachers and nurses are subject, because they have incredible power, to regulatory oversight, compliance requirements and licensing requirements, and, when they are in breach of those, they lose their capacity to operate in that space. This morning, we discerned that there is a very big regulatory gap in terms of a company auditor who can decide to walk away and not have any regulatory oversight that would prevent them from continuing in the profession, even though they've done something sufficiently wrong to draw themselves to the attention of ASIC. My questions go to this whole ecosystem. It's becoming more apparent to me as something that's got incredible flaws and holes in it in terms of professional accountability that's actually integrated with audit, which is your responsibility.

Mr Longo: It's certainly a big subject that you have raised there, Chair. As a general principle, the professions self-regulate and that's the approach we have taken in our society, generally speaking. All the people that you identified are generally self-regulating.

CHAIR: But cybersecurity specialists, who have profound impact, are not regulated?

Mr Longo: The doctors and the lawyers are all—

CHAIR: The doctors are. But the scientists are going to make discerning judgements and assertions that are part of an assurance; scientists have incredible power and knowledge as well. They're not subject to any sort of regulatory oversight, are they? Do they need to come in to oversight by you? If they're going to be an adviser in a way that does not represent advice to an academic journal with the debate of ideas but represents advice to come into a financial system, there's a degree of financial oversight required for what they do as well and they could lose their capacity to operate in this sector. Are you aware of any jurisdiction that has considered this in your international travel, Mr Longo?

Mr Longo: I would have to take that on notice. It would be a major, fundamental departure from our approach to regulation in this country for scientists and professionals, as a group, to be regulated by such a body as ASIC. That raises profound questions about how you'd go about doing that. For our humble purposes today, there's a significant piece of work going on to figure out how we're going to assure ourselves that there's compliance with the ISSB standards, and that's a piece of work that we all have an interest in seeing done.

Answer

ASIC's statutory objectives include promoting confident and informed participation by investors and consumers in the financial system. ASIC has the function of monitoring and promoting market integrity and consumer protection in the Australian financial system.

We currently regulate a range of participants in the financial system including companies, directors, Australian financial service licence holders, Australian credit licences holders, auditors and registered liquidators.

It would be a matter for Government whether other professionals that participate in the financial system are to be regulated by ASIC.