

Australian Securities and Investment By: Mr Greg Medcraft

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Words: 1400 words

- Thank you Chairman.
- Pleased to appear before the Parliamentary Joint Committee today.
- With me is Deputy Chair Belinda Gibson, Commissioners Peter Kell, John Price, and Greg Tanzer.
- I would like to update the Committee on some of our work since we last appeared in late May and how we are delivering against our strategic framework.
- As a reminder, this framework is:
 - Confident and informed investors and financial consumers
 - Fair and efficient financial markets; and
 - Efficient registration and licensing.

1. Confident and informed investors and financial consumers

Education
Gatekeepers
Consumer behaviour

Education

MoneySmart website

- In June we won the US Web Marketing Associations' 'Outstanding website' award in the Government category at the 2012 Web Awards.
- More generally - over 2.9 million unique visitors.
- - 1,260 Facebook likes
- - 2,050 Twitter followers
- - 198 public videos in 16 languages on Youtube viewed over 62,000 times
- - 160,000 downloads of MoneySmart's 3 apps

Three major initiatives in August

Track my Spend

- Smartphone app launched in mid August to help users have an up-to-the minute snapshot of their spending habits.
- 34,000 downloads
- During the media campaign, the app was listed as the #1 finance app in Australia.

MoneySmart Teaching

- In August, ASIC joined primary teachers and education leaders from across the country to launch the MoneySmart Teaching Primary package.
- The resource was developed by ASIC to help teachers deliver financial literacy in primary schools.
- The package is driving the Helping Our Kids Understand Finance initiative – announced in 2010.
- Rolled out to 90 schools, and then expanded to cover the rest of the country.

MoneySmart Week

- Last month, ASIC also took part in MoneySmart Week and, as part of this, encouraged Australians to do a Money Health Check.
 - 13,163 people did the health check during MoneySmart Week.

Gatekeepers

Product manufacturers

Storm

- In September, ASIC and the CBA came to an agreement on Storm where the bank would compensate CBA investors up to \$136 million.
- This ends ASIC's court action against CBA
- The deal is a timely, fair and certain outcome for Storm investors who borrowed from CBA.
- This compensation has been achieved without the need for a long, costly legal process that brings with it uncertainty.
- ASIC's court proceedings against Macquarie Bank and Bank of Queensland are ongoing, as are those against Storm founder Emmanuel Cassimatis.
- ASIC's court action on behalf of Storm investors the Doyle family is also ongoing.
- the compensation from CBA is additional to \$132 million previously provided by CBA to its Storm customers;

- ASIC, working with a firm of forensic accountants, estimates the aggregate losses suffered by Storm investors are approximately \$830 million;
- the Doyle proceedings are against Bank of Queensland and Macquarie and, if they are successful, ASIC envisages similar claims would be brought by other Storm customers.

Directors

Fortescue

*T. Crilly
of A. Forrest*

- Early this month, the High Court upheld the appeals of Fortescue Metals and its Chairman Andrew Forrest against the previous decision of the Full Court of the Federal Court in February 2011.
- The High Court found Fortescue statements about agreements with Chinese companies were not misleading or deceptive to investors.
- Because the High Court found Fortescue made no misleading or deceptive statements, the decision did not consider the issue of continuous disclosure in any detail.
- ASIC continues to see continuous disclosure by listed companies as a bedrock of market integrity and fundamental to fair and efficient markets.
- We recognize companies need clear guidance about their continuous disclosure obligations, particularly in the age of instant communication and social media.
- ASIC is working with ASX to update its guidance on continuous disclosure, which was released this week.
- This update is important and we encourage stakeholders provide their feedback on the ASX's draft guidance.

AWB

- In August, the Supreme Court of Victoria banned former AWB managing director Andrew Lindberg from managing corporations until 14 September 2014.
- It also ordered him to pay a \$100,000 fine, after finding he breached his duties as an AWB director.
- This follows his admission in May that he breached parts of the Corporations Act arising from AWB's supply of wheat to Iraq under the United Nations Oil-for-Food Programme.
- These breaches were failing to act with care and diligence, and failing to discharge his duties as a director in good faith and for a proper purpose.

Surveillance Chart

- In September ASIC released for the first time a snapshot of its surveillance work. This is part of a commitment to improve transparency and increase understanding of our work.
- The surveillance chart for the 2011-12 financial year shows how often ASIC proactively undertakes surveillance of its regulated populations through both on-site visits and desk-based reviews.
- This chart shows how ASIC verifies that gatekeepers of the financial system are complying with their obligations.

Enforcement report

- Also in September, ASIC released the second of its six-monthly enforcement reports, detailing enforcement outcomes in the period 1 January 2012 to 30 June 2012.
- The report summarises ASIC's actions against a range of gatekeepers, such as financial advisers, auditors and directors, and demonstrates what we expect of these groups, that is:
 - Act honestly
 - Be competent
 - Be diligent, and
 - Properly manage conflicts of interest.

Consumer behavior

- A focus for ASIC is advertising of financial services and since we last appeared in June ASIC has taken action against the ads of four financial services groups.
- [GE Capital, RAMS, Money3 Corporation Ltd and Cash Today Pty Ltd]

2. Fair and efficient financial markets

Insider trading

Hanlong

- In July, former Hanlong mining executive Calvin Zhu pleaded guilty to three insider trading charges to conduct stretching back to December 2006.
- This is a fast result – the guilty plea came less than a year after ASIC identified suspicious trading.
- Mr Zhu will be sentenced later this month.
- The Zhu case is the latest in a string of 22 market integrity cases brought by ASIC over the past three years.

Financial markets infrastructure

- ASIC is focusing on high frequency trading and dark pools. Recent events overseas are a reminder of the speed and automation of markets and the importance of having robust controls over those systems. Changes in technology have led to these market developments and are a concern of regulators around the world.
- In August, ASIC proposed rules and guidance on automated trading, which covers High-Frequency Trading.
- Our proposals aim to build confidence in the integrity of our equity markets.
- We have proposed for market participants:
 - kill switch - requiring direct control over filters and automated controls to suspend orders and/or systems;
 - algo testing - revising the process of certifying systems and reviewing changes at least yearly; and
 - guidance on the stress testing of algorithms and order flow ie the ability of participants to manage highly automated trading.

Low-ball share offers

- The Government has amended regulations on low-ball share offers being made to investors in Australian companies.
- ASIC raised the issue with Treasury after the AMP received a request for a copy of a register with details of its foreign shareholders.
- This was about making an unsolicited offer, outside of Australia, to AMP's foreign shareholders.
- Previously, companies had to hand over these details within 7 days as these offers made to investors outside Australia were not illegal.
- The new laws make ALL unsolicited offers an improper purpose for accessing a copy of the register.

3. Registry and licensing

Focus on small business Efficient registration and licensing

Business names

- We went live with a new national business names system at the end of May. Working through the initial start-up aspects of any new system.
- Business has embraced the system - while there have been some delays, these are being dealt with.
- Also, ironing out some technical issues.

BUT overall

- **Easier** – because you can do it all online and only need to do it once rather than separate state registers
- **Cheaper** – savings to business are significant
- **Quicker** – you can search and apply online.
- Replaces eight state and territory systems, simplifying business registration in Australia by offering a single online service.

ENDS