



Australian Citizens Party

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MEDIA RELEASE

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Finally! Senate inquiry calls for abolition of corrupt, useless corporate cop ASIC

Literally tens, if not hundreds, of thousands of financial victims in Australia last week will have heard a Senate inquiry call for the abolition of the Australian Securities and Investments Commission (ASIC) and wondered: "What took so long?"

Very few government agencies around the world would be as lacking in confidence from the people who have had direct experience of its performance as ASIC, which is supposed to be the cop on the beat policing corporate Australia.

Under the heading "No further action—ASIC's approach to investigations", the final report of the Senate Economics References Committee inquiry into ASIC's investigation and enforcement stated:

"On the basis of evidence received in this inquiry, ASIC appears reluctant or unwilling to commence investigations. By not taking a proactive approach to investigation, ASIC lets many reports of misconduct go without substantive review. In some cases, ASIC's lack of early regulatory intervention prolonged the harm of misconduct to consumers and investors."

If anything that's putting it mildly, but the Committee followed up that assessment in its recommendations, including Recommendation 1:

"The committee recommends that the Australian Government should recognise that the Australian Securities and Investments Commission has comprehensively failed to fulfil its regulatory remit."

And then Recommendation 2, which called for ASIC to be abolished and replaced with a companies regulator to police non-financial corporations, and a financial conduct authority to police banks, insurance companies, and other financial firms.

The mafia's cops

ASIC has been a weak and ineffective regulator for its entire existence, since it was established in its current form by the recommendations of the 1997 Wallis financial system inquiry. For example, in September 2000 journalist Adele Ferguson slammed ASIC in the *Australian Financial Review* under the headline: "The watchdog no one fears". Seventeen years later Adele Ferguson's work would be instrumental in forcing the Turnbull government to establish the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, a.k.a. the Banking Royal Commission.

Over the course of its existence, the one sector that has never complained about ASIC is the banks, namely the Big Four. ASIC is the weak and ineffective regulator they want. As former Australian Competition and Consumer Commission (ACCC) chairman Allan Fels recounted to the Senate inquiry, initially the 1997 Wallis inquiry proposed assigning market conduct and consumer protection regulation to the ACCC, an effective regulator, not ASIC. But he explained the proposal was reversed, and those powers were given to ASIC, in response to "pure industry lobbying" by the financial sector, i.e. the banks. ASIC is the poster boy of "regulatory capture"; or to put it another way, the banks are the mafia, and ASIC is the corrupt police force the mafia has paid off.

This was demonstrated in spades in 2019-20, following the Banking Royal Commission. At that time, ASIC had a brand new chairman, James Shipton, who had brought in a brand new head of enforcement, Daniel Crennan. Shipton and Crennan took very seriously both the findings of the royal commission, which had been scathing about ASIC's performance, and Commissioner Kenneth Hayne's directive to ASIC that instead of soft fines for bank misconduct, which the banks ignored as the cost of doing business, ASIC should always ask: "Why not litigate?" I.e., why not bring banks up under criminal charges in court? Shipton and Crennan implemented that directive, increasing criminal charges against banks by 300 per cent in the second half of 2019; Crennan famously said at a financial sector function, "The banks should fear us." Not so fast, however: within less than a year Shipton and Crennan had been driven out of ASIC on a fabricated expenses scandal, and Treasurer Josh Frydenberg replaced them with current chairman Joe Longo, whom the *Australian Financial Review* described as "the business-friendly regulator Frydenberg craves".

The financial killing fields

ASIC's legacy is the hundreds of thousands of financial victims who over the last three decades have been robbed and impoverished by white collar criminals who haven't feared getting caught. The body count of victims had risen so high by 2017 it forced the Banking Royal Commission, but since then every experienced observer agrees nothing has changed, and the body count has kept rising.

In 2021 the Australian Citizens Party (ACP) helped the 130 or so elderly victims of the mostly WA-based Sterling First tenancy scandal to get a Senate inquiry into ASIC's failure to police their scheme. The inquiry revealed that from the outset of the scheme in 2015 ASIC had received multiple complaints about Sterling First, but marked all of them NFA—No Further Action. When the scheme collapsed in 2019, 130 elderly Australians who had not invested to get rich, but had simply agreed to pay rent in advance for the rest of their lives to downsize their homes, faced ruin and homelessness.

In 2022, independent economist John Adams took a complaint to ASIC, but, having seen the results of the Sterling inquiry, wrote a report which showed that ASIC investigated fewer than 1 per cent of complaints it received. The Adams report triggered this Senate Economics References Committee chaired by Liberal Senator Andrew Bragg, which was a major, 20-month inquiry that delved deep into ASIC's litany of failures as a regulator. In tabling his report in the Senate on 3 July, Bragg said:

"ASIC really has one job, and that job is to be a law enforcement agency. ... Sadly, that is not the case in Australia, and that is why I believe that Australia has become, in many respects, a haven for white-collar crime."

ALP protection racket

Disturbingly, the Labor Party, which in Opposition was equally scathing of ASIC, now in government is protecting ASIC. The government has responded to Bragg's report by rejecting the recommendation to abolish ASIC and showing its contempt for Australians by calling ASIC a "tough cop on the beat". The only explanation for this two-facedness is the control the banks exert over whomever is the government of the day.

The ACP supports the recommendations of the inquiry but, unlike the major parties, won't stop fighting financial corruption until the financial system is cleaned up and actually serves the people, instead of preying on them.