

News

ASIC WARNED TO STAY INDEPENDENT

By [Mike Taylor](#) on 1 February 2012 [4 comments](#)

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The [Australian Securities and Investments Commission](#) (ASIC) has been placed on notice to adopt a more independent stance in the wake of the regulator having presented a Parliamentary Joint Committee (PJC) with preliminary data flowing from its most recent [financial planning](#) shadow shopping exercise.

The shadow Assistant Treasurer and Opposition spokesman on Financial Services and Superannuation, Senator [Mathias Cormann](#), was strongly critical of ASIC when made aware of the circumstances surrounding the ASIC submission to public hearings of the PJC reviewing the [Future of Financial Advice](#) (FOFA) legislation.

He described the ASIC approach as "highly unprofessional and inappropriate".

"It was a blatant and clumsy effort by the independent regulator to support the government's partisan political agenda in relation to the contentious bits of FOFA," Cormann said.

"ASIC made assertions about the implications of their data for the FOFA bills, yet were not able to answer any questions about the detail."

Money Management was last week told that the key financial services organisations, including the [Financial Planning Association](#) (FPA) and the [Association of Financial Advisers](#) (AFA), were given barely 24 hours' notice of ASIC's intention to utilise the preliminary data.

While it has been nearly five years since ASIC released the results of a financial planning shadow shopping exercise, the regulatory body has previously been fastidious in ensuring the accuracy of the data and consulting with the industry stake-holders before it is released.

However if ASIC believed the information would unduly sway all members of the parliamentary committee it was proved wrong, with Cormann saying the regulator's "unverified headline data didn't prove anything when it comes to the contentious bits in FOFA".

"It didn't support [Bill Shorten's](#) push to force people to re-sign contracts with their [financial advisers](#) on a regular basis, or his proposal to retrospectively impose a further layer of red tape and costs for consumers by doubling up on existing fee disclosures through yet another regular statement," he said.

However the Opposition spokesman did concede that the ASIC data, if verified, pointed to a need for a further raising of standards and professionalism within the financial advice industry.

"The reality is we are all in violent agreement on that," he said. "We also all agree that there is a need for reform in the financial services industry.

"We all agree that we need to introduce a best interest duty, remove conflicted remuneration arrangements and further improve the transparency and professionalism of the financial advice industry," Cormann said.

"In fact it should have happened ages ago. Instead Labor has wasted time because they wanted to attach all these things to FOFA being pushed by the [Industry Super Network](#). That's where they lost it."

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... somewhere, but I haven't seen any in years. Maybe they are all in Canberra, but I doubt..."

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Based on the current Polls a few ASIC executives better update their CV's-Not smart !

angry | 1 February 2012 at 11:46

Great work by the opposition in raising the lack of accountability of our regulator. We have no idea what the shadow constitutes as poor advice and the only real criticism we have heard is the SOAs were full of generic information. Anyone who works inside a large licensee knows that the generic information is forced on the ARs to cover the licensee against spurious claims by litigants taking instructions from FOS on how to win a case if their original claim is baseless. The PJC revolved around some core issues that have been totally derailed by a conflicted political process. Fiduciary duty - needs definition but readily accepted. The regulator would prefer less definition so we will have FSR all over again because they don't want to have to do any work - isn't that how we ended up with 120 page SOAs in the first place? Transparency - Tick, clients are told everything in percentage and dollar terms and advisers also have to explain a whole range of product fees that have no impact on the advice and frankly make almost zero difference to the end client. Market forces are seeing a natural reduction in margins. Conflicts - largely a smoke screen. All conflicts are discussed in the SOA and FSG. Rem structures by 99% of providers are generic and if commission is the only driver for risk advice why don't all the flows gravitate to the highest payer? Finally - what about professionalism eg. education, qualifications, increased minimum standards which is the real way to give consumers security - no mention - Why? Because it would mean the ISN network would actually have to train their staff to the same levels as the rest of the industry and then they would recognise that product flogging through tied distributions went out in the 80s. Education and minimum qualifications for all entrants plus an 'articles' style apprenticeship to ensure the inexperienced get no where near a client is the way the industry needs to head and then the consumer can feel comfortable they are dealing with a suitably qualified adviser. Reviewing SOA's will not protect the consumer which is what the industry really needs to achieve!

Mike C | 1 February 2012 at 15:55

it is high time that someone had the energy and wisdom to take ASIC to task, I commend Cormann in having his facts straight and sticking the boot into ASIC on this issue, ASIC have as most of us advisers know, been lacking in the past on so many issues, Their reports to Parlimentry Committies in the past have been highly questionable and lack due process, I note that Treasury it appeared some years ago had to correct them on issues. ASIC have been as much to blame on these issues on matters of underperformance, If ASIC invested the same amount of time that they do on shadow shopping in more absolute pressing issues of rogue schemes in the industry , Australia would be a better place. Shadow shopping excercises in the past have not proved anything creditable, and for ASIC to now bring these silly statistics to the FoFA debate is simply laughable. I would hate to even contemplate that Shorten's office has been leading the regulator around, but on the face value of it, it certainly appears to look that way, Perhaps that is true. Just perhaps we need another regulator to regulate the Regulator.

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damien P | 1 February 2012 at 19:25

Peter Kell was formerly with ASIC, then the ACCC, the was CEO of our friends at CHOICE, so maybe starting the new job he has forgotten which hat he is wearing!

Phil | 2 February 2012 at 9:03

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