

SUBMISSION ON POLICY ISSUES IDENTIFIED IN THE INTERIM REPORT

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Submission for: My Self

Name of other person, business or organisation:

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The most concerning aspect of the inquiry so far is the pattern of repeated failures of the regulators to enforce even the existing laws and regulations. Without meaningful enforcement, no new laws or regulations will have any effect.

Effective regulators must:

- Be legislatively empowered to investigate all suspected types of malfeasance
- Be legislatively empowered to apply substantive penalties - punitive, remedial, & deterrent
- Be adequately resourced to investigate, prosecute, and punish wrongdoing
- Be supported by clear, concise, unambiguous laws & regulations that don't offer loopholes, omissions, and technicalities for defence lawyers to exploit
- Be utterly independent of political pressure and budget cuts

The funding for regulatory bodies needs to be insulated from the government of the day. Some governments are hostile to regulation and use funding cuts to enforcement agencies' budgets as an indirect way to undermine regulation. That should be made impossible.

Information is key to financial enforcement, so financial institutions must be required to retain all records and communications (hardcopy, voicemail, SMS, email, video, etc.) for a statutory period. Ten years would be a good minimum, with automatic extension when an investigation is underway. Regulators must then have unfettered access to all such information, without being stymied by it being kept out of their jurisdiction in overseas branches or electronically in "the cloud" (which may be hosted somewhere outside Australian jurisdiction).

Without meaningful & substantive enforcement, no regulations will prevent financial malfeasance.