



**ASIC**  
Australian Securities &  
Investments Commission



# Annual Report 2020–21

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**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

**JOSEPH LONGO**

Chair

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1 October 2021

The Hon. Josh Frydenberg MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Treasurer

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2021.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), section 46 of the *Public Governance, Performance and Accountability Act 2013*, sections 17AD to 17AH of the *Public Governance, Performance and Accountability Rule 2013* and *Resource Management Guide No. 135 Annual reports for non-corporate Commonwealth entities*, published by the Department of Finance.

Yours faithfully

**Joseph Longo**  
Chair

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# 1

## ASIC's role

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# Chair's report

On behalf of my fellow Commissioners, I am pleased to present this annual report for 2020–21.

Having been appointed as Chair on 1 June 2021, I am proud to have been given the opportunity to lead ASIC at this important time for the organisation.

The past year has been a challenging and significant one for ASIC. We have worked with the Government to help Australian businesses and consumers recover from the economic impact of the COVID-19 pandemic, and prioritised finalising the implementation of the important reforms arising from the Financial Services Royal Commission (Royal Commission).

We have also had to confront some shortcomings in our own organisation. This was important for us to acknowledge and address to ensure that we meet the high standards set for us, and that we expect of ourselves, as we do from those we regulate.

## Internal governance

The Auditor-General's report on the ASIC 2019–20 financial statements and Dr Vivienne Thom AM's subsequent review of ASIC's governance (the Thom Review) highlighted that some of ASIC's internal systems and processes needed to improve.

At 30 June 2021, ASIC had implemented a number of the recommendations of the Thom Review directed at ASIC through a program of change designed to deliver long-term improvement to ASIC's risk and compliance practices and capabilities. ASIC completed its implementation of the recommendations of the Thom Review in August 2021.

We also established a Chief Risk Officer and a Head of Office function. Respectively, these roles will support our new risk management framework and increase internal oversight and executive accountability, enabling the Commission to focus on strategic regulatory and statutory decision making and stakeholder management.

## COVID-19 pandemic response

Supporting Australia's recovery from the economic impacts of the COVID-19 pandemic has been central to ASIC's work across 2020–21 and will continue to be a priority in the year ahead.

We coordinated our COVID-19 pandemic response with peer regulators, adjusted our strategic priorities and provided a range of concessions and targeted interventions that supported businesses and consumers. We continue to monitor the key vulnerabilities of our regulated population, to protect consumers and provide certainty for markets and businesses.



Looking ahead, we remain committed to supporting economic recovery as one of our key strategic priorities for 2021–22. Our work will include:

- › identifying and pursuing ways to maintain and improve the fair and efficient operation of capital markets and the corporate sector, to facilitate business investment and confident participation by investors in the financial system
- › through a dedicated unit within ASIC, seeking ways to change how we administer the law to minimise the costs and burdens of regulatory requirements for our regulated population and consumers
- › promoting innovation (e.g. through the Innovation Hub and the enhanced regulatory sandbox) and considering competition in our work
- › working with industry and other regulators to enhance cyber resilience
- › expanding our use of data and digital technology to inform markets and consumers, and to support faster, better regulatory outcomes
- › facilitating novel business models and transactions, including by exercising ASIC’s regulatory relief powers as appropriate.

## Financial Services Royal Commission

In 2020–21, we finalised much of the enforcement action arising from the Royal Commission.

We also welcomed the introduction of new regulatory tools and powers that will position us to better achieve our regulatory purpose and deliver maximum benefit for consumers and investors. This includes our expanded conduct role in superannuation, the new product design and distribution obligations, and changes to the breach reporting regime and to the prohibition on hawking.

## Commission and staff

This year, we have seen changes to ASIC’s Commission. Along with welcoming new Deputy Chair, Sarah Court, I would like to take this opportunity to thank outgoing Chair James Shipton and Deputy Chair Daniel Crennan QC for their valued contributions to ASIC’s work.

I would also like to acknowledge the leadership of Deputy Chair Karen Chester, particularly during her period as Acting Chair, and my fellow Commissioners Cathie Armour, Sean Hughes and Danielle Press, for their work and unwavering commitment to ASIC.

Most of all, I want to thank ASIC’s 2,000-plus staff for their resilience and professionalism in a challenging period. They have worked diligently to ensure that ASIC performed its functions and delivered for the Australian community.

## Looking ahead

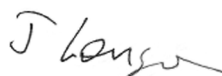
The aftermath of the Royal Commission and the COVID-19 pandemic have had a profound impact on how we work, and have highlighted the importance of having the right organisational infrastructure to support our regulatory and enforcement functions and responsibilities.

One of my first priorities as Chair was to commission an independent review of our infrastructure to enhance ASIC's strength and effectiveness by improving some of its internal capabilities. We will implement the recommendations of this review across the coming year.

Our approach to enforcement is also key to our effectiveness as a regulator. ASIC must be an active and credible law enforcement agency and we will use our full enforcement toolkit as appropriate. Criminal charges, civil cases, enforceable undertakings, product interventions, financial penalties, bannings and licence conditions – they are all on the table and will be used to achieve what's right. We will hold individuals and corporations to account and will act quickly and decisively to disrupt, deter and punish misconduct.

Productive relationships with other regulators are also essential for ASIC. During the upcoming year, we will continue to engage with our peer regulators, especially the Australian Prudential Regulation Authority (APRA), to share information, avoid duplication and promote common approaches to regulation.

I am confident in ASIC and its future as a strong, professional and trusted regulator that is committed to working with stakeholders to support the Australian economy.



**Joseph Longo**  
Chair

# 1.1 ASIC's role and responsibilities

ASIC is Australia's integrated corporate, markets, financial services and consumer credit regulator. ASIC is established under the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

## Our vision

Our vision is for a fair, strong and efficient financial system for all Australians.

## Our regulatory purpose

To realise our vision, we will use all our regulatory tools to:

- › change behaviours to drive good consumer and investor outcomes
- › act against misconduct to maintain trust and integrity in the financial system
- › promote strong and innovative development of the financial system
- › help Australians to be in control of their financial lives.

## Our legislative responsibilities

The ASIC Act states that ASIC has the function of monitoring and promoting market integrity and consumer protection in relation to the Australian financial system and the payments system.

It requires ASIC to strive to:

- › maintain, facilitate and improve the performance of the financial system and entities within it in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy
- › promote confident and informed participation by investors and consumers in the financial system
- › administer the law effectively and with minimal procedural requirements
- › receive, process and store – efficiently and quickly – the information we receive
- › make information about companies and other bodies available to the public as soon as practicable
- › take whatever action we can, and which is necessary, to enforce and give effect to the law.

We enforce the law and regulate companies, financial markets and financial services under the following key legislation:

- › ASIC Act
- › *Business Names Registration Act 2011*
- › *Corporations Act 2001* (Corporations Act)
- › *Insurance Contracts Act 1984*
- › *National Consumer Credit Protection Act 2009* (National Credit Act).

We also administer parts of the following legislation:

- › *Banking Act 1959*
- › *Life Insurance Act 1995*
- › *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- › *Retirement Savings Accounts Act 1997*
- › *Superannuation (Resolution of Complaints) Act 1993*
- › *Superannuation Industry (Supervision) Act 1993* (SIS Act).

## Our regulatory approach

In everything we do, we are guided by our vision of a fair, strong and efficient financial system for all Australians.

Our regulatory toolkit includes supervision and surveillance, enforcement, financial capability work, industry engagement, guidance and input into law reform.

We use this toolkit across the industry sectors we regulate to identify and respond to threats and harms, and to achieve our vision.

For most of the issues in our remit, we use a combination of our regulatory tools to achieve outcomes for consumers and investors.

## ASIC Corporate Plan

Our *Corporate Plan 2020–24* (Corporate Plan) sets out our priorities and actions. These are based on monitoring and analysis of our operating environment, identification of threats and behaviours that lead to harm, and prioritisation of those harms that need to be addressed.

The Corporate Plan outlines the actions we plan to take to address the impact of the COVID-19 pandemic, as well as longer term threats and harms in our regulatory environment.

See pages 41–43 for more detail on our Corporate Plan priorities.

Chapters 2 and 3 set out our achievements against the qualitative and quantitative measures identified in our Corporate Plan.

## 1.2 ASIC's structure and management

### ASIC governance

ASIC continues to make improvements to our governance, structure and decision-making processes. This year, we built on the governance and accountability framework established last year. The framework sets out a clear, transparent and common understanding of ASIC's governance and accountability structures and processes. The objective of the framework is to promote effective, efficient and impartial decision making at ASIC and to articulate clear accountabilities.

ASIC's governance and accountability structures are consistent with ASIC being an independent Commonwealth agency that is a statutory body corporate and reflect the legislative framework within which ASIC operates. ASIC's Chair, Joseph Longo, is the accountable authority under section 9A of the ASIC Act and held this position from 1 June 2021. During the reporting period up to 31 May 2021, James Shipton held the position of ASIC Chair and was the accountable authority except from 23 October 2020 to 31 January 2021, during which period Karen Chester held the position of acting ASIC Chair and was the accountable authority.

### Enhanced risk management framework

In July 2020, ASIC introduced the role of Chief Risk Officer and further improved our governance structures by actively enhancing our risk management framework. Our new risk management framework is designed not only to satisfy our risk management obligations under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) but to translate risk management into structured and consistent practices and governance arrangements. This includes a 'Three Lines of Accountability' approach, which provides clear management ownership and accountability for risks.

As part of this change, we have implemented an Executive Integrity Committee that is focused on proactively enhancing ASIC's broader integrity practices by ensuring that the policies, procedures, training, investigation and reporting mechanisms are aligned and effective across key integrity risks, such as fraud, corruption and conflicts of interest.

### Head of Office

In March 2021, ASIC established a Head of Office function, consistent with the 2015 ASIC Capability Review recommendation. The new Head of Office, called the Chief Operating Officer (COO), is responsible for operational strategy and management and for delivery to the Commission of cross-group outcomes, including budget development and resource allocation, Commission legislative and policy obligations relating to this, and capability and systems build.

The implementation of this new function has increased internal oversight and executive accountability and enabled the Commission to give greater focus to strategic matters, regulatory decision making, external engagement and communication.

In June 2021, ASIC established the Office of the Chair, and appointed Louise Macaulay as Chief of Staff to lead the Office. The role of the Chief of Staff is to provide core counsel and advice to the Chair, as well as support on all strategic and operational matters, both internally and externally. The Office of the Chair will operate as a key link between the Chair, Commissioners, ASIC senior executives and key external stakeholders to identify and assess key issues, solve problems and facilitate information flows.

### Thom Review

This year, ASIC also implemented a number of the recommendations of the Thom Review directed at ASIC. Following the Thom Review, in early 2021 ASIC developed and started to implement its response action plan. Under this plan, ASIC established an executive integrity committee, completed its review of potential breaches of legislation and policy and launched a revised technology-based compliance incident management (notification) system.

### External oversight

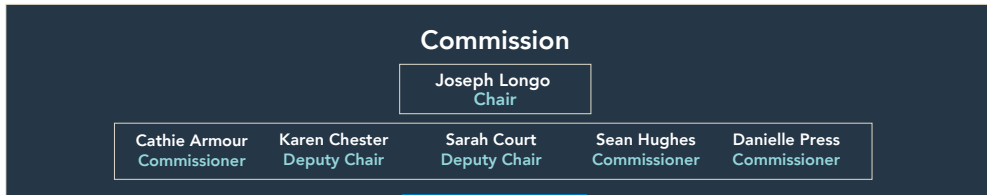
External oversight of ASIC was strengthened this year. From 1 January 2021, ASIC came under the jurisdiction of the Australian Commission for Law Enforcement Integrity. This Commission investigates corruption issues involving staff members and former staff members of organisations that fall under its jurisdiction.

In June, the *Financial Regulator Assessment Authority Bill 2021* was passed by Parliament, implementing recommendations 6.13 and 6.14 of the Royal Commission. Under the legislation, a new independent body, the Financial Regulator Assessment Authority, will be established to regularly review and report on the effectiveness and capability of ASIC and APRA.

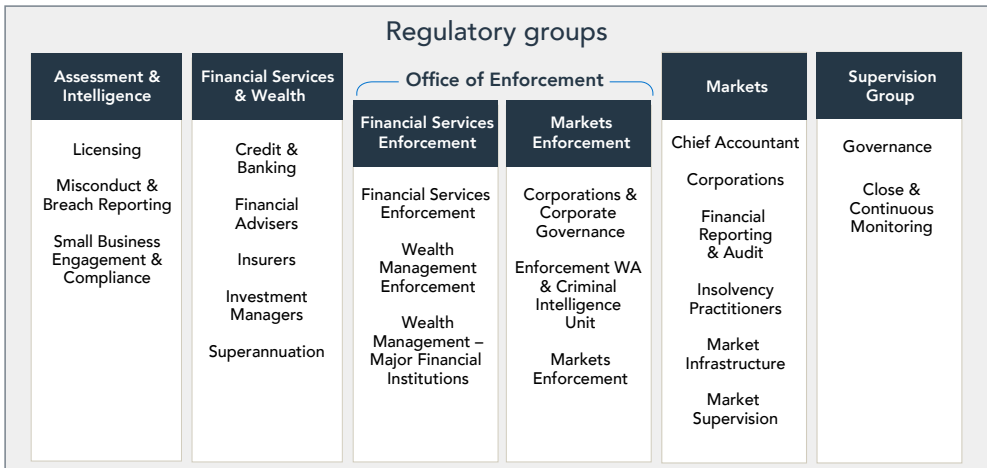
In its first year, the Financial Regulator Assessment Authority will be tasked with assessing the effectiveness and capability of ASIC to assist ASIC Chair Joseph Longo in ensuring ASIC is operating consistently with the Government's Statement of Expectations and is supporting Australia's economic recovery from the COVID-19 pandemic.

Further information about ASIC's governance and the role of the Commission is set out in the Appendices on pages 184–185.

# ASIC organisational structure



Office of the Chair



## ASIC Commissioners

### Joseph Longo

#### Chair

Joseph Longo commenced as ASIC Chair on 1 June 2021.



### Sarah Court

Sarah Court commenced as ASIC Deputy Chair on 1 June 2021.



### Karen Chester

Karen Chester commenced as ASIC Deputy Chair on 29 January 2019.



### Cathie Armour

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013.



### Danielle Press

Danielle Press commenced as an ASIC Commissioner on 17 September 2018.



### Sean Hughes

Sean Hughes commenced as an ASIC Commissioner on 1 December 2018.



### James Shipton

James Shipton ceased his role as ASIC Chair on 31 May 2021. He commenced as ASIC Chair on 1 February 2018.



### Daniel Crennan QC

Daniel Crennan ceased his role as ASIC Deputy Chair on 25 October 2020. He commenced as ASIC Deputy Chair on 16 July 2018.





## ASIC Executive Committee



**Chair  
Commission**

Joseph Longo



**Executive Director  
Financial Services  
Enforcement**

Tim Mullaly



**Executive Director  
Financial Services  
and Wealth**

Joanna Bird



**General Counsel**

Chris Savundra



**Executive Director  
Markets Enforcement**

Sharon Concisom



**Chief Supervisory  
Officer (Acting)  
Supervision Group**

Suneeta Sidhu



**Chief Operating  
Officer**

Warren Day



**Executive Director  
Assessment and  
Intelligence (Acting)**

Diana Steicke



**Executive Director  
Strategy**

Greg Kirk



**Executive Director  
Markets**

Greg Yanco

ASIC Executive Committee members as at 30 June 2021.  
The above list does not reflect standing attendees.

## Stakeholder teams

### ASIC's stakeholder teams and who they regulate

#### Markets

**Greg Yanco – Executive Director**

#### Chief Accountant

**Douglas Niven – Chief Accountant**

#### Corporations

**Claire LaBouchardiere and Rachel Howitt – Senior Executive Leaders**

- › Unlisted public companies: 23,360
- › Listed companies (excluding listed schemes): 2,085

#### Insolvency Practitioners, Financial Reporting and Audit

**Thea Eszenyi – Senior Executive Leader**

- › Registered company auditors: 3,553
- › Entities required to produce financial reports: 30,763
- › Registered SMSF auditors: 5,527
- › Registered liquidators: 649
- › Companies entering external administration: 4,235

#### Market Infrastructure

**Nathan Bourne – Senior Executive Leader**

- › Licensed domestic and overseas financial markets: 47
- › Exempt markets: 3
- › Licensed domestic and overseas clearing and settlement facilities: 7
- › Exempt clearing and settlement facilities: 1
- › Derivative trade repositories: 1
- › Credit rating agencies: 6
- › Benchmark administrators: 2

#### Market Supervision

**Calissa Aldridge – Senior Executive Leader**

- › Market participants: 104
- › Securities dealers: 1,128
- › Investment banks: 24
- › Retail OTC derivatives: 64
- › Wholesale electricity: 48

## Financial Services and Wealth

**Joanna Bird – Executive Director**

### Credit and Banking

**Tim Gough – Senior Executive Leader**

- › Australian credit licensees: 4,777
- › Credit representatives: 38,776
- › Authorised deposit-taking institutions: 142
- › Non-cash payment facility providers: 610
- › Trustee companies: 11

### Financial Advisers

**Kate Metz – Senior Executive Leader**

- › Financial advisers: 19,279
- › AFS licensees licensed to provide personal advice: 4,137
- › AFS licensees licensed to provide general advice only: 989

### Insurers

**Emma Curtis – Senior Executive Leader**

- › General insurers: 81
- › Life insurers: 27
- › Friendly societies: 11

### Investment Managers

**Rhys Bollen – Senior Executive Leader**

- › Responsible entities: 425
- › Registered managed investment schemes: 3,616
- › Wholesale trustees: 1,647
- › MDA operators: 247
- › IDPS operators: 83
- › Foreign financial services providers: 994

- › Custodial service providers: 1,116
- › Total assets: \$2,452.4 billion

### Superannuation

**Jane Eccleston – Senior Executive Leader**

- › Superannuation trustees: 95
- › Total assets: \$2,221 billion

## Supervision

### Close and Continuous Monitoring

**Suneeta Sidhu – Chief Supervisory Officer (Acting)**

Entities subject to supervision:

- › AMP Limited
- › Australia and New Zealand Banking Group Limited
- › Commonwealth Bank of Australia
- › National Australia Bank Limited
- › Suncorp Group Limited
- › Westpac Banking Corporation

### Governance

**Kim Demarte – Senior Executive Leader (Acting)**

The Governance team has a broad range of stakeholders in its various roles supervising governance practices in Australia's larger entities and licensees, implementing the new Financial Accountability Regime and overseeing the whistleblower policy requirement applying to public companies, large proprietary companies and superannuation trustees.

## Office of Enforcement

### FINANCIAL SERVICES ENFORCEMENT

Tim Mullaly – Executive Director

### Financial Services Enforcement

Melissa Smith – Senior Executive Leader

### Wealth Management Enforcement – Major Financial Institutions

David McGuinness – Senior Executive Leader

### Wealth Management Enforcement

Marita Hogan – Senior Executive Leader

## MARKETS ENFORCEMENT

Sharon Concisom – Executive Director

### Corporations and Corporate Governance

Jennifer Balding – Senior Executive Leader

### Enforcement Western Australia and Criminal Intelligence Unit

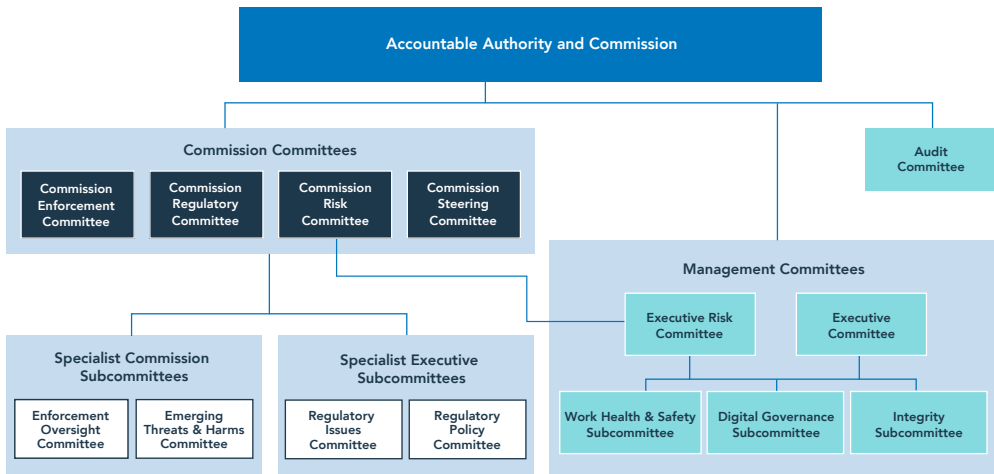
Natalie Dürr – Senior Executive Leader

### Markets Enforcement

Molly Choucair – Senior Executive Leader

The Commission has established a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles.

## ASIC governance structure



## Commission meetings

Commission meetings are convened by ASIC's Chair under section 103 of the ASIC Act. They take place twice a month and may be convened more regularly as required.

## Commission Committees

Commission Committees comprise the full Commission and other standing attendees. There are three decision-making Commission Committees for collective decisions on strategic and/or significant enforcement, regulatory and risk matters:

- › **Commission Enforcement Committee:** Chaired by Deputy Chair Sarah Court, this Committee makes strategic and/or significant enforcement decisions, including in relation to conduct, strategy and focus of major matters and enforcement policies, and oversees ASIC's enforcement and litigation work.
- › **Commission Regulatory Committee:** Chaired by Deputy Chair Karen Chester, this Committee makes strategic and/or significant decisions relating to regulatory policy, law reform, applications for relief, policy frameworks and reports, and oversees ASIC's regulatory activities and functions.
- › **Commission Risk Committee:** Chaired by Commissioner Sean Hughes, this Committee considers all types of risk of a strategic and/or significant nature that affect ASIC, its regulated population, Australia's financial system and Australian consumers. It is responsible for setting and monitoring ASIC's risk management framework and ASIC's risk appetite. The Committee monitors

ASIC risk by reviewing whether material risks have been identified, remediation plans are in place and adequate resources have been deployed to appropriately manage risks.

There is one Commission Committee that gives guidance:

- › **Commission Steering Committee:** Chaired by Commissioner Danielle Press, this Committee provides a forum for the Commission to be given timely information on emerging issues and to progress issues and initiatives prior to them reaching a decision-making forum. The discussions at the meeting will generally not involve day-to-day organisational issues; however, they may include whole-of-organisation frameworks and policies as required.

## Specialist subcommittees

The role of the subcommittees is to guide staff members in carrying out their functions and to provide oversight regarding this work. The subcommittees assist the efficiency of the Commission by assessing matters and ensuring that their consideration is sufficiently mature before they are escalated to the Commission or Commission Committee for decision (if required). They also provide oversight of matters that are important but fall outside the definition of strategic and/or significant matters that are reserved for the Commission.

There are four subcommittees:

- › **Enforcement Oversight Committee:** Assists the Commission with oversight of the Office of Enforcement and the execution of ASIC's enforcement strategy.

- › **Emerging Threats and Harms Committee:** Identifies and provides advice on the management of emerging and strategic risks in ASIC’s regulated population or areas it regulates.
- › **Regulatory Policy Committee:** Considers submissions recommending new or revised regulatory policy, law reform and novel applications for relief from the laws administered by ASIC.
- › **Regulatory Issues Committee:** Considers matters generated by the surveillance and supervisory work undertaken by ASIC’s regulatory teams.

### Governance Committees

Governance Committees assist the Commission and the accountable authority in undertaking their governance roles. There are two such committees:

- › **Commission Risk Committee:** (As set out above).
- › **Audit Committee:** Operates independently of management and assists the Chair to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. It also provides independent assurance to the Chair and the Commission on ASIC’s financial and performance reporting, risk oversight and management, and systems of internal control.

### Management Committees

The Management Committees are executive-level committees responsible for undertaking and overseeing the day-to-day management of ASIC. There are two such committees:

- › **Executive Committee:** Responsible for the day-to-day operation and management of ASIC, implementing and delivering ASIC’s policies, plans and priorities and leading the implementation of ASIC’s business plans.
- › **Executive Risk Committee:** Responsible for identifying and monitoring significant risks to ASIC, maintaining risk management frameworks and policies, and implementing and overseeing audit/assurance processes and risk mitigation strategies.

## Regional Commissioners

ASIC's Regional Commissioners are our local ambassadors, promoting ASIC initiatives and engaging with regional communities.

### Australian Capital Territory

#### Laura Higgins

- › Commenced as Regional Commissioner in May 2019.

### New South Wales

#### Greg Yanco

- › Commenced as Acting Regional Commissioner in December 2019.

### Northern Territory

#### Duncan Poulson

- › Commenced as Regional Commissioner in February 2006.

### Queensland

#### Amanda Zeller

- › Commenced as Regional Commissioner in May 2019.

### South Australia

#### Melissa Smith

- › Commenced as Regional Commissioner in June 2015.

### Tasmania

#### Chris Green

- › Commenced as Regional Commissioner in November 2013.

### Victoria

#### Warren Day

- › Commenced as Regional Commissioner in October 2008.

### Western Australia

#### Natalie Dürr

- › Commenced as Regional Commissioner in July 2017.

## 1.3 Government priorities

### Economic recovery

ASIC is committed to maintaining financial system resilience and to facilitating post-pandemic economic recovery and growth. Through effective and proportionate regulation, we remove unnecessary frictions and build trust for confident participation in a resilient financial system. ASIC works closely with other regulators on the Council of Financial Regulators (CFR) to monitor, and where necessary respond to, financial stability risks.

Over the past year, ASIC undertook a range of activities to help support the post-pandemic economic recovery. We facilitated equity capital raisings to help listed companies access capital quickly. As the economy started to recover, extra capital has enabled businesses to bring forward investment decisions and bring on new staff, helping stimulate the economy.

ASIC has continued to reduce the risk of harm to consumers through advice on scams and unlicensed conduct. Our deferral of non-time-critical activities has aided businesses in responding to the impact of the pandemic.

We have provided guidance to help banks, superannuation trustees and insolvency practitioners navigate this turbulent period. Ongoing guidance was also provided to insurers as they dealt with the ramifications from the 2019 bushfires and 2020 floods.

### Supporting Government legislative reform

ASIC provides advice to the Government on the operational implications of Government policy initiatives and legislative change to support the Government's law reform agenda. We implement reforms once they are passed by Parliament, including through regulatory guidance.

We identify the opportunities and risks that affect our ability to implement the law as intended by Parliament and we advise on law reform to facilitate and improve the performance of the financial system.

This year, we provided advice and input to the Government to facilitate measures to support business in the COVID-19 pandemic environment, including in relation to virtual meetings and electronic communications.

We also provided input to Treasury on key law reforms proposed by the Government, including legislation giving effect to recommendations from the Royal Commission. This included input in relation to the following reforms:

- › financial product design and distribution obligations
- › proposed amendments to the insolvency regime, including a simplified liquidation process for small businesses (see Chapter 3 for more detail)
- › removing some of the exemptions to the conflicted remuneration rules



- › the transfer of ASIC’s business registry staff and functions to the Australian Taxation Office (ATO) as part of the Government’s Modernising Business Register (MBR) program
- › changes to Australia’s consumer credit framework
- › the deferred sales model for add-on insurance
- › reforms to improve ASIC’s effectiveness as the conduct regulator for superannuation
- › the removal of the funeral expenses policy exemption in the Corporations Act
- › enhancement of the unfair contract terms regime, including its application to life insurance
- › the Your Future, Your Super reforms
- › the application of the anti-hawking reforms to superannuation and insurance products
- › strengthening the financial sector breach reporting regime
- › ending grandfathered conflicted remuneration in relation to financial advice provided to retail clients and extending the ban on conflicted remuneration to stamping fees paid in relation to listed investment companies and listed investment trusts (excluding real estate investment trusts)
- › the proposed Financial Accountability Regime, including working with APRA to ensure that the agencies are ready to implement and jointly administer the regime
- › the requirement for litigation funders to hold an Australian financial services (AFS) licence and comply with the managed investment scheme regime.

## Implementation of Royal Commission recommendations

We have continued to provide advice and input to support the program of law reform agreed by the Government in its response to the Royal Commission’s recommendations. This includes contributing to Government consultation with stakeholders, focusing on implementation arrangements for new laws as they commence, developing and consulting on supporting legislative instruments, and issuing regulatory guidance to meet industry demand.

We have released a number of information papers, consultation papers and guidance, including:

- › RG 274 – regulatory guidance on the product design and distribution obligations, released 11 December 2020
- › CP 339 – consultation on guidance and prescribed customer information for the deferred sales model for add-on insurance, released 11 March 2021
- › INFO 256 – information about the obligations that apply to fee recipients who provide personal advice to retail clients under an ongoing fee arrangement, released 25 March 2021
- › CP 340 – consultation on guidance on the breach reporting obligation that applies from 1 October 2021, released 22 April 2021
- › INFO 253 – information on claims handling and settling services for insurance products regulated by ASIC, in light of the removal of the claims handling exemption, released 6 May 2021.

Last financial year, the Government announced that, due to the impact of the COVID-19 pandemic, certain Royal Commission-related legislative matters would be introduced to Parliament later than initially planned. This deferral was intended to allow financial services entities to focus their attention and resources on their COVID-19 pandemic responses and to plan for the post-COVID-19 pandemic economic recovery.

To support industry participants to focus on immediate priorities and the needs of their customers during the COVID-19 pandemic, ASIC deferred commencement

of the mortgage broker best interests duty and remuneration reforms to 1 January 2021, and the design and distribution obligations until 5 October 2021, six months after their original commencement dates.

Table 1.3.1 sets out action taken by ASIC in relation to legislative reforms that have already been introduced or are scheduled to be introduced in late 2021.

Table 1.3.2 sets out action taken by ASIC in relation to Royal Commission measures that do not require legislative reform.

### Table 1.3.1 Measures requiring legislative reform

For those measures involving law reform, ASIC has issued regulatory guidance or consulted on draft legislative instruments relating to eight recommendations as set out in Table 1.3.1.

Title	Commencement	Action taken by ASIC
Removal of the claims handling exemption ( <i>Recommendation 4.8</i> )	Commenced 1 January 2021	On 6 May 2021, ASIC released INFO 253, providing information for anyone who provides claims handling and settling services for insurance products regulated by ASIC.
Unfair contract terms in insurance ( <i>Recommendation 4.7</i> )	Commenced 5 April 2021	On 20 October 2020, ASIC issued updates to INFO 210 and INFO 211, on unfair contract terms protections for consumers and small businesses. The information sheets now provide information about how the unfair contract terms will apply to insurance contracts.
Lack of independence disclosure ( <i>Recommendation 2.2</i> )	Commences 1 July 2021	On 25 March 2021, ASIC made a legislative instrument setting the requirements for the disclosure of lack of independence that an AFS licensee or authorised representative must give clients where they would breach s923A of the Corporations Act if they used words such as 'independence', 'impartial' or 'unbiased'.

Title	Commencement	Action taken by ASIC
Advice fee reforms (Recommendations 2.1, 2.2, 3.2 and 3.3)	Commences 1 July 2021	<p>On 25 March 2021, ASIC made two legislative instruments setting the requirements for the written consent that a fee recipient must obtain from a client before deducting, or arranging to deduct, advice fees from a client account as part of an ongoing fee arrangement and for the written consent that a superannuation trustee must obtain from a member before deducting advice fees from a superannuation account under a non-ongoing fee arrangement.</p> <p>ASIC also released INFO 256 to answer frequently asked questions about the obligations that apply to fee recipients who provide personal advice to retail clients under an ongoing fee arrangement.</p>
Breach reporting reforms (Recommendations 1.6, 2.8, 2.9 and 7.2)	Commences 1 October 2021	<p>On 22 April 2021, ASIC released draft guidance on the breach reporting reforms for consultation.</p>
Reference checking and information sharing protocol for financial advisers and mortgage brokers (Recommendations 1.6 and 2.7)	Commences 1 October 2021	<p>On 19 November 2020, ASIC released Consultation Paper 333, setting out a proposal for a draft ASIC Protocol which outlines obligations for licensees in relation to undertaking a reference check on an individual seeking to be employed or authorised as a financial adviser or mortgage broker.</p> <p>ASIC also consulted on a draft information sheet to help licensees understand their reference checking and information-sharing obligations.</p> <p>The final Protocol and INFO 257 were released on 20 July 2021.</p>

Title	Commencement	Action taken by ASIC
No hawking of superannuation or insurance products ( <i>Recommendations 3.4 and 4.1</i> )	Commences 5 October 2021	On 21 July 2021, ASIC released Consultation Paper 346, setting out proposals for updating Regulatory Guide 38 <i>The hawking prohibitions</i> (RG 38) to reflect the new legislative changes.
Deferred sales model for add-on insurance ( <i>Recommendation 4.3</i> )	Commences 5 October 2021	On 11 March 2021, ASIC released Consultation Paper 339, setting out ASIC's proposed approach to implementation of the deferred sales model for add-on insurance, for stakeholder feedback.
Product design and distribution obligations ( <i>non-Royal Commission measure</i> )	Commences 5 October 2021	On 11 December 2020, ASIC released RG 274 <i>Product design and distribution obligations</i> .

### Table 1.3.2 Non-legislative measures

ASIC has either completed or taken action in relation to the following two recommendations of the Royal Commission that do not require legislative reform.

Title	Status	Action taken by ASIC
Amendments to the Banking Code ( <i>Recommendation 1.10</i> )	Ongoing	On 7 January 2021, ASIC approved a variation to the Banking Code to refine the definition of 'small business'.
Life insurance commissions review ( <i>Recommendation 2.5</i> )	Ongoing	During 2020–21, ASIC substantially completed our review of 2017 life insurance advice and began preparations for our review of 2021 life insurance advice.  ASIC also collected data for the 2020 calendar year from life insurers following COVID-19 pandemic delays.

## 1.4 Financial summary

### Outcomes

Parliament funds ASIC to achieve the outcome of improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets, and delivering efficient registry systems.

### Revenue for the Commonwealth

In 2020–21, ASIC raised \$1,513 million for the Commonwealth in fees, charges and supervisory cost recovery levies, an increase of 11% from the 2019–20 year.

### Revenue, appropriations and expenditure

In 2020–21, ASIC received approximately \$437 million in appropriation revenue from the Government, including \$59 million for the Enforcement Special Account (ESA), representing a \$34 million or 8% increase compared with 2019–20.

ASIC received approximately \$41 million of own-source revenue,<sup>1</sup> which is \$23 million higher than the previous year. The increase in own-source revenue relates mainly to reimbursement of operating and capital expenditure incurred by ASIC on government programs funded directly by other Australian Government entities.

The increase in total expenses is consistent with the increase in appropriation and own-source revenue, noting that lease liability principal payments are not included in this total.

The reduction in the 2020–21 deficit is primarily driven by the revenue variances mentioned above. Most of the funding received was for capital expenditure.

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<sup>1</sup> Revenue generated and retained by ASIC, including court costs recovered, royalties and other sundry income.

**Table 1.4.1 Revenue, appropriations and expenditure**

	2020–21 (\$'000s)	2019–20 (\$'000s)	Change (\$'000s)	Percentage change
Revenues from Government (incl. ESA)	<b>437,092</b>	403,261	33,831	8%
Own-source revenue	<b>40,598</b>	18,060	22,538	125%
Total revenue	<b>477,690</b>	421,321	56,369	13%
Total expenses (incl. depreciation and amortisation, net of gains)	<b>492,107</b>	489,507	2,600	1%
Surplus/(Deficit)	<b>(14,417)</b>	(68,186)	53,769	(79%)

**Table 1.4.2 ASIC's use of taxpayers' money for outcomes approved by Parliament**

	2020–21 (\$'000s)	2019–20 (\$'000s)
<b>Operating expenses (incl. depreciation and amortisation, net of gains)</b>		
Total expenses (net of gains)	<b>492,107</b>	489,507
Annual change on previous year	<b>0%</b>	14%
<b>Fees and charges (incl. industry funding) raised for the Commonwealth</b>		
Total	<b>1,512,563</b>	1,358,462
Annual change on previous year	<b>11%</b>	7%

# 2

## ASIC's annual performance statement

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## Chair's statement

I, Joseph Longo, as the accountable authority of ASIC, present the 2020–21 annual performance statement of ASIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, the annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

## Our purpose

Our vision – a fair, strong and efficient financial system for all Australians – reflects our purpose as Australia's conduct regulator for corporations, markets, financial services and consumer credit and highlights the important role we play on behalf of all Australians.

### 2.1 Performance objectives

ASIC's performance reporting in 2020–21 was guided by our Corporate Plan and our 2020–21 Portfolio Budget Statement, which set out our objectives and targets related to investor and consumer trust and confidence, and fair and efficient markets.

In particular, we aim to achieve our **key performance outcome**, as stated in the Portfolio Budget Statement, of 'improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems'.

We aim to do this by:

- › pursuing enforcement outcomes
- › undertaking supervision and surveillance
- › engaging with consumers and industry stakeholders
- › providing guidance, input into law reform, and consumer education.

These regulatory tools are used to achieve our vision of ensuring a fair, strong and efficient financial system for all Australians.



## 2.2 Key results

Table 2.2.1 sets out our key results for 2020–21 across our supervision, surveillance, enforcement, guidance and education work.

The number of supervisory, surveillance and enforcement actions we undertake, the value of fines imposed or people convicted, and the length of their sentences vary from year to year. The variations depend

on factors such as the severity of breaches of the law and the complexity of the investigations we undertake. The results also reflect the impact of the COVID-19 pandemic, which meant that close and continuous monitoring onsite supervisory work was not possible for a large portion of 2020.

**Table 2.2.1 Key results<sup>1</sup>**

Outcome	Total 2020–21	Total 2019–20
<b>Institutional supervision<sup>2</sup></b>		
Onsite supervisory exercises commenced	1	5
Findings letters issued	2	6
Number of days onsite	59	98
Number of representatives met during onsite supervisory exercises	197	357
<b>Surveillance</b>		
Surveillances completed <sup>3</sup>	Over 1,080	Over 1,250
Instances of potentially misleading or deceptive promotional material withdrawn or amended	59	48
Interim stop orders and final stop orders	13	22

1 This year, we do not have comparative 2019–20 statistics for measures relating to the time taken to complete investigations. This is because during the 2019–20 financial year, we moved to a new workflow platform and these statistics could not be recorded consistently over the period of the transition from the older platform to the new one. Now that the transition is complete, we are again able to accurately record and report on these statistics.

2 Institutional onsite supervisory activities conducted by close and continuous monitoring were suspended for much of 2020. Therefore, these statistics reflect activities undertaken primarily in the first half of 2021, with only minimal days spent onsite during December 2020. 'Onsite' supervisory exercises include those undertaken using virtual and hybrid approaches to engagement.

3 This includes over 30 surveillances involving an onsite presence.

Outcome	Total 2020–21	Total 2019–20
<b>Enforcement<sup>4</sup></b>		
<b>Investigations</b>		
Investigations commenced <sup>5</sup>	110	134
<b>Criminal actions</b>		
Criminal litigation completed	29	35
Criminal litigation completed successfully (as a percentage)	100%	90%
New criminal litigation commenced	53	41 <sup>6</sup>
Average time to complete an investigation (in months)	28	–
Average time to a criminal court decision (in months)	12	–
Average total time to complete an investigation and reach a court decision (in months)	40	–
<b>Criminal outcomes</b>		
Number of people/companies convicted <sup>7</sup>	29	30
Custodial sentences (including fully suspended)	10	22
Non-custodial sentences/Fines	19	8
Total dollar value of fines	\$151,100	\$731,650
Total dollar value of reparation orders	\$1.8m	0
<b>Civil action</b>		
Civil litigation completed	46	37
Civil litigation completed successfully (as a percentage)	93%	97%

4 ASIC moved to a new regulatory workflow platform in 2019–20. Due to differences in the way enforcement activities were recorded in the legacy system compared to the new platform, statistics relating to the time taken to complete criminal and civil actions were not reported last year. The time taken to complete investigations and litigation action has been included for 2020–21.

5 Investigations for these purposes meet the definition in section 13 of the ASIC Act and section 247 of the National Credit Act.

6 Last year, we reported that 38 new criminal litigation actions were commenced. This number has been corrected to include a further three criminal actions that were omitted due to delays in record keeping.

7 This includes six successful criminal actions where either a good behaviour bond or a fine was imposed without a conviction recorded.

<b>Outcome</b>	<b>Total 2020–21</b>	<b>Total 2019–20</b>
New civil litigation commenced	83	50
Average time to complete an investigation (in months)	13	–
Average time to a civil court decision (in months)	13	–
Average total time to complete an investigation and reach a court decision (in months)	26	–
<b>Civil outcomes</b>		
Total dollar value of civil penalties	\$189.4m	\$24.9m
<b>Administrative actions and outcomes<sup>8</sup></b>		
Action taken against auditors and liquidators	49	62
People disqualified or removed from directing companies <sup>9</sup>	49	51
People/Companies removed, restricted or banned from providing financial services	49	79
People/Companies removed, restricted or banned from providing credit services	46	29
<b>Court enforceable undertakings</b>		
Court enforceable undertakings accepted	3	0
Compensation or remediation agreed in court enforceable undertakings <sup>10</sup>	\$9.1m	\$0
<b>Infringement notices<sup>11</sup></b>		
Total number of infringement notices issued	3	4
Total dollar value of infringement notices	\$392,000	\$671,000

8 This includes all disqualifications, suspensions, cancellations and bannings resulting from surveillance and enforcement activities.

9 This includes four disqualifications arising from civil proceedings, where the court ordered the defendants be disqualified from directing companies.

10 Compensation or remediation programs monitored by ASIC are not reflected in this statistic. Amounts in compensation or remediation were agreed in court enforceable undertakings accepted by ASIC.

11 These notices were issued for infringements related to the market integrity rules and continuous disclosure. Compliance with infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

Outcome	Total 2020–21	Total 2019–20
<b>Summary prosecutions</b>		
Summary prosecutions for strict liability offences	224	248
Total value of fines and costs	\$669,906	\$793,670
<b>Applications for relief from the Corporations Act</b>		
<b>Relief applications<sup>12</sup></b>		
Relief applications received	948	1,308
Relief applications approved	755	919
Relief applications refused or withdrawn	238	217
Relief applications in progress	168	172
<b>Licensing and professional registration activities</b>		
<b>Administrative decisions</b>		
Licensing and registration applications received	2,075	1,500
Licensing and registration applications approved	1,159	1,090
Licensing and registration applications refused or withdrawn	410	403
Licensing and registration applications in progress	1,146	653
<b>AFS licences, including limited AFS licences (new and variations)</b>		
Applications approved	776	741
Applications refused/withdrawn	270	248
Licences cancelled/suspended	308	333
Applications in progress <sup>13</sup>	873	484

12 From July 2021, relief applications are lodged and received through the ASIC Regulatory Portal. Due to the differences in the way lodgements were recorded in the legacy system compared to the new platform, statistics relating to relief applications for 2020–21 are not comparable to previous years. The statistics reflect lodgements received and the overall outcome. In previous years, the statistics reflected applications made according to the applicable legislative provision.

13 The increased volume compared to 2019–20 related to applications for claims handling and settling services, and debt management activities, as participants needed to lodge applications before 30 June 2021 in order to have the benefit of transitional relief.

Outcome	Total 2020–21	Total 2019–20
<b>Australian credit licences (new and variations)</b>		
Applications approved	219	233
Applications refused/withdrawn	114	117
Licences cancelled/suspended	278	390
Applications in progress	260	158
<b>Registered auditors – registered company auditors, authorised audit company and SMSF auditors</b>		
Applications approved	164	116
Applications refused/withdrawn	26	38
Licences cancelled/suspended	546	521
Applications in progress	13	11
<b>Registered liquidators<sup>14</sup></b>		
Liquidators registered by ASIC	31	17
Registration committees convened during the year	37	21
<b>Outcome of registration committees convened during the year</b>		
Applications for registration approved by committee	27	14
Applications for registration refused by committee	8	1
Committee matters in progress – registration applications yet to be determined	2	6 <sup>15</sup>

14 Our methodology for presenting the activity of the registration committee has changed this year. Accordingly, the comparative outcomes for 2019–20 shown above differ from those reported in ASIC's annual report for 2019–20.

15 Of the six committee matters in progress at 30 June 2020, one application was refused during 2020–21 and five applications were approved during 2020–21. These outcomes are not included in the table of outcomes for committees convened during 2020–21.

Outcome	Total 2020–21	Total 2019–20
<b>Consultation and guidance</b>		
Consultation papers published	14	15
Industry reports published	28	44
New or revised regulatory guides published	36	29
New or revised information sheets	50	31
Legislative instruments made, amended and repealed	54	50
<b>Education</b>		
Users visiting ASIC's Moneysmart website <sup>16</sup>	11.0m	10.4m
Average number of users to the Moneysmart website per month	1.0m	979,957
Number of users who have used a Moneysmart online tool	4.6m	3.4m
Average number of users using a Moneysmart tool per month	440,764	325,027

<sup>16</sup> The number of people visiting the Moneysmart website includes users from around the world. Of the 11.0m users, 10.0m (91%) were from Australia using an Australian IP address.

## 2.3 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these.

Table 2.3.1 sets out our performance against the key measures outlined in the Service Charter for the 2020–21 financial year.

**Table 2.3.1 ASIC Service Charter performance 2020–21**

Service	Measure	Target	Result
<b>When you contact us</b>			
General telephone queries	We aim to answer telephone queries on the spot	80%	90%
General email queries	We aim to reply to email queries within three business days	90%	98%
<b>Give reasonable assistance</b>			
Searching company, business name or other data online	We aim to ensure that our online search service is available between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	100%
Lodging company, business name or other data online	We aim to ensure that you can lodge registration forms and other information online between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	100%
<b>When you do business with us</b>			
Registering a company or business name online	We aim to register the company or business name within one business day of receiving a complete application	90%	100%
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application	90%	95%

Service	Measure	Target	Result
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within seven business days	90%	100%
Updating company, business name or other ASIC register information online	For applications lodged online – enter critical information and status changes to company or business name registers within one business day	90%	100%
Updating company, business name or other ASIC register information via paper application	For paper applications lodged by mail – enter critical information and status changes to company or business name registers within five business days	90%	94%
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	92%
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances	100%	100%
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 74% Varied: 75%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: 91% Varied: 88%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 95% Varied: 95%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 98% Varied: 97%



Service	Measure	Target	Result
Applying for relief <sup>17</sup>	We aim to give an in-principle decision within 28 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues	70%	66%
	We aim to give an in-principle decision within 90 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues	90%	85%
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information	70%	73%

#### When you have complaints about us

About ASIC officers, services or actions	We aim to acknowledge receipt of complaints within three working days of receipt. We aim to resolve a complaint within 28 days	70%	Resolved within 28 days: 99%
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<sup>17</sup> The 28-day and 90-day Service Charter targets for in-principle decisions on relief applications were affected due to ASIC's transition to a new platform. Instances where all necessary information had not yet been received and novel applications could not be identified are excluded from the calculation of the Service Charter result, as they would have been in the legacy system. These issues are currently being addressed.

## 2.4 Analysis: Implementing our performance objectives

This year, our work aligned with the priorities outlined in the Corporate Plan published in August 2020.

These priorities are summarised on pages 41–43.

In June 2020, we also published the *ASIC Interim Corporate Plan 2020–21: Strategic priorities responding to the impact of the COVID-19 pandemic* (ASIC's Interim Corporate Plan), outlining five strategic priorities to address the impact of the COVID-19 pandemic. These priorities were incorporated into the Corporate Plan. They have been a central focus over the last year and will remain a focus for us in the near term. They are summarised on page 41.

### Measuring our performance

We use qualitative and quantitative measures to evaluate and review our performance, as detailed in our Corporate Plan. We measure both:

- › **regulatory outcomes**, which include the direct results from using our suite of regulatory tools
- › **market outcomes**, which reflect the impact of our regulatory work on the markets and sectors we regulate, including on investors and consumers.

We are currently enhancing the quantitative measures we use to report on efficiency and effectiveness. In particular, we are enhancing measures of:

- › efficiency by adopting a framework for the evaluation of the time, cost and quality of key regulatory processes
- › effectiveness by continuing an impact assessment pilot to improve our assessment of specific regulatory interventions.

Our regulatory tools include:

- › enforcement
- › supervision
- › surveillance
- › licensing
- › engagement
- › guidance
- › education
- › input into law reform.

For most of the issues in our remit, we employ a combination of our regulatory tools to achieve outcomes for consumers and investors.

In reporting on our work, we combine quantitative and qualitative indicators to provide a narrative about our approach. Our regular reports about the volume and results of our activities include our six-monthly enforcement updates, our monthly market integrity updates and regular reports about corporate insolvency and corporate finance.

This chapter sets out key results against our priorities and how we have used our regulatory toolkit to achieve those results.

# ASIC Corporate Plan priorities

## Priorities to address the COVID-19 pandemic

### Protect consumers from harm at a time of heightened vulnerability

We have focused on taking action against predatory lending, disrupting the mis-selling of harmful products and acting against scams.

Key results and examples are set out on pages 45, 54, pages 61–62 and on pages 76–79.

### Maintain financial system resilience and stability

We have responded promptly to instances of market dislocation and disorder as well as many other practices and use continuous monitoring and enforcement where required.

Key results and examples are set out on pages 54–58 and in Sections 3.5 and 3.6.

### Support Australian businesses to respond to the effects of the COVID-19 pandemic

We have provided relief on a temporary basis to facilitate the operations of businesses at a time of potential financial stress, and we have focused on processing expedited individual relief applications in an efficient manner to support the operational activities of regulated entities.

Key results and examples are set out in Table 2.2.1 and on page 56 and in Section 3.7.

### Continue to identify, disrupt and take enforcement action against the most harmful conduct

During the COVID-19 pandemic, we have paid particular attention to reports of scams and misleading conduct, including by cracking down on unlicensed conduct. We have focused our enforcement activities on the most egregious misconduct and conduct that harms vulnerable consumers.

Key results and examples are set out on pages 44–53.

### Continue to build our organisational capacity in challenging times

We have moved quickly to provide our staff with the means to conduct investigations and litigation effectively in the COVID-19 pandemic environment, which include the establishment of secure ways to conduct confidential examinations and interviews remotely.

We are working to improve the way we measure and assess our performance and illustrate the impacts and outcomes of our work. In particular, we will examine, and be informed by, the lessons learnt during this period to further improve our crisis response plans for the future.

Key results and examples are set out in Section 1.2 and on pages 43–44.

## Priorities beyond the COVID-19 pandemic

### Promoting confident participation in the financial system to support long-term economic recovery

We have focused on supporting the long-term recovery of the Australian economy. This includes fostering positive behaviours of fairness, strong governance controls, and robust disclosure and reporting practices, as well as encouraging healthy competition and appropriate and timely consumer compensation.

Key results and examples are set out on pages 55–58 and in Sections 3.3 and 3.7.

### Deterring poor behaviour and misconduct through our enforcement approach and driving cultural change using all of our regulatory tools

We have focused on efficient and effective enforcement action, particularly cases that have a high deterrence value and those responding to egregious misconduct – for example, misconduct affecting vulnerable consumers.

Key results and examples are set out on pages 44–53.

### Improving entities' management of key risks to prevent and mitigate harms to consumers and promote a healthy financial system and economic growth

We have supported measures to improve the financial skills, knowledge and efficacy of consumers and entities and to provide them with information and tools to help them make informed financial decisions.

Key results and examples are set out on pages 60–67.

### Addressing consumer harm as a result of elevated debt levels and hardship, with a focus on predatory lending

We have continued to increase the use of rapid and disruptive enforcement action to prevent predatory lending and punish breaches of the law. We have also focused on situations where consumer segments are particularly vulnerable or susceptible to predatory behaviour.

Key results and examples are set out in Table 2.2.1 and on pages 76–79.

### Reducing poor product design and restricting mis-selling

We have focused on monitoring the design and sale of financial products, the potential use of unfair contact terms, and distribution practices that may lead to poor outcomes for consumers and may breach the law.

Key results and examples are set out on page 49 and in Section 3.2.

## Reducing misconduct by company directors and professional service providers

We continued to ensure that individual accountability is given appropriate attention in our investigations in relation to company directors and officers.

Key results and examples are set out in Table 2.2.1 and Section 3.7.

## Delivering as a conduct regulator for superannuation

We continued to work on establishing ASIC as the primary regulator of conduct in superannuation, consistent with the Government's response to the Royal Commission recommendations.

We took action to deter misconduct, supported relevant legislative reforms, and continued our supervision and surveillance of superannuation trustees, focusing on whether trustees act in the best interests of consumers and treat them fairly.

Key results and examples are set out in Section 3.4.

## Strengthening our capabilities to support our vision

### Data and analytics

We have continued to build on our data and analytics capabilities during 2020–21 to better support our regulatory work. A number of material developments in the last year have allowed ASIC to better exploit the value of our data and drive improvement in ASIC operations. Some examples include:

- › developing and initiating the long-term ASIC Data Strategy 2021–2026
- › implementing our Data Lake platform to allow storage and processing of data at the scale required, and provide our data professionals with access to the latest analytic tools
- › building our data catalogue through automated scanning of our systems
- › execution of multiple data initiatives leveraging tools and methodologies involving natural language processing, automation and self-serve dashboards, as well as the exploration of artificial intelligence and machine learning.

In the future, recurrent data collections and data sharing will be a feature of ASIC's data and analytic capability uplift. Once completed, these collections will maximise the availability and use of data across Government, minimise industry burden and the need for ad hoc collection, and better focus our regulatory attention.

Recurrent data collection initiatives in development include:

- › internal dispute resolution – collection of internal customer complaints data from ASIC-regulated financial services organisations
- › managed funds – collection of granular fund-level descriptive and performance data on managed funds
- › mortgages – collection of granular account-level descriptive and performance data on mortgages
- › working with APRA on APRA’s Superannuation Data Transformation and the Financial Accountability Regime data collections
- › enhancement for data-sharing initiatives between the ATO and ASIC to help identify illegal phoenix activity.

## Regulatory Transformation Program

Our Regulatory Transformation Program continued to deliver improvements for our stakeholders and regulatory work.

From August 2020, all fundraising documents and corporate finance lodgements were able to be lodged via the ASIC Regulatory Portal, and a new Offer Notice Board was launched to list all fundraising offers. Applications for relief were moved from an email inbox to structured smartforms on the portal, helping make the application process more efficient.

Transactions in the Regulatory Portal are structured to make it easier for stakeholders to understand what information they need to provide ASIC. Paper forms have been replaced with smartforms that only ask questions relevant to each transaction type. These smartforms are prefilled with details

already held by ASIC, with quick links to relevant regulatory guides. There are over 62,000 individual users on the portal and over 45,000 organisations represented.

The digitisation of transactions and workflows enables ASIC to track each case more easily from initial breach or misconduct reports through to enforcement action. We now have a comprehensive view of our stakeholders that combines information such as licence applications, fundraising documentation, company directors, complaints and investigations. This enhanced visibility supports better decision making and provides a better understanding of the sectors we regulate.

## Our regulatory tools

### Enforcement

Enforcement action is one of the key regulatory tools available to us to help achieve a fair, strong and efficient financial system for all Australians. Our enforcement actions focus on areas of greatest harm in order to take an active and targeted approach to enforcement.

Our Office of Enforcement was established in July 2019. Its role is to increase the focus on priority matters, implement centralised decision-making processes, ensure adequate and flexible resourcing, and achieve greater consistency in our enforcement approach.

## Enforcement priorities

As a priority, we target cases of high deterrence value and those involving egregious harm or misconduct, particularly towards vulnerable consumers. In addition to Royal Commission referrals and case studies, ASIC's Office of Enforcement prioritises:

- › misconduct related to superannuation and insurance
- › cases that engage our new powers or provisions that now carry penalties or higher penalties
- › illegal phoenix activity
- › auditor misconduct
- › new types of misconduct, including misconduct carried out online or using emerging technologies.

ASIC will also always prioritise taking action on:

- › significant market misconduct
- › misconduct that is serious by either its nature or extent of harm, or that involves a large market participant or licensed entity
- › misconduct that involves a high risk of significant consumer harm, particularly involving vulnerable consumers
- › misconduct by individuals, particularly criminal conduct, or governance failures at board or executive level.

## Enforcement priorities in response to the COVID-19 pandemic

In response to the impact of the COVID-19 pandemic on the financial system and the potential for harm that this has created, we have continued to pursue matters to address the following issues:

- › conduct that seeks to exploit the pandemic environment, including predatory lending, mis-selling and poor claims handling
- › opportunistic conduct, including scams
- › failures to disclose materially negative information
- › opportunistic and misleading market announcements
- › egregious governance failures within corporations, schemes and superannuation funds.

Guided by these priorities, ASIC conducted investigations and sought urgent orders to protect vulnerable consumers. This included obtaining:

- › injunctions to restrain companies in the Mayfair 101 Group from promoting debenture products
- › interim orders restraining New South Wales-based PW Kitt Co Pty Ltd and its sole director, Larry John Dawson, from disposing of assets
- › interim orders and injunctions against Debt Wipeout and associated individuals for unlicensed financial services
- › freezing orders against Perth-based Monica Kaur and associated property developers providing unlicensed financial advice services and involved in, promoting and operating an unregistered managed investment scheme

- › orders restraining Matthew Alan Beresford from carrying on a financial services business and suspending the websites of Maxwell Financial Services and Asset Capital Holdings.

### **Criminal convictions**

In 2020–21, as a result of our investigations, 29 people were convicted of criminal offences, with 10 people receiving custodial sentences (including those fully suspended).

### **Civil actions**

In 2020–21, we completed 46 court actions, covering issues such as unlicensed consumer leasing; fees for no service breaches; overcharging interest; misleading and deceptive conduct; unconscionable conduct; continuous disclosure contraventions; failure to provide financial services efficiently, honestly and fairly; and failure to comply with the best interests duty and related obligations under the Corporations Act.

Of these cases, 93% were successful. The total value of penalties for the cases was \$189.4 million.

### **Protective actions**

We banned, removed or restricted 49 people or companies from providing financial services, and 46 people or companies from providing credit services.

We disqualified or removed 49 people from directing companies.

### **Corrective actions**

We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. There were 59 instances of potentially misleading or deceptive promotional material withdrawn or amended in 2020–21.

### **Infringement notices**

In 2020–21, we issued three infringement notices and received a total of \$392,000 in payments pursuant to these infringement notices. We issued infringement notices against:

- › Regional Express Holdings Limited
- › Macquarie Securities (Australia) Limited
- › Life Trading Pty Ltd.

Two of these were issued by the Markets Disciplinary Panel, specifying a total of \$326,000 in penalties for alleged breaches of the market integrity rules.

One of those infringement notices also required the market participant to enter into a court enforceable undertaking to appoint an independent expert to review and report on whether the participant has appropriate supervisory policies and procedures to ensure compliance with the market integrity rules.

### **Helping protect small business**

Where necessary, we take action against companies, directors and other officeholders who fail in their duties. By doing so, ASIC works to create a level playing field. This year, ASIC recorded 313 small business-related outcomes.



**Table 2.4.1 Small business enforcement outcomes by misconduct and remedy type**

Misconduct type	Criminal	Administrative	Total (misconduct)
Action against persons or companies	235	78	313

Of the actions summarised in Table 2.4.1:

- › 210 convictions relate to external administrator programs
- › 14 convictions relate to companies that failed to lodge annual financial reports with ASIC
- › 11 relate to criminal convictions prosecuted by the Commonwealth Director of Public Prosecutions, of which three received custodial sentences and two related to illegal phoenix activity
- › 44 persons were disqualified from managing corporations, of which four related to illegal phoenix activity
- › 34 Australian credit licences were cancelled or suspended.

As at 1 July 2021, ASIC had 142 small business-related criminal cases underway against persons or companies.

ASIC also works to combat illegal phoenix activity. This year, of the 78 administrative actions in Table 2.4.1, four involved disqualification of directors where there were clear signs of illegal phoenix activity. In addition to these administrative outcomes, ASIC achieved two criminal convictions for matters that related to directors engaging in illegal phoenix activity. ASIC is committed to using its regulatory tools of engagement, surveillance and enforcement to identify, disrupt and take action against those who engage in illegal phoenix activity.

## Enforcement examples

### **Westpac subsidiaries: Personal financial advice about superannuation**

On 3 February 2021, a unanimous High Court confirmed that Westpac Bank subsidiaries, Westpac Securities Administration Limited and BT Funds Management Limited (the Westpac subsidiaries), breached financial services laws.

These breaches related to telephone sales campaigns conducted by the Westpac subsidiaries where consumers were told that they were being provided with general financial advice. In the calls, the Westpac subsidiaries recommended that consumers roll out of their other superannuation funds into Westpac-related superannuation accounts.

The court agreed with ASIC that the context and detailed discussions in the calls meant that the Westpac subsidiaries were actually providing personal advice. Neither Westpac subsidiary was licensed to provide personal financial product advice.

The court held that if a sales campaign is constructed so that a reasonable person might expect the caller to have considered the particular financial situation of the consumer, then it will fall within the personal advice provisions.

ASIC brought this enforcement action because of a concern that Westpac relied on a financial product sales model that blurred the line between general and personal advice.

ASIC argued, and the court agreed, that consumers' decisions regarding superannuation accounts are 'significant financial decision[s]' and, as the advice was personal financial advice, it needed to comply with the requirement that it be in the best interests of the consumer. The court held that Westpac provided advice that was not in the best interests of consumers. In fact, this conduct had the potential for significant harm to consumers.

## **Mayfair made 'misleading or deceptive' statements and 'created a false and misleading impression' of its debenture products**

On 23 March 2021, the Federal Court found that Mayfair Wealth Partners Pty Ltd and its associated companies engaged in misleading or deceptive conduct, and made false or misleading representations in advertisements for its debenture products.

Mayfair was previously promoting two debenture products to wholesale investors by using sponsored link internet advertising through Google AdWords and Bing Ads, so that the websites for Mayfair's debenture products appeared as sponsored links when consumers searched online for 'bank term deposit' or 'term deposit'.

Justice Anderson found that Mayfair engaged in misleading or deceptive conduct, and made false or misleading representations, by representing that:

- › Mayfair's debenture products were comparable to, and of similar risk profile to, bank term deposits
- › the principal investment would be repaid in full on maturity
- › Mayfair's debenture products were specifically designed for investors seeking certainty and confidence in their investments and therefore carried no risk of default.

The court also found that Mayfair and M101 Nominees engaged in further misleading or deceptive conduct and made false or misleading representations by representing that the M Core Fixed Income Notes were fully secured, when they were not.

This action was taken as part of ASIC's 'True to Label' project targeting investment managers and financial product issuers who have lured unsophisticated investors into high risk products via misleading marketing. This matter demonstrates that ASIC will take action not only where investments are marketed as safer, lower risk or more liquid when they are not, but also where search engines or online platforms are used in a misleading or deceptive way to entice investors to purchase products that they are not searching for.

## **ASIC enforcement action against major financial institutions for significant customer harm caused by poor systems, processes and monitoring**

The Royal Commission identified a class of conduct whereby customers were charged fees for services that were not provided to them (known as 'fees for no service' or FFNS) or customers were not receiving the promised benefits from financial services and products. The conduct has been the subject of ongoing enforcement action and investigation by ASIC.

What has been central to many of these instances of misconduct has been a failure of systems design and implementation, poor monitoring of those systems and processes, and delay in identifying, fixing and remediating customers for these system failures. As at 30 June 2021, six of Australia's largest banking and financial services institutions had paid, or offered to pay, a total of \$1.86 billion in compensation to customers who suffered loss or detriment because of FFNS misconduct or non-compliant advice.

ASIC has brought the following enforcement actions arising from these kinds of system and process failures:

- › The Commonwealth Bank of Australia (CBA) was ordered to pay a \$5 million penalty after the court found that CBA had breached the ASIC Act and the Corporations Act by failing to provide promised benefits to customers of its AgriAdvantage Plus Package.
- › Two NAB superannuation trustee companies (NULIS Nominees (Australia) Limited and MLC Nominees Pty Ltd) were ordered by the Federal Court to pay a \$57.5 million penalty for FFNS breaches. This is one of the largest total penalties ever imposed in a civil action filed by ASIC and reflects the egregious nature of FFNS misconduct.
- › Australia and New Zealand Banking Group Limited (ANZ) was ordered to pay \$10 million in penalties after being found to have engaged in unconscionable conduct and breached its obligations as a financial services licensee over the charging of certain fees to personal and business customers in relation to periodic payments.
- › CBA was ordered to pay a \$7 million penalty after the Federal Court had previously declared that CBA made false or misleading representations and engaged in misleading and deceptive conduct, which led to a rate of interest being charged on business overdraft accounts that was substantially higher than what its customers had been advised.

## **Winding up of unregistered managed investment scheme and operating a financial services business without an AFS licence involving significant investor funds**

In December 2020, the Federal Court found that Chris Marco, AMS Holdings (WA) Pty Ltd (AMS) and AMS as trustee of the AMS Holdings Trust contravened the Corporations Act by operating an unregistered managed investment scheme (UMIS) and carrying on a financial services business without holding an AFS licence. The court ordered the winding up of the UMIS operated by Mr Marco and AMS and appointed McGrath Nicol as liquidators and as receivers and managers over all the defendants' property. It further ordered that Mr Marco be permanently restrained from carrying on a financial services business without an AFS licence and restrained from operating an UMIS.

The civil action was commenced following ASIC inquiries which identified that Mr Marco had accepted over \$200,000,000 from more than 130 investors over a 10-year period and the deficiency in net assets of the scheme was in the hundreds of millions of dollars.

## Significant financial penalties imposed for harmful conduct targeting vulnerable consumers in the retail over-the-counter market

As part of ASIC's enforcement priority to address misconduct that involves a high risk of significant consumer harm, particularly to vulnerable consumers, ASIC has achieved significant outcomes in two enforcement actions taken against retail over-the-counter (OTC) derivative providers.

### \$75 million penalty ordered against AGM Markets Pty Ltd and its authorised representatives

In October 2020, the Federal Court ordered that AGM Markets Pty Ltd and two of its authorised representatives, OT Markets Pty Ltd and Ozifin Tech Pty Ltd, pay a total of \$75 million in penalties for systemic unconscionable conduct while providing OTC derivative products to retail investors.

Justice Beach also ordered that refunds be paid to approximately 10,000 former clients. The court heard that account managers engaged on behalf of OT Markets Pty Ltd were told to 'kill your customers', a reference to encouraging their clients – often vulnerable investors whose trust the account managers had sought to win – to make deposits and trades.

### \$20 million penalty ordered against Forex Capital Trading Pty Ltd

On 29 April 2021, the Federal Court ordered Forex Capital Trading Pty Ltd (Forex CT) to pay a \$20 million penalty for engaging in systemic unconscionable conduct, paying conflicted remuneration to its team leaders and account managers, and failing to act in the best interests of its clients. The court also ordered that its sole director, Shlomo Yoshai, pay a \$400,000 penalty and be disqualified from managing corporations for eight years for breaching his duties as a director and aiding Forex CT's unconscionable conduct.

Previous to the court's decision, ASIC had cancelled Forex CT's AFS licence, banned Mr Yoshai from providing financial services for 10 years, and similarly banned two former Forex CT team leaders and three former account managers from providing financial services for periods ranging from three to six years.

These enforcement outcomes demonstrate that OTC providers must have proper systems in place to ensure that they, and their representatives, comply with the law when dealing with customers.

## Former CFO guilty of market manipulation and fraud offences

In May 2021, Zhonghan Wu (also known as John Wu), the former chief financial officer of Traditional Therapy Clinics Limited (TTC), was sentenced in the District Court (NSW) to an intensive corrections order for one year and 10 months, which included a condition that he perform 200 hours of community service.

Mr Wu was also sentenced to a community corrections order for two years and six months after pleading guilty to fraud offences.

ASIC's investigation found that between 8 September 2015 and 30 November 2015, Mr Wu carried out, and attempted to carry out, multiple share transactions in TTC shares using four different trading accounts. The trading had the effect of creating an artificial price for TTC shares on the Australian Securities Exchange (ASX). When trades in one trading account were rejected for suspicious trading, Mr Wu would use another trading account to continue trading in TTC shares.

Mr Wu's trading occurred immediately after TTC's listing on ASX, following an initial public offering (IPO) in August 2015 that raised approximately \$15 million through the issuance of 30 million TTC shares at \$0.50 a share. Mr Wu carried out the transactions in order to maintain the TTC share price above the IPO issue price of \$0.50 per share.

In addition to the market manipulation offence, Mr Wu was also found guilty of fraud. In 2012 and 2015, Mr Wu obtained loans from CBA for mortgages to purchase various properties. In support of his loan applications, Mr Wu provided false and misleading documents to CBA. The loan applications resulted in Mr Wu receiving funds totalling \$360,000.

This result aligns with ASIC's enforcement priority to take action over serious market misconduct and to hold gatekeepers to account.

The matter was prosecuted by the Commonwealth Director of Public Prosecutions after a referral from ASIC.

## Inter-agency collaboration on financial crime

ASIC collaborates with other Australian enforcement and regulatory agencies on serious and organised crime, including through the Phoenix Taskforce, the Serious Financial Crime Taskforce (SFCT) and the Fintel Alliance. This year, we released 123 intelligence products to partner agencies and received 287 intelligence reports.

- › **Phoenix Taskforce:** Together with other federal, state and territory agencies, ASIC is a member of the ATO-led Phoenix Taskforce. The Phoenix Taskforce's whole-of-government strategy is to reduce the incidence and impact of illegal phoenix activity.

ASIC's work as part of the Phoenix Taskforce for 2020–21 included publishing information about illegal phoenix activity; working with the ATO to implement the Data Fusion Joint Analytics, which fuses data from both agencies and applies advanced analytics to identify illegal phoenix behaviours for early intervention and disruption; and 42 Phoenix Surveillance Campaign visits, involving ATO and ASIC officers educating directors about illegal phoenix activity and discussing current compliance obligations.

- › **Serious Financial Crimes Taskforce:** The SFCT is a multi-agency initiative targeting offences related to serious fraud, money laundering and defrauding the Commonwealth.

In 2020–21, we continued our contributions to the priorities of the SFCT relating to international tax evasion, illegal phoenix activity, cybercrime affecting the Australian taxation and superannuation systems and serious financial crime affecting the ATO-administered measures of the Commonwealth Coronavirus Economic Response Package.

- › **Fintel Alliance:** The Fintel Alliance is a public-private partnership between federal and state government intelligence and law enforcement agencies, private sector businesses, and the Australian Transaction Reports and Analysis Centre.

During the reporting period, ASIC continued contributions to Fintel Alliance priorities addressing networked and complex financial crime.



## Supervision and surveillance

### Institutional supervision

Institutional supervision, conducted by ASIC's close and continuous monitoring team, focuses on those financial institutions that have the greatest potential impact on consumers, due to market share or other factors. This focused supervision seeks to proactively minimise misconduct and consumer harm through the uplift of organisation-wide factors, including governance, accountability, systems and culture. The Big 4 Banks (CBA, WBC, NAB and ANZ) and AMP have been subject to institutional supervision since late 2018, with Suncorp joining the cohort in 2020–21.

During the first half of 2020–21, onsite review programs were temporarily suspended due to the COVID-19 pandemic. The focus changed to leveraging our ongoing engagements with the institutions to understand and oversee their response to issues arising from the pandemic, particularly the impact on vulnerable consumers.

As Australia started to adjust to pandemic conditions, we recommenced our deep dive supervisory reviews, adopting a hybrid approach to supervision and leveraging engagement using virtual technologies combined with onsite engagement, where feasible. This adapted approach has enabled us to be responsive as the COVID-19 pandemic continues while ensuring that this important work continues. During the latter part of 2020–21, we initiated our reviews of the internal audit functions of the focus institutions (this work will

continue in 2021–22) and initiated our engagement with Suncorp by conducting a comprehensive review of its incidents and issues management and internal dispute resolution systems and practices.

Throughout 2020–21, we continued to monitor actions taken and outcomes achieved by the institutions in response to reviews conducted in prior years.

For more information on the outcomes observed during 2020–21 in response to the previous review of internal dispute resolution, see page 110.

### Governance supervision

ASIC's Governance team is focused on improving customer and investor outcomes by uplifting the governance practices of, and implementing governance related reforms affecting, a broad spectrum of entities that ASIC regulates.

In 2020–21, our key focus areas have been:

- › driving ASIC's preparation to implement and jointly administer with APRA the proposed Financial Accountability Regime, a multi-year project that aims to improve transparency and strengthen accountability and governance in relation to both prudential and conduct-related matters

- › reviewing whistleblower policies of public companies, large proprietary companies and superannuation trustees to understand how entities are responding to the recent whistleblower reforms and to engage with entities to improve policy standards
- › reviewing corporate governance statements from ASX-listed companies to understand the quality of disclosure about governance practices and adherence to the ASX Corporate Governance Council Principles and Recommendations
- › engaging with firms on the findings from our review of board oversight and discretion in executive variable pay schemes and the revision of Information Sheet 245 *Board oversight and discretion in executive variable pay schemes*. A case study reporting on the outcomes of this work is included on page 57.

During the ongoing COVID-19 pandemic, we responded to changes in market conditions by reviewing and/or providing guidance on matters such as the conduct of virtual and hybrid member meetings, director share trading, operational resilience, and the impact on retail shareholders of board decisions on dividends.

## Board oversight and discretion in executive variable pay schemes

Our work on board oversight and discretion in the executive variable pay schemes of 21 large ASX-listed companies sought to deter corporate misconduct and prevent consumer and investor harm by improving the governance of executive variable pay schemes. Feedback was provided directly to the reviewed companies and the overall findings and guidance were initially published in Information Sheet 245 *Board oversight and discretion in executive variable pay schemes* (INFO 245) in June 2020 to provide immediate guidance in light of the COVID-19 pandemic environment.

Between June and December 2020, we engaged with 20 of the 21 companies about the practices they had changed or adopted to address our feedback. We found that many companies had made substantial changes to their remuneration governance since our review. In some instances, the review itself and the questions asked prompted early action, for example:

- › To improve the **active, timely and consistent exercise of discretion**, eight companies developed and implemented tools, such as modifiers, guidelines and decision trees, to guide the exercise of discretion in response to risk and conduct issues and nine companies developed formal 'look-back' processes to inform the remuneration committee's oversight of deferred pay.
- › To ensure **adequately informed exercise of discretion**, 12 companies indicated that they would introduce, or uplift, written and verbal contributions of independent control functions and the use of external advisers. Six companies also committed to including specific agenda items on cross-committee report-backs to maintain information symmetry across committee members.
- › To **effectively manage conflicts**, six companies implemented a practice of management exiting the boardroom during determinations of the group pool, group performance or individual pay outcomes and four companies introduced a separate pool to pay CEO remuneration as a mechanism to limit conflicts.
- › To increase the **transparency of variable pay outcomes and the exercise of discretion**, 14 companies committed to including details of key discussion points on executive pay outcomes in the minutes.

In March 2021, we reissued INFO 245 as enduring guidance beyond the pandemic. INFO 245 highlights our overall findings and better practices to the market and has been widely leveraged as a reference tool for boards. It has been cited in various publications and industry events.

## Sector-based and issue-based surveillance

In 2020–21, we completed:

- › over 350 surveillances in the deposit-taking and credit, financial advice, insurance, investment management and superannuation sectors to ensure that financial services providers complied with their conduct obligations
- › over 730 surveillances in the corporations, market infrastructure and market intermediaries sectors.

Through our surveillance, we identified and addressed over 460 cases of failures, or potential failures, to comply with regulatory obligations.

## Public outcomes of our supervision and surveillance work

ASIC publishes the results of our supervision, review and surveillance work.

Our reports advance good consumer outcomes and change behaviour by driving improved practices across a sector or market and recommending changes in industry practice.

In 2020–21, we released 26 supervision, surveillance or review reports, including on issues such as:

- › our surveillance of debt capital raising practices and selected transactions (REP 668 *Allocations in debt capital market transactions*)
- › the buy now pay later industry, the experiences of customers and regulatory developments (REP 672 *Buy now pay later: An industry update*)

- › the experiences of superannuation fund members who were not using a financial adviser and directly contacted their fund to make inquiries about, or make changes to, their insurance arrangements (REP 673 *Consumer engagement in insurance in super*)
- › metrics for measuring the value for money that members receive from default insurance offered through superannuation (REP 675 *Default insurance in superannuation: Member value for money*)
- › ASIC's review of school banking programs in Australian primary schools (REP 676 *Review of school banking programs*)
- › the results and findings of ASIC's second round of regulatory technology (regtech) initiatives and the regtech events held during the 2019–20 financial year (REP 685 *ASIC's regtech initiatives 2019–20*).

## Misconduct reports from the public

Our analysis of reports of misconduct received from the public is critical in informing our regulatory work.

ASIC encourages members of the public to report concerns about corporate and financial services to us. We use this information to direct our regulatory activities to identify and address harms to investors and consumers.

Since the initial COVID-19 pandemic lockdown in March 2020, ASIC has seen consistently high levels of reports relating to scam behaviour. This has resulted in ASIC providing regular alerts, warnings and reminders to the public to be vigilant in protecting their money and identity.

For more information on misconduct and breach reports, see pages 209–212.

## Licensing

ASIC assesses applications for AFS licences and credit licences. We also maintain a number of professional registers for registered companies, self-managed superannuation funds (SMSFs), auditors, company auditors and liquidators. We use a risk-based approach to assessment, devoting most resources to complex and higher risk applications to ensure that only suitable persons and organisations are licensed or registered.

In 2020–21, ASIC finalised 1,965 applications in relation to AFS licences and credit licences, including applications for licences, cancellations and suspensions. We approved 776 AFS licences and 219 credit licences. We cancelled or suspended 308 AFS licences and 278 credit licences, the majority of which related to licensees voluntarily applying for licence suspension or cancellation.

A total of 384 AFS licence and credit licence applications were withdrawn or refused. Applications were often

withdrawn after we completed our assessment and informed applicants that they were unlikely to meet the statutory requirements to obtain a new or varied licence. We refused to accept 144 applications for lodgement, often due to material deficiencies in the information provided.

We assessed 736 applications relating to auditor registrations, cancellations or suspensions (company auditor, authorised audit company and SMSF auditor). Of these, 164 were approved, 25 were withdrawn, 1 was refused and 546 were cancelled or suspended.

Liquidator applications are lodged with ASIC, which must refer the application to a committee that will decide whether the applicant should be registered. ASIC must register an applicant if the committee has decided that the applicant should be registered and the applicant produces evidence in writing that they have taken out adequate and appropriate professional indemnity and fidelity insurance.

### Additional guidance on fit and proper person test

On 18 February 2020, the *Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Act 2020* amended the Corporations Act and the National Credit Act to improve the regulatory tools available to ASIC. This included aligning the probity tests to be applied by ASIC when determining whether to grant a new or varied AFS licence or credit licence. ASIC must consider a ‘fit and proper person’ test for controllers and officers of all AFS licence and credit licence applications.

In January 2021, to assist applicants further, ASIC updated Information Sheet 240 *AFS licence applications: Providing information for fit and proper people and certain authorisations* and Information Sheet 244 *Credit licence applications: Providing information for fit and proper people* to advise that, in appropriate cases, ASIC will accept alternative methods of establishing that relevant persons are fit and proper.

## ASIC's inquiries lead to application being withdrawn

This financial year, ASIC received an application for a new Australian financial services licence. The applicant nominated a single responsible manager who had been an adviser at a prior licensee. ASIC had concerns about the quality of financial advice provided by the nominee while at the prior licensee, as well as the licensee's monitoring and supervision of its representatives.

During the assessment, ASIC considered audit review files that had been completed for the prior licensee. These audit reviews demonstrated repeated oversights by the nominated responsible manager, including the failure to disclose conflicts of interest, the failure to provide the relevant disclosure documents to clients, deficiencies in maintaining documentation, and the failure to act in the best interests of, and to provide appropriate advice to, clients.

A number of these failings by the nominated responsible manager were also identified in a compliance report provided to ASIC by an external compliance consultant.

When ASIC asked the applicant about the concerns identified, the applicant withdrew its application. This is one of many cases where ASIC, in performing its gatekeeper function, ensures that only applicants that are able to satisfy ASIC that they have sufficient skills and knowledge are granted a licence.

## Engagement

### Regional action

Our Regional Commissioners and regional offices focus on addressing the diverse needs of our community and improving outcomes for consumers and businesses in each Australian state and territory. The Regional Commissioners report to the Commission regularly on activities, services and stakeholder liaison in their state or territory.

Due to the uncertainty and restrictions caused by the COVID-19 pandemic, many of our normal stakeholder activities in 2020–21 were restricted. However, our performance against our Service Charter this year shows that ASIC has provided high levels of service Australia-wide.

See pages 37–39 for more information on our Service Charter results.

See pages 193–195 for more information on our regional action.

## Indigenous outreach

The Indigenous Outreach Program (IOP) works to provide specialist advice, insight and support across ASIC to ensure that the needs of Indigenous consumers and investors are addressed effectively and appropriately. The IOP also leads ASIC's engagement with industry on outcomes for Indigenous consumers.

The IOP undertakes outreach and strategic engagement activities as part of its role, enabling a timely awareness of financial services issues affecting Indigenous consumers and investors. The team manages a helpline and email address to enable Indigenous consumers and stakeholders working with Indigenous consumers to access the IOP directly for assistance.

### ASIC's Indigenous roadmap

In 2020–21, the IOP continued with stakeholder and community engagements to hear and learn from the values, priorities and aspirations of Aboriginal and Torres Strait Islander Australians when engaging with the financial system.

With Professor Robynne Quiggin of the University of Technology Sydney, the IOP concluded consultations in late 2020 with more than 170 individual service providers from across the country. In early 2021, the IOP engaged with approximately 100 diverse community members through eight virtual stakeholder consultations.

The IOP and Professor Quiggin will use these learnings to identify actions, opportunities for collaboration, and tools to help us work towards more appropriate financial products and services, a better experience of the financial system, and overall improved wellbeing for Aboriginal

and Torres Strait Islander Australians. This work will continue into 2021–22 and will continue to draw on co-design principles – shaped by Indigenous stories, lived experiences and aspirations.

### Scams awareness campaign

Scams Awareness Week in August 2020 marked the beginning of a six-week campaign to promote awareness of scams that have affected Aboriginal and Torres Strait Islander Australians. The IOP partnered with representatives of the Queensland Office of Fair Trading to develop an online campaign under the National Indigenous Consumer Strategy. The campaign highlighted the six most common types of scams, including investment and phishing scams, and offered tips on how people might recognise scams and protect themselves and their communities. The messages were promoted through a number of channels, including media, social media, websites and newsletters, reaching more than 450,000 people nationally – exceeding the campaign's goal by fivefold.

### International engagement

ASIC engages closely with peer regulators and agencies overseas to develop international regulatory policy, enhance cooperation, and positively influence the operation and regulation of global financial markets.

ASIC's commitment to strong cooperation and collaboration with our overseas and domestic counterparts continued this year as we focused on joint initiatives and sharing information on market developments, regulatory approaches and consumer protection measures as part of the global COVID-19 pandemic response.

ASIC's continued strategic participation in multilateral forums and bilateral channels contributes to the way we address market vulnerabilities and consumer harms and how we support a domestic recovery in an interconnected global financial system.

ASIC participates in a range of international forums:

- › ASIC is a member of the board of the International Organization of Securities Commissions (IOSCO) and is represented on its policy committees and taskforces, including those examining issues around financial stability, sustainable finance, asset management, crypto-assets, technology, market fragmentation, enforcement, emerging risks and standards implementation.
- › ASIC is co-chair of the IOSCO Retail Market Conduct Task Force.
- › ASIC participates in IOSCO Asia-Pacific Regional Committee (APRC) meetings and co-chairs the APRC Working Group on Enhancing Supervisory Cooperation. ASIC is chair of the Market Conduct Working Group of the International Association of Insurance Supervisors.
- › ASIC serves on the board of the International Forum of Independent Audit Regulators.
- › ASIC vice chairs the International Financial Consumer Protection Organisation and participates in G20/Organisation for Economic Cooperation and Development Financial Consumer Protection Taskforce initiatives.
- › ASIC is a member of the newly formed CFR International Coordination Group, which meets regularly to coordinate a cohesive approach to major international regulatory risks and issues.

- › ASIC is a member of the Global Financial Innovation Network, which is committed to supporting financial innovation and providing a more efficient way for innovative financial technology (fintech) and regtech firms to interact with regulators.
- › ASIC is negotiating several memoranda of understanding (MOUs) with bilateral counterparts in New Zealand, India, Hong Kong and the United States. These agreements will strengthen cooperation and underpin market access arrangements – for example, substituted compliance arrangements.

### International cooperation requests

This year, we made 304 international cooperation requests (down from 497 requests in 2019–20) and received 513 requests (down from 528 requests in 2019–20) in relation to activities such as surveillance, supervision, enforcement, research and licensing.

This included 130 requests for assistance in enforcement matters, of which 37 requests sought ASIC's assistance to compel material from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

### Innovation Hub

ASIC's Innovation Hub helps innovative Australian businesses comply with regulatory requirements and provides a platform for international engagement on fintech and regtech ideas. Through the Innovation Hub, we provide informal assistance to fintech businesses on their regulatory obligations, Australia's overarching regulatory framework and, as appropriate, options relating



to relief powers such as the Australian Government’s enhanced regulatory sandbox (ERS).

ASIC, and its Innovation Hub, continue to pursue collaborative opportunities with other regulators, Government agencies, and industry associations. We adjusted our engagement approach to accommodate the impact of the COVID-19 pandemic environment, hosting our regularly scheduled events and industry engagements virtually.

In 2020–21, the Innovation Hub continued to host its quarterly Digital Finance Advisory Panel meetings and Quarterly Regtech Liaison Forum events, bringing together industry leaders and regulatory representatives to help inform ASIC and stakeholders on key fintech-related and regtech-related developments, issues and opportunities.

ASIC is one of 11 coordination group members of the Global Financial Innovation Network (GFIN). The GFIN has over 60 regulator members and is committed to supporting financial innovation in the interests of consumers by creating a framework for cooperation between regulators to share experiences and approaches to innovation. In 2020–21, ASIC was involved in the GFIN’s Cross-Border Testing initiative. We provided informal assistance and guidance to fintechs and regtechs that applied to us under the program.

ASIC is a member of the steering committee for the IOSCO Fintech Network, established in mid-2018. ASIC is a member of many of the network’s workstreams and in 2020–21 we contributed to IOSCO’s work in distributed

ledger technology, artificial intelligence and ethics, regtech, decentralised finance and approaches to innovation.

### **Informal assistance and guidance**

In 2020–21, the Innovation Hub met with 56 innovative businesses, all of which received relevant informal assistance to better understand how their business models could navigate Australia’s regulatory framework. Since March 2015, ASIC has provided informal assistance to over 607 innovative businesses.

During this financial year, ASIC granted five new AFS licences or credit licences to fintech businesses. Fintech businesses that receive informal assistance from ASIC before submitting their licence application were approved materially faster than those not having sought assistance.

### **Enhanced regulatory sandbox**

The ERS commenced operation on 1 September 2020. It allows natural persons and businesses to test certain innovative financial services or credit activities without first obtaining an AFS licence or credit licence.

The ERS supersedes the previous regulatory sandbox administered by ASIC, allowing testing of a broader range of financial services and credit activities for a longer duration (up to 24 months) than the superseded sandbox.

ASIC published Information Sheet 248 *Enhanced regulatory sandbox* (INFO 248) on 25 August 2020. INFO 248 explains the eligibility of businesses to test within the ERS and provides guidance around the application process. We

hosted two webinars outlining the ERS with some practical guidance for potential applicants.

Six entities have been accepted to test in the ERS in the period from its commencement on 1 September 2020 to 30 June 2021.

### ASIC and regtech

The Government announced on 7 August 2018 that ASIC would receive \$6 million of funding over two financial years, 2018–19 and 2019–20, to promote Australia as a world leader in the development and adoption of regtech solutions for the financial services industry.

ASIC applied the funding to a series of regtech initiatives in 2020, including:

- › **Supervisory technology initiatives:** ASIC undertook five internal regtech initiatives testing the potential of regtech for enhancing supervisory effectiveness and efficiency. The learnings from these trials were shared publicly with the regtech stakeholder community.
- › **Remote services and supervision webinar:** This webinar was a discussion forum between industry, regulators and guests highlighting regtech's potential to support the provision and supervision of financial services while many staff members work remotely.
- › **Good lending practices demonstration and webinar:** This was a public problem-solving event with a curated synthetic data set in which selected regtech providers demonstrated how artificial intelligence and machine learning can be used to support a firm's compliance with responsible lending obligations.

The regtech solutions were showcased at a public webinar, which was followed by an industry panel discussion.

ASIC published Report 685 *ASIC's regtech initiatives 2019–20* on 20 January 2021, summarising the results and findings of the second round of initiatives.

On 15 April 2021, the Department of Industry, Science, Energy and Resources (DISER) announced the challenges under the latest round of the Business Research and Innovation Initiative (BRII) focusing on regtech. ASIC was successful in having a challenge accepted by DISER under this round of BRII. Under the BRII project, the Commonwealth provides grant funding to small to medium-sized regtech businesses to develop innovative solutions over two years to the regulatory problem set out in the challenge.

ASIC's BRII challenge seeks innovative solutions to help identify and assess poor market disclosure by listed companies.

### Small business engagement

ASIC assists, engages and helps protect small businesses to ensure a strong and healthy economy for all Australians.

Supporting Australian businesses in responding to the effects of the COVID-19 pandemic has been a focus for ASIC. We have provided support to business during COVID-19 pandemic lockdowns by publishing relevant resources on topics including companies facing financial difficulties and getting trusted business advice, small business insurance advice and advice about small business loan deferrals. As lockdown restrictions eased, ASIC recommenced its engagement with businesses.

## Guidance

Through regulatory guides, consultation papers and information sheets, ASIC provides guidance to industry on how we will administer the law.

We do this to enhance industry participants' understanding of their legal obligations and how we administer the law. Our feedback reports provide transparency about ASIC consultation. In 2020–21, we published 28 consultation papers, 32 new or revised regulatory guides and 51 new or revised information sheets.

For a complete list of the publications issued this year, see our website at [www.asic.gov.au/regulatory-resources/](http://www.asic.gov.au/regulatory-resources/).

## Education

Through the provision of consumer education, ASIC seeks to improve consumers' financial skills, knowledge and efficacy and provide them with information and tools to help them make informed financial decisions.

This work includes:

- › consumer education and information, primarily delivered through the Moneysmart website and stakeholder programs such as Moneysmart for teachers
- › collaborating with others to understand and measure the impact of consumer education on financial decision-making
- › embedding consumer insights across the organisation, including supporting ASIC's supervisory teams to strengthen their consumer-facing work.

Some key projects completed this year include:

- › **Young People and Money Survey:**  
The first wave of *ASIC's Young People and Money Survey* asked 1,500+ young Australians (aged 15–21) about their experiences, attitudes and behaviours across a range of money-related topics. The results of this work will inform ASIC's communication activities and, more broadly, will influence programs and initiatives for young Australians.
- › **Youth expert working group:** In August 2020, ASIC established an expert group on the financial wellbeing of young people to identify and explore key issues affecting the financial lives of young Australians. Dr Phil Lambert led this work, including convening four working groups to explore how young people engage with money. The working groups focused on agendas relating to preschool-aged children through to adolescents and also considered the role of institutions interacting with young people making financial decisions. Findings from the working groups will be released next year.
- › **School banking programs review:** In December 2020, ASIC released *Report 676 Review of school banking programs*. The review sought to identify why banks, schools and students engage with school banking programs, understand whether banks assess the impacts of their programs on students' savings habits, and analyse the long-term impact of targeting marketing towards children. Through the review, ASIC found that school banking programs claim to help children develop long-term savings habits; however, providers were unable to demonstrate that these programs

in and of themselves improve savings behaviour. Since releasing the report, three states and territories have announced the cessation of school banking programs and increased their focus on understanding and delivering effective financial education in schools.

### **ASIC's Moneysmart**

Moneysmart helps Australians take control of their financial lives with free calculators, tips and guidance.

### **Supporting Australians during the pandemic**

This year, the Moneysmart COVID-19 Information Hub continued to help Australians understand where to seek additional support when experiencing hardship and managing changes to their financial circumstances. As at 30 June 2021, the Hub had received 532,635 page views:

- › The COVID-19 pandemic 'Accessing your super' webpage had received 132,594 visits and 26% of visitors to the page used the Super Withdrawal Estimator to see the impact of early access on their retirement savings.
- › Views of content on 'Urgent help with money' reached 240,510 page views, an increase of 145% from the previous year.

Use of the Moneysmart Mortgage Calculator increased from the previous year by 29% to 1,212,289 users. There were also increases in visitation to information on loans and investing. As at 30 June 2021:

- › Page views on 'No or low interest loans' had increased from the previous year by 33% to 89,713 views, and page views on 'Payday loans' had increased for the same period by 88% to 99,357 views.
- › Page views on 'Investing' content had increased from the previous year by 7% to 2,536,831 views.

### **Supporting better financial outcomes for young people**

Economic, social and educational settings for young people have shifted dramatically in the pandemic environment and money is a topic of high engagement and concern. Pages in the 'Student life and money' content section with the highest visitation by young people as at 30 June 2021 included 'Moving out of home' (41,746 page views) and 'Studying' (15,523 page views).

## Disrupting financial scams during the COVID-19 pandemic

A financial scam involves a victim parting with their money on the promise of a questionable financial opportunity. During the COVID-19 pandemic, ASIC became aware of greater numbers of scammers seeking to take advantage of people. Reports of misconduct to ASIC over January–February 2021 were up by more than 200% compared to the previous year.

ASIC's work focuses on disrupting the scam activity, including warning the public and working with institutions to prevent further victims. Where possible, we alert Australian banks to specific accounts being used for scams, often triggering investigations by the bank.

ASIC publishes lists of 'Companies you should not deal with' and 'Fake regulators and exchanges' on Moneysmart to alert the public to these entities.

This year, we warned consumers of a rise in crypto-asset (or cryptocurrency) scams. These scams encourage investors to sign up to 'crypto-asset trading' online and deposit funds into a trading account, either via a crypto wallet or bank account.

When the consumer asks to withdraw their funds, bitcoin scammers either cease all contact or demand further payment before funds can be released.

## 2.5 Registry services and outcomes

To realise our vision of a fair, strong and efficient financial system for all Australians, we aim to provide efficient and accessible business registers that make it easier to do business.

In April 2021, ASIC registry staff and functions moved to the ATO through a machinery of government (MoG) change. The Commissioner of Taxation was appointed as Registrar to assist ASIC in the performance of its registry functions.

This significant change to ASIC's registry function was an important step in the progressive rollout of the Government's MBR program. ASIC will continue to report on registry performance until the Registrar assumes primary responsibility for registry functions under law.

### ASIC's registers

ASIC's performance reporting in 2020–21 was guided by our Corporate Plan, which sets out our objectives and targets related to providing efficient registry services, including the registers of companies, business names and a range of professional registers.

The ASIC registers are the official source of information for business names, companies and financial professionals registered to operate in Australia. They are a critical part of Australia's economic infrastructure.

The registry aims to:

- › ensure information on the registers is up to date, accurate and available to those using the information, enabling business and consumer stakeholders to make informed decisions
- › make it easier for businesses to engage with ASIC and comply with the law, and to enhance commercial certainty
- › provide services that are online and accessible to all Australians
- › continuously improve registry services to support efficient registration.

**Table 2.5.1 ASIC's registers**

<b>Outcome</b>	<b>Total 2020–21</b>	<b>Total 2019–20</b>
Total companies registered	<b>2.92m</b>	2.78m
New companies registered	<b>279,853</b>	222,048
Total business names registered	<b>2.4m</b>	2.3m
New business names registered	<b>460,409</b>	387,827
Calls and online inquiries responded to by our Customer Contact Centre	<b>599,377</b>	631,669
Registry lodgements	<b>3.13m</b>	2.96m
Percentage of registry lodgements online	<b>94%</b>	93.2%
Number of searches of ASIC registers	<b>219.2m</b>	243.7m

## Performance overview

ASIC received just over three million lodgements during the 2020–21 financial year, with 94% processed online without manual intervention. The most common lodgement made was 'Change to company details' (Form 484), with over one million received. We also answered 599,000 inquiries through our Customer Contact Centre.

### Business registration

ASIC's registry helped facilitate the registration of 739,000 new businesses, comprising 279,000 companies and 460,000 business names.

Throughout 2020–21, the registry promoted the use of the Australian Government Business Registration Service available through [www.business.gov.au](http://www.business.gov.au).

In total, 99.97% of applications to register a company or business name are now made online.

The cost of registering a business name is \$37 for one year and \$88 for three years.

### Increased use of online channels

A total of 94% of the three million lodgements received were submitted online, while the volume of lodgements submitted by mail decreased by 6.3%. Similarly, telephone calls coming into our Customer Contact Centre decreased by 12%, while inquiries submitted through our website increased by 7.8%.

## Analysis of key registry outcomes

Key outcomes achieved by ASIC's registry in 2020–21 are set out below.

### Modernising business registers

Over the course of the year, ASIC continued supporting Treasury and the ATO with the MBR program.

In the 2018–19 Budget, the Government announced its commitment to the modernisation of 31 ASIC registers, including the companies register, the Business Names Register and the ABR, on a new whole-of-government platform administered by the Australian Business Registry Services within the ATO.

The MBR program will:

- › progressively roll out between 2021 and 2024
- › bring together the 31 in-scope ASIC registers and the ABR
- › introduce the director identification number initiative.

The following milestones were achieved during the 2020–21 financial year:

- › the Government committed to an investment of \$419.9 million to enable the full implementation of the MBR program through the Digital Business Plan within the 2020 Federal Budget
- › the Commissioner of Taxation was appointed as Registrar on 4 April 2021
- › in an MoG change, 221 ASIC registry staff transitioned to the ATO on 15 April 2021 to support the functions of the Registrar.

The Registrar's role is to lead and implement the MBR program and perform statutory registry functions and exercise registry powers as a delegate of ASIC. As the MBR program progresses, the Registrar will assume primary responsibility for those functions under law.

The ATO has taken over the lease of the Traralgon premises where ASIC is retaining a presence of around 90 staff members.



## International collaboration

The Executive Director of ASIC Registry, Rosanne Bell, continued as President of the international Corporate Registers Forum (CRF) during 2020–21.

The CRF is an association of corporate registries from more than 60 jurisdictions. The aim of the CRF is to provide members with the opportunity to review the latest developments in corporate business registers internationally and to exchange experiences and information on the present and future operation of corporate business registration systems. The registry's involvement with the CRF is an important networking opportunity to share ideas and best practice, and to discuss emerging registry issues.

In May 2021, the CRF entered into an MOU with partner organisations the European Business Registers Association and the International Association of Commercial Administrators. The MOU recognises the desire of each member to share knowledge, provide mutual assistance and participate in collaborative activities.

## Natural disaster relief

ASIC has a longstanding history of supporting those affected by natural disasters. This year, we supported victims of bushfires and floods which affected many communities and businesses across Australia. We realise that circumstances such as natural disasters may make it difficult for businesses to pay fees or meet their lodgement obligations.

## Impact of the COVID-19 pandemic

The COVID-19 pandemic presented many challenges for businesses across Australia. During the pandemic, ASIC registry services continued to be available to the public and regulated population, and all key service targets were achieved.

ASIC supported affected businesses through initiatives such as fee waivers.

ASIC supported Services Australia to continue its important work during the pandemic by sharing space in the Traralgon office for five months.

## 2.6 Unclaimed money

ASIC reunites people with their unclaimed money, as we are responsible for the administration of unclaimed money from banking and deposit-taking institutions and life insurance institutions.

We fulfil this responsibility by maintaining a register of unclaimed money from banks, credit unions, building societies, life insurance companies and friendly societies, as well as shares that have not been collected from companies. The public can search our register and make claims. We process claims within 28 days of receiving all necessary claim documentation.

In 2020–21, ASIC received \$299.6 million in unclaimed money. This was more than the \$202.8 million we received in 2019–20.

We paid out a total of \$88.4 million in claims in 2020–21, compared with \$58.9 million the previous year.

We paid claimants interest (2020–21: \$2.9 million of the \$88.4 million) on unclaimed money from periods from 1 July 2013 onwards, at a rate of 2.5% for 2013–14, 2.93% for 2014–15, 1.33% for 2015–16, 1.31% for 2016–17, 2.13% for 2017–18, 1.9% for 2018–19, 1.33% for 2019–20 and 2.19% for 2020–21.

**Table 2.6.1 Amount paid to owners of unclaimed money**

Claims by type	2020–21 (\$)			2019–20 (\$)
	Principal	Interest	Total	
Company	28,109,684	1,146,336	<b>29,256,020</b>	26,202,895
Banking	51,011,372	1,576,319	<b>52,587,691</b>	25,485,668
Life insurance	4,753,338	206,402	<b>4,959,740</b>	5,978,954
Deregistered company trust money	1,586,529	N/A	<b>1,586,529</b>	1,265,365
<b>Total</b>	<b>85,460,923</b>	<b>2,929,057</b>	<b>88,389,980</b>	<b>58,932,882</b>

# 3

## ASIC's achievements by sector

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To help industry participants understand the regulatory effort ASIC expended in each sector we regulate, this chapter highlights the activities and outcomes achieved in each sector this financial year.

## Industry funding

ASIC industry funding means that those who create the need for regulation bear the costs of that regulation. Under the model, entities pay a share of the costs to regulate their subsector through industry levies, based on a range of business activity metrics, and cost recovery fees for service.

There are seven industry funding sectors (deposit-taking and credit; insurance; financial advice; investment management, superannuation and related services; market infrastructure and intermediaries; corporate; and large financial institutions) and 52 subsectors.

More information, including copies of the latest Cost Recovery Implementation Statement, is available on our website.

## 3.1 Deposit-taking and credit

The deposit-taking and credit sector comprises **credit licensees** (credit providers and credit intermediaries), **deposit product providers, payment product providers, and margin lenders**.

We use the full suite of our regulatory tools to promote fairness and professionalism in this sector, in order to bring about sound consumer outcomes. ASIC's work in this sector during 2020–21 focused on responding to the impact of COVID-19 on consumers, and in particular how lenders have responded to consumers experiencing financial difficulties due to the pandemic, misleading advertising and debt collection.

### The impact of the COVID-19 pandemic: Payment deferrals

In response to the COVID-19 pandemic, ASIC began to monitor how lenders were responding to consumers experiencing financial difficulties due to the pandemic. Our monitoring work included regularly meeting with a range of lenders and consumer advocates.

Lenders reacted quickly to the pandemic, deferring repayments on more than 500,000 home loans. To encourage the delivery of appropriate and fair outcomes for consumers at the expiry of deferrals, ASIC published expectations for lenders in August 2020, which included that:

- › lenders should make reasonable efforts to contact consumers before their repayment deferral expires

- › if a consumer cannot return to meeting repayments, lenders should gather personalised information about the consumer's circumstances to better enable them to offer assistance that genuinely meets the needs of each consumer.

We became aware that some consumers whose repayment deferrals were expiring were not responding to their lender, despite their lender trying to contact them. This was of concern to us and to lenders because if a consumer was unable to resume repayments on their home loan and did not engage with their lender, their financial situation could quickly worsen. To help address this concern, we ran targeted communications through our Moneysmart social media throughout September 2020, encouraging consumers to engage with their lender or seek the free assistance of the National Debt Helpline.

This work was assisted by our monitoring activities, where some lenders were able to share information about their customers on repayment deferrals, to allow ASIC to better target our messages.

## Misleading advertising

Recognising the risk that misleading financial services advertising may present to vulnerable consumers during the COVID-19 pandemic, ASIC established a cross-agency working party focused on enhancing surveillance, monitoring and enforcement responses to misleading advertising.

The working party found an overall high level of compliance; the majority of financial services advertising during the COVID-19 pandemic was consistent with the law. However, ASIC still saw ongoing issues in certain sectors, including fund managers providing inadequate or inaccurate disclosures, and exaggerated or misleading past returns on markets-related products.

Over the course of 12 months, the working party successfully executed the following initiatives to address these issues:

- › developed and trained surveillance and enforcement teams to use various tools to monitor advertisements within their portfolios, with a particular focus on digital platforms
- › reviewed over 67,000 advertisements, with 122 of these referred to surveillance and enforcement teams for further action
- › began a six-week trial using artificial intelligence and machine learning to monitor financial services advertising. During the trial, we scanned almost 1.7 million webpages and identified 1,960 potential risk cases. In a subsequent two-week analysis, we scanned 1,000 Google ads and identified over 100 advertisements which were referred to ASIC teams for further review
- › liaised with other local and international financial services regulators and major digital platforms to understand misleading advertising perspectives and challenges within Australia and across international jurisdictions
- › challenged all ASIC staff to identify and report misleading advertising through the working party's Eyes and Ears campaign.

## Protecting consumers from predatory lending

A number of associated entities, including Cigno Pty Ltd (Cigno) and BHF Solutions Pty Ltd (BHF Solutions), have operated unlicensed lending models that provide small amount loans to large numbers of consumers and charge substantial fees on those loans, which in some cases have added up to almost 1,000% of the loan amount.

The operators of these lending models claim to be exempt from the National Credit Act and the National Credit Code, and therefore consumers were not afforded any of the statutory consumer protections contained in the legislation, including responsible lending and disclosure requirements and cost caps.

ASIC's multi-pronged approach to dealing with these lending models demonstrates that we will use various regulatory tools when appropriate to address harm, and will act quickly and decisively even in a complex and changing environment.

While some of the actions outlined below occurred outside of the reporting period for this annual report, we have included this example because ASIC has made a sustained effort over a long period of time to address this conduct due to concerns about the vulnerability of the consumers involved.

### Short-term credit – product intervention order

On 12 September 2019, ASIC used its new product intervention power in relation to the short-term lending model to protect consumers from predatory lending. The order, which operated for 18 months, ensured that short-term credit providers and their associates could not charge fees in total which exceeded a particular limit provided for in the National Credit Code. Cigno, an affected entity, unsuccessfully sought judicial review of the order both in the Federal Court and then in the full Federal Court, which, on 29 June 2021, upheld the order. The court favoured a broad construction of the power allowing ASIC to consider and factor in consumer detriment that arises from the surrounding circumstances of how a product is made available, such as through complex lending structures like the short-term lending model.

## Continuing credit contracts – proposed product intervention order and court action

In September 2019, Cigno and BHF Solutions began offering a similar product using continuing (rather than short-term) credit contracts. To address the potential significant detriment arising from this model, ASIC publicly consulted on a proposed continuing credit product intervention order in July and November 2020, which also sought to limit overall fees charged in relation to the product.

After ASIC identified a potential issue with the product intervention powers, in June 2021 the Government made amendments to the product intervention powers to clarify ASIC’s jurisdiction in relation to fees and charges of financial and credit products.

In September 2020, ASIC filed proceedings in the Federal Court against Cigno and BHF Solutions, to test whether they were in breach of the National Credit Act when using this new model by engaging in credit activities without holding a credit licence. On 23 June 2021, the Federal Court dismissed ASIC’s application. ASIC has appealed this decision because of a concern that it will effectively limit the application of the credit legislation, potentially denying vulnerable consumers the protections afforded by the National Credit Act and the National Credit Code.

ASIC continues its work in this space to protect consumers from predatory lending models.

## Debt management firms

Another key focus for ASIC this year, particularly in relation to vulnerable consumers, has been the debt-management sector, including services known as ‘credit repair’.

As part of a package of reforms announced by the Treasurer on 25 September 2020, debt management firms must now hold a credit licence when they are paid to represent consumers in disputes with financial firms. This reform took effect on 1 July 2021.

The reform requires debt management firms to meet the ongoing obligations imposed on credit licensees. These obligations include a requirement to meet the ‘fit and proper person’ test, and to undertake their activities ‘efficiently, honestly and fairly’.

Debt management firms must now be members of the Australian Financial Complaints Authority (AFCA), enabling consumers to have AFCA consider their complaints without cost and in a timely way.

ASIC is continuing to work closely with Treasury to implement these changes.



## Debt collection company convicted of engaging in unlicensed credit activities

Black Collections Pty Ltd (Black Collections) pleaded guilty and was convicted of engaging in unlicensed credit activities and holding out that it held a licence that would authorise it to collect on consumer debts when it did not. The company operated as a debt collection agency in Double Bay, New South Wales.

An ASIC investigation found that between about 5 October 2016 and about 12 March 2018, Black Collections collected consumer credit debts without holding a credit licence.

Black Collections was convicted and fined \$8,800 for engaging in unlicensed credit activity and \$4,400 for holding out that it held a licence that would authorise it to collect on consumer debts, when it did not.

## Buy now pay later arrangements

The buy now pay later sector is an area of ongoing focus for ASIC. In November 2020, ASIC published a new report on the buy now pay later industry, which has grown substantially since our initial review in 2018. Report 672 *Buy now pay later: An industry update* charts the growth and popularity of these arrangements.

The review considered aggregated data from six buy now pay later providers and four major financial institutions. ASIC also commissioned consumer research to understand consumer behaviour and experiences with buy now pay later arrangements.

Our review found that the number of buy now pay later transactions increased from 16.8 million in the 2017–18 financial year to 32.0 million in the 2018–19 financial year, representing an increase of 90%.

Our research also shows that one in five consumers are missing payments. In the 2018–19 financial year, missed payment fee revenue for all buy now pay later providers in the review totalled over \$43 million, a growth of 38% compared to the previous financial year.

There are regulatory changes coming that will affect the industry, with the design and distribution obligations coming into effect in October 2021 and the industry developing a code of conduct.

We will continue to monitor buy now pay later products and the response by the sector to the COVID-19 pandemic. We will also continue to closely monitor the use of small amount and alternative credit products, especially by vulnerable consumers.

## Important obligations of Australian credit licensees

Australian credit licensees have important obligations. In December 2020, Jia Ge was convicted of giving misleading information in five home loan applications. He was sentenced to eight months imprisonment and directed to be released upon giving security of \$500 and to be of good behaviour for two years. Because of the conviction, Mr Ge is also automatically disqualified from managing corporations for five years.

Mr Ge previously held an Australian credit licence and was a former mortgage broker and former director of Dollars R Us Pty Ltd ACN 165 438 595 (Deregistered) (Dollars R Us). Between February and May 2017, Dollars R Us was engaged by four customers to help secure loans to purchase properties. The scheme involved each of the applicants paying money to a company related to Mr Ge, who would then transfer the money back to the customers to give a false appearance of employment and a regular salary. Home loan applications prepared and lodged by Mr Ge falsely claimed that the customers were employed by Mr Ge's related company and were receiving salaries.

## 3.2 Insurance

The insurance sector comprises life and general insurance and includes **insurance product providers** (including friendly societies), **insurance product distributors**, and **risk management product providers**.

This year, ASIC's work in insurance focused on responding to the impact of the COVID-19 pandemic on consumers and businesses, implementing the remaining reforms arising from the Royal Commission, and assisting consumers affected by natural disasters.

### Life and general insurers' responses to consumers experiencing financial hardship

We reviewed the responses of major life insurers and general insurers to consumers experiencing financial hardship or vulnerability during the COVID-19 pandemic. We focused on ensuring that insurers were treating consumers fairly and doing everything possible to support them in times of need.

We also swiftly engaged with life insurers and general insurers – covering around 85% of the life insurance and 70% of the retail home and car insurance markets respectively – to ensure that insurers were doing everything possible to support consumers who were experiencing financial hardship or vulnerability, both to maintain their insurance cover and to be able to make a claim. Where we

found unfair outcomes for consumers, we prompted insurers to change their practices, including offering a range of support options, proactively identifying and contacting consumers and extending claim lodgement timeframes.

Our review identified a number of areas where insurers could make improvements to support consumers during both challenging and stable economic cycles. On 22 April 2021, we wrote to Australian life and general insurers about the improvements they should make to ensure a more complete and robust hardship framework and to provide enduring supports for consumers experiencing heightened financial hardship or vulnerability from other events, including natural disasters such as floods and bushfires.

### Travel insurance

An important area of focus for ASIC during the onset of the COVID-19 pandemic was travel insurance. We engaged with travel insurers – covering around 90% of the travel insurance market – to ensure that they were responding appropriately to policyholders affected by the COVID-19 pandemic travel restrictions.

Where policyholders could not use their travel insurance due to the travel restrictions, we prompted insurers to provide them with premium refunds for unused cover.

## **\$10 million of consumer remediation: Allianz travel insurance**

ASIC secured \$10 million in remediation from Allianz Australia Insurance Limited (Allianz) and AWP Australia Pty Ltd trading as Allianz Global Assistance (AWP) for travel insurance potentially mis-sold to around 31,500 consumers through Allianz's own website and those of its distribution partners, including Expedia.

The refunds are for several forms of misconduct accepted by Allianz and AWP. The misconduct involved:

- › the sale of policies to consumers who were not eligible to make a claim
- › partially paid travel insurance claims
- › the sale of policies on Expedia websites for premiums that were higher than those for the policies sold on a standalone basis.

ASIC took action to ensure that customers are remediated in full. To address these conduct issues, Allianz and AWP have:

- › removed the potentially misleading or deceptive statements from their websites and those of their partners
- › remediated travel insurance customers whose claims were partially paid
- › refunded premiums, with interest, to customers who had purchased travel insurance from Allianz's own website or those of its partners.

## Unfair contract terms in insurance contracts

Since 5 April 2021, unfair contract term protections have applied to standard form consumer and small business insurance policies.

ASIC undertook targeted supervisory work to identify potentially unfair contract terms in home, motor vehicle, pet, travel and life insurance contracts, to set expectations and to encourage industry to remove or qualify unfair terms. We held roundtables with industry, updated existing information sheets on unfair contract term protections for consumers and small businesses, and proactively engaged with insurers, industry, consumer advocate groups and peer regulators.

ASIC's supervisory work has resulted in important changes to insurance contracts, which we expect will improve consumer outcomes and minimise significant imbalances in the parties' rights and obligations under a contract. Examples of changes to insurance contract terms as a result of our work include:

- › changing an insurer's unilateral discretion under an insurance policy
- › reducing barriers to lodge a legitimate claim
- › extending timeframes that might be difficult for an insured person to meet
- › reducing the need to comply with preconditions
- › providing enhanced transparency and clarity for consumers.

ASIC will use the range of regulatory tools, including enforcement action where appropriate, where we see consumer harms and unfair contract terms in standard form consumer and small business insurance contracts.

## ASIC's response to natural disasters

ASIC has responded quickly to recent natural disasters affecting people around Australia. Our focus has been on providing timely and important information to affected consumers to help them lodge insurance claims, and working with insurers to improve claims handling practices.

To help consumers affected by natural disasters, we:

- › distributed information through Moneysmart.gov.au
- › provided public updates through targeted media interviews
- › provided tailored information to members of Parliament whose electorates have been affected by natural disasters.

Moneysmart's 'Dealing with natural disasters' information had over 17,000 unique page views between March 2020 and April 2021.

We also helped to protect consumers from harm at a time of heightened vulnerability by issuing public warnings about 'disaster chasers', who can scam consumers affected by a natural disaster by interfering in the claims process.

ASIC's work on improving hardship responses by insurers will help those affected by natural disasters to recover and get back on track financially.

In December 2020, ASIC wrote to insurers setting out our recommendations for their claims handling practices in preparation for the 2020–21 natural disaster event season. We recommended that insurers should consider the following key actions to help consumers who have lodged a natural disaster claim:

- › centralise oversight of the claim with a dedicated claims manager after the claim has been lodged and until it is resolved
- › proactively and effectively communicate with consumers about the claims process, how their claim will be assessed, and how their claim is progressing
- › consider whether their insurance products are designed to meet the needs of consumers who live in parts of Australia that are prone to natural disasters, and whether the way these products are being distributed results in appropriate products being sold to those consumers.

These recommendations were informed by the findings of consumer research commissioned by ASIC, and based on our view of what is needed to help ensure that insurers meet the duty of utmost good faith and the design and distribution obligations, which commence in October 2021.

## 3.3 Financial advice

The financial advice sector includes **AFS licensees and their representatives** that provide personal advice to retail clients on financial products, general advice, and personal advice to wholesale clients.

In 2020–21, ASIC focused on helping financial advice businesses respond to the impact of the COVID-19 pandemic through the provision of temporary relief, and on improving consumers' access to good-quality, affordable personal financial advice.

### COVID-19 pandemic relief for financial advice businesses

As the COVID-19 pandemic escalated, we took immediate steps to help financial advice businesses respond to its impact, including through providing temporary relief to help the industry provide consumers with affordable and timely advice during the pandemic. Our temporary relief allowed the use of a Record of Advice (ROA) instead of a Statement of Advice in more circumstances, including when advisers were providing advice on the early release of superannuation schemes.

The temporary relief was extended on 23 September 2020 for an additional six months.

On 15 April 2021, we again extended aspects of the relief that allow greater use of ROAs following feedback from industry that some financial advice practices found this measure helpful.

ASIC has also released COVID-19 pandemic-related frequently asked questions (FAQs) on its website for financial advisers. These FAQs provide a practical explanation of how the temporary relief measures work and other practical tips to help advisers with issues arising as a result of the COVID-19 pandemic.

### Access to quality financial advice

To address concerns that consumers may find it difficult to access good quality and affordable personal advice, ASIC is undertaking a project to look at the impediments industry participants face in meeting consumers' advice needs. We are particularly focused on identifying what steps industry and/or ASIC can take to overcome these impediments.

On 17 November 2020, we published Consultation Paper 332 *Promoting access to affordable advice for consumers* (CP 332) to seek industry feedback about the impediments participants face in providing good-quality and affordable advice.

We received 466 submissions to CP 332. This was a record result and demonstrated the significant interest that the consultation generated. In April 2021, following our analysis of responses to CP 332, we held roundtables with three separate groups: advisers, licensees and advice compliance managers and industry associations. The purpose of the roundtables was to further explore issues raised in submissions to CP 332 and to discuss solutions to these issues.

## Adviser bannings: Superannuation advice

ASIC takes administrative action, such as banning individual advisers, to protect investors and consumers and to deter misconduct. This year, bans imposed included two relating to misleading communications about MySuper funds.

Under the Government's Stronger Super reforms, a member's accrued default amounts of superannuation were to be transferred to a MySuper fund by 1 July 2017, unless a member opted out of the transfer. The following two advisers issued or authorised misleading communications related to this.

**Andrew Carl Hills:** In April 2021, ASIC banned Mr Hills, a former authorised representative of Aon Hewitt Financial Advice Limited, from providing financial services for four years. ASIC found that Mr Hills allowed or authorised misleading and inaccurate letters about superannuation to be issued to some Aon Master Trust members.

After receiving the letters, hundreds of members did not fully transition to MySuper. Instead, their accrued default amounts remained in Aon Master Trust's 'choice' superannuation product, which was generally more expensive than the MySuper product, partly because the administration fees for the choice superannuation product would continue to include commissions payable to each member's financial adviser.

**Christopher Chan:** In April 2021, ASIC banned Mr Chan, a former authorised representative of Australian Unity Personal Financial Services Limited, from providing financial services, controlling a financial services business, or performing any function as an officer of a financial services business for five years. ASIC found that Mr Chan sent misleading and deceptive emails about superannuation to some clients in 2016.

ASIC's review of Mr Chan's emails found that he advised clients to opt out of MySuper, claiming that the MySuper product had higher fees than the fee on their existing superannuation balances. However, this information was not correct for every client. After Mr Chan sent the emails to clients, some members did not fully transition to MySuper and continued paying higher fees as a result and continued to pay commissions out of their accounts to their financial adviser.

Financial advisers must not engage in misleading conduct in connection with financial products or services. Financial advisers must also prioritise their clients' interests when providing personal advice.



## Stockbroker financial advice review

Retail clients play an integral role in equity capital markets, enabling companies to raise capital and maintain a broad shareholder base. This participation is facilitated by stockbrokers who commonly provide financial advice, allowing retail clients to make informed decisions across the primary and secondary markets.

In the previous financial year, we conducted surveillance activities, including an onsite component, to review the compliance and supervision arrangements that stockbrokers have in place to meet their advice obligations. This year, we engaged with the stockbrokers to remediate deficiencies and improve practices. Key areas requiring improvements included:

- › adviser supervision and monitoring
- › record keeping
- › classification of financial product advice
- › statements of advice.

We have communicated our observations to industry, highlighting common areas for improvement and better practices as appropriate. Future surveillance work will be targeted to those areas requiring improvement to drive better industry standards. Where we identify serious compliance failures or misconduct, we will take regulatory action.

## 3.4 Investment management, superannuation and related services

The investment management, superannuation and related services sector includes **superannuation trustees, responsible entities, wholesale trustees, operators of notified foreign passport funds, custodians, investor-directed portfolio service (IDPS) operators, managed discretionary account (MDA) providers, traditional trustee company service providers, and crowd-sourced funding intermediaries.**

In 2020–21, our work in this sector focused on responding to the impact of the COVID-19 pandemic on consumers and businesses, insurance in superannuation and strengthening ASIC’s role as a conduct regulator for superannuation.

### Investment management

#### Managing investor liquidity risk

As the COVID-19 pandemic affected markets throughout 2020, ASIC was concerned that retail funds invested in illiquid assets may face increasing member redemption requests that could not be satisfied by quick sales of assets at their book value. We were concerned that this may lead to the long-term freezing of member distributions and redemptions or asset ‘fire sales’, either of which may have triggered wider ‘runs’ on funds or rapid asset price declines.

In March and April 2020, ASIC reminded retail fund responsible entities of their obligations to manage member liquidity by monitoring investor redemption and application levels, to actively review fund redemption terms against the liquidity of assets, and to ensure that fund disclosure and marketing accurately represent the reliability of redemptions and distributions.

In June 2020, we began a review of a selection of retail funds invested in relatively illiquid assets to understand the nature and significance of any investor liquidity challenges that funds faced due to the pandemic. Our review covered 14 retail funds across three different strategies with an aggregate of \$1.7 billion in assets under management and approximately 8,500 investors.

We reviewed fund information to examine the liquidity of fund assets, the flow of investor applications and redemptions, the adequacy of responsible entities’ liquidity risk management frameworks, and the adequacy of their disclosure around investor liquidity risk and redemption rights generally.

We found that during the first half of 2020, there was a significant deterioration in cash received from investor applications in comparison to cash paid out in investor redemptions. However, this did not affect the regularity of distributions paid or of redemption opportunities and there was no material decrease in the liquidity of fund assets. Most of the responsible entities had introduced enhanced liquidity monitoring in March 2020, then eased back on this over the following quarter.

Overall, ASIC found that the liquidity frameworks of responsible entities were adequate and that liquidity risks and redemption rights were appropriately disclosed to investors.

### **Valuations of illiquid assets**

The valuation of illiquid assets is important for members of registered managed investment schemes, particularly during periods of economic disruption and financial volatility such as experienced during the COVID-19 pandemic. ASIC undertook a review of the current regulatory settings for valuations of illiquid assets held in registered schemes to identify whether these settings are adequate to protect members' interests during periods of market volatility, such as that experienced during the COVID-19 pandemic, and to make recommendations on future actions.

The review compared ASIC's current regulatory guidance with that of other Australian and international supervisory bodies, incorporated the information derived from consultations with the valuers of illiquid assets on their practices, and involved a review of the illiquid asset valuation practices of 10 responsible entities with a total of \$21 billion invested in illiquid assets during the COVID-19 pandemic.

Overall, we found that regulatory settings were adequate and the governance frameworks, procedures and processes used by the responsible entities in the review were generally adequate in how they responded to the uncertainties arising out of the COVID-19 pandemic.

We did identify inconsistencies between valuation policies, compliance plan measures and information disclosed to investors in Product Disclosure Statements in a small number of funds. The responsible entities involved have addressed, or are in the process of addressing, these issues. Later in 2021, we will provide feedback on our findings to the firms involved and to the sector generally.

## Superannuation

### Superannuation trustees' support of members during the COVID-19 pandemic

During 2020, ASIC undertook a surveillance of public communications about issues and legislative measures related to the COVID-19 pandemic to quickly identify and prevent consumer harm arising from poor, inaccurate or potentially misleading statements.

Between March and July 2020, ASIC reviewed 51 websites of 50 superannuation trustees that at the time of the review were collectively responsible for approximately 94% of the \$1.87 trillion in assets under management in the APRA-regulated superannuation industry.

Most of the websites ASIC reviewed had a dedicated COVID-19 pandemic webpage that was prominent and easy to access from the homepage. While most websites contained accurate information about legislative and economic changes, many lacked detail about how members' insurance through their superannuation might be affected if they chose to access

their superannuation early, or if their employment status changed because of the COVID-19 pandemic. Several websites had inaccurate or incomplete information about insurance eligibility in superannuation if an early release of superannuation payment resulted in a low account balance. There was limited information about scams on fund websites.

We also identified projection tools on 14 websites that could have discouraged members from applying for the early release of superannuation because the tools used assumptions that exaggerated the long-term impact of withdrawal.

In light of the unique circumstances of the COVID-19 pandemic crisis, ASIC's priority was to ensure that trustees acted promptly to improve communications to members. We contacted 26 trustees and one third-party provider about our concerns and sought prompt changes. All of the problematic communications were removed or amended quickly. Six of the projection tools were proactively changed by trustees, without direct contact by ASIC, after ASIC published COVID-19 FAQ (1E).

### Better outcomes for consumers receiving automatic insurance cover through their superannuation

Most Australians hold life insurance through their superannuation fund. Insurance is attached to almost 10 million superannuation accounts. Approximately 86% of these are on the default settings, meaning that members with these accounts have been provided life insurance automatically by their fund.

## (continued)

The way that superannuation trustees provide default insurance to their members has been a key focus for ASIC throughout 2020–21. Our work included Report 675 *Default insurance in superannuation: Member value for money* (REP 675), in which we examined the value for money that superannuation members receive from default insurance and identified steps for trustees to take to improve insurance provided to their members. We also published Report 673 *Consumer engagement in insurance in super*, which was prepared by Susan Bell Research and explores the experiences of superannuation fund members seeking to make changes to their insurance arrangements through directly contacting their funds.

A particular focus of our work was on the erosion of superannuation benefits caused by members paying too much for their insurance as a result of being inaccurately categorised into a higher-risk occupational category. Most funds group occupations into categories such as ‘blue collar’ and ‘white collar’ to reflect different levels of risk and the cost of insurance cover associated with different occupations. Because trustees often have limited data on their members’ occupations, many members end up in the category their trustee has designated as the default.

ASIC reviewed the practices of 21 trustees who we identified as using a high-risk occupational category as their default but who were more likely to have a membership with a white-collar or broad-based mix of occupations. Trustees often select the highest risk category as their default to ensure that all members are covered regardless of their occupation. In the MySuper products we looked at, the price of default insurance for the highest risk category was, on average, approximately double that of the lowest risk category.

We found that some trustees had poor disclosure practices, including 15 that were using generic labels such as ‘standard’ or ‘general’ for the most expensive occupational category. This can contribute to members not appreciating that they may be able to move to less expensive insurance based on their occupation. Further, in many cases, the process for members to update their occupational category was not readily apparent or accessible.

ASIC engaged with the trustees to seek improvements. Most have updated their disclosures to include clearer information about their default categories. Many have also taken steps to encourage more members to check whether they are in an appropriate occupational category – for example, by calling or emailing members to invite them to update their occupation details with the fund. Three trustees have committed to changing their generic label to make it more meaningful (e.g. from ‘standard’ to ‘blue collar’), two of which have already implemented this change.

## 3.5 Market infrastructure

The market infrastructure sector includes **Australian market licensees**, various types of **market operators**, **benchmark administrators**, **clearing and settlement facility operators**, **Australian derivative trade repository operators**, **exempt market operators**, and **credit rating agencies**.

ASIC's work in this sector during 2020–21 continued to focus on providers' compliance with their obligations under the financial services laws to help ensure good consumer and investor outcomes and maintain trust and integrity in Australia's financial markets.

### Ensuring market resilience

ASIC has continued its focus on ensuring market resilience this year by monitoring the equity market's capacity to continue to operate during periods of high volatility and large trading volumes.

The ASX Limited's equities market trading platform (ASX Trade) suffered an outage for most of the day on 16 November 2020, following a system upgrade over the preceding weekend. ASIC is assessing the impact of the ASX Trade outage and subsequent issues experienced with ASX's Centre Point dark-pool trade matching service, order cancellations and other delays that occurred during the week of 16 November 2020. As part of this work, we have engaged with market operators, market participants, investors and other stakeholders on the impact of the incident.

ASIC is also revisiting the recommendations made in Report 509 *Review of the ASX equity market outage on 19 September 2016* to determine whether any changes are needed to regulatory settings for market participants and/or market operators.

### Over-the-counter derivative trade reporting rules

We are implementing internationally standardised reporting requirements for OTC derivatives trade information to align with other major jurisdictions. This change is expected to decrease complexity and compliance costs for Australian entities, especially for those operating across borders.

Improved data quality and consistent data across jurisdictions are also expected to improve the utility of OTC derivatives data for regulatory purposes, including surveillance, monitoring market conduct, policy and strategic decision making, and monitoring systemic risk to ensure financial system stability.

In November 2020, we released Consultation Paper 334 *Proposed changes to simplify the Derivative Transaction Rules (Reporting)*. This is the first of two consultations on proposed significant changes to implement the standards. We published initial proposals and considerations shortly after US and European consultations to provide transparency to industry and encourage engagement.

The project is ongoing, with a second consultation paper and final rules expected in 2022.

## Financial market infrastructure reforms

In 2019, the Council of Financial Regulators (CFR) consulted on a range of measures to enhance the regulation of financial market infrastructure. The enhancements aim to promote the strong and innovative development of the financial system and to ensure that financial regulators have sufficient powers to intervene to manage a crisis and pre-emptively identify and manage risks. ASIC worked together with fellow CFR agencies to develop the proposed reform package for consultation and to engage with stakeholder feedback. In 2020, the CFR provided its advice to the Government recommending a package of reforms.

In June 2021, the Government announced that it intends to introduce a regulatory reform package consistent with the CFR's recommendations. This includes:

- › introducing a crisis management regime for licensed clearing and settlement (CS) facilities, supported by a \$5 billion standing appropriation available to the Reserve Bank of Australia (RBA) to ensure the continued operation of a CS facility
- › enhancing the supervisory and licensing powers of ASIC and the RBA in respect of financial market infrastructures
- › streamlining and clarifying certain regulatory powers.

ASIC will continue to work with the CFR to implement the recommendations.

## LIBOR transition

ASIC has continued to promote an orderly transition from LIBOR (London Interbank Offered Rate) to alternative reference rates. During the year, we spoke publicly on the need to prepare for LIBOR transition and published several communications to provide guidance and clarification for the industry, including setting the expectation that market participants should not reference LIBOR in new contracts beyond 31 December 2021.

Recognising a distinct difference in readiness between various segments of the industry, ASIC issued targeted communications for buy-side firms and corporations to encourage all firms to examine their LIBOR exposure and take necessary steps to ensure an orderly transition.

In November 2020, ASIC published Information Sheet 252 *Managing conduct risk during LIBOR transition* (INFO 252) with practical guidance that Australian entities can adopt to manage conduct risk during LIBOR transition.

ASIC and APRA held joint supervisory engagements with key financial institutions to ensure that they are continuing with their LIBOR transition plans and keeping pace with the timelines and milestones provided by each of the risk-free-rates global working groups.

## Clearing and settlement

### **CHES replacement**

ASX is undertaking a multi-year transformation program to replace its clearing and settlement system (CHES) with a system based on distributed ledger technology.

Together with other Council of Financial Regulators (CFR) agencies and the Australian Competition and Consumer Commission (ACCC), we are supervising ASX's governance of the project, stakeholder engagement, and the management of key risks, including system development and testing, participant readiness, and pricing and data access.

In October 2020, ASIC and the RBA made public our expectations of ASX that it replaces CHES as soon as this can be safely achieved by ASX and CHES users. We expect ASX to provide independent assurances to the regulators before migrating to the new system. The new system is expected to achieve a significant uplift in intraday and end-of-day processing performance.

At a minimum, the new system must deliver the same resilience, performance, recoverability, availability and security that CHES meets today, while also delivering the benefits of contemporary technology, including significant uplift in processing capacity.

ASIC, with the CFR and the ACCC, will continue to closely monitor and engage with ASX and other key stakeholders as the program enters key industry-wide testing and readiness phases.



## 3.6 Market intermediaries

The market intermediaries sector includes **market participants, securities dealers, corporate advisers, over-the-counter (OTC) traders, retail OTC derivatives issuers, and wholesale electricity dealers.**

ASIC's work in this sector during 2020–21 included a focus on market integrity and enhancing our monitoring of fixed income, currencies and commodities (FICC) markets.

ASIC continued to engage with market intermediaries during the pandemic to understand the effectiveness of their business continuity and supervision arrangements. We published better practices and observations on the conduct of intermediaries during the pandemic. ASIC also focused on a number of strategic priorities, including high-deterrence enforcement action, improving governance and accountability, and protecting vulnerable consumers.

### Product intervention orders: Binary options and contracts for difference

ASIC used its product intervention power to reduce the risk of significant detriment to retail clients resulting from contracts for difference (CFDs) and binary options.

On 23 October 2020, we made a product intervention order imposing conditions on the issue and distribution of CFDs to retail clients. The order took effect on 29 March 2021. It reduces CFD leverage available

to retail clients to a maximum ratio of 30:1 and targets product features and sales practices that amplify retail clients' CFD losses, such as providing inducements to become a client or to trade. The order strengthens protections for retail clients after ASIC found that CFDs have resulted in, and are likely to result in, significant detriment to retail clients.

ASIC reviews in 2017, 2019 and 2020 found that most retail clients lose money trading CFDs. During a volatile five-week period in March and April 2020, the retail clients of a sample of 13 CFD issuers made a net loss of more than \$774 million. During this period, more than 15,000 retail client CFD trading accounts fell into negative balance owing \$10.9 million to CFD issuers. Some debts were forgiven.

On 1 April 2021, we made a product intervention order banning the issue and distribution of binary options to retail clients from 3 May 2021. The ban follows ASIC findings that approximately 80% of retail clients lost money trading binary options and that binary options are likely to result in cumulative losses to retail clients over time because of their product characteristics.

The product intervention orders remain in force for 18 months and bring Australian practice into line with consumer protections in force in comparable markets overseas.

## Fixed income, currencies and commodities onsite reviews

FICC markets are global and directly link to the real economy. ASIC's FICC strategy addresses threats to these markets that may cause harm to the real economy and consumers. We have intensified our focus on FICC markets through proactive onsite surveillances this year, with thematic reviews targeting:

- › sales and trading practices at three fixed income businesses, including governance and supervision, risk management, and compliance controls that support these businesses
- › conflicts of interest arrangements employed by two wholesale FICC markets businesses.

Each review involved onsite inspections over several days, questioning key staff, demonstrations of key systems and controls, and reviewing an extensive range of supporting documentation. It is critical that compliance, risk, supervisory and governance arrangements, including all three lines of defence, remain adequately resourced and competent to effectively manage risk and ensure compliance with relevant regulatory obligations.

Where we identified weaknesses or areas for improvement, we recommended remedial actions be implemented to uplift conflicts management arrangements in wholesale FICC markets businesses, and that better practices and controls be embedded in fixed income businesses, including:

- › embedding policies and training that are specifically developed and applied to the operating environment and business practices of the financial markets business units
- › implementing more robust controls for conflicts management and to mitigate the risk of information leakage
- › ensuring that governance frameworks clearly set out accountability and decision-making responsibilities for considering conduct-related issues
- › prioritising the implementation of technology solutions to enhance transaction and communication monitoring and surveillance capabilities.

## Capital framework market integrity rules

We routinely review monthly and annual financial information submitted by market participants as required under the ASIC market integrity rules. Obtaining an accurate understanding of a market participant's financial position is an important component of ensuring the financial stability of our stakeholders, helping to better protect investors and counterparties.

In 2020, we identified differences in classification between the annual return and the financial report of certain assets and liabilities of a market participant. The differences we found included the treatment of some items which did not comply with requirements under the Australian Accounting Standards. However, the participant remained in compliance with minimum capital requirements at all times.

The market participant was required to submit amended annual and monthly returns reflecting the correct asset and liability balances. These adjustments and resubmissions were required in order to comply with the criteria for classifying current assets and current liabilities in Australian Accounting Standard AASB 101 *Presentation of financial statements* and the derecognition criteria of financial assets in Australian Accounting Standard AASB 9 *Financial instruments*.

In June 2021, ASIC made new market integrity rules for capital, providing important protections for investors and the integrity of the market, while simplifying the capital framework for market participants. These new rules better align our standards with comparable international capital frameworks and the financial requirements of the Australian financial services licensing regime.

## Activist short selling

ASIC analysed activist short selling in Australian and overseas securities markets. In May 2021, we published Information Sheet 255 *Activist short selling campaigns in Australia* (INFO 255), outlining ASIC's expectations to promote market integrity during these campaigns. INFO 255:

- › describes the impact of activist short selling on markets
- › provides an overview of the Australian regulatory framework relevant to these campaigns

- › recommends better practices for activist short sellers and authors of short reports, market operators, target entities and market participants
- › lists some of the actions that ASIC may take in response to these campaigns.

Short reports can provide new research and analysis and test the veracity of information released by a target entity. Some activist short sellers have exposed flawed business models, questionable business or accounting practices, insolvency and fraud in targeted entities. However, activist short sellers can also unduly distort the price of a target entity's securities.

To protect the integrity of Australia's securities markets and address any information asymmetry, INFO 255 outlines better practices for activist short sellers, target entities, market operators and market participants. These include, for activist short sellers, releasing short reports outside normal trading hours, drawing on reliable information, and avoiding overly emotive language. Target entities should seek a temporary trading halt to provide time to digest and comprehensively respond to the claims of activist short sellers.

## **Upgrade to ASIC's market surveillance platform to enhance data analytics functionality to identify market misconduct**

In 2020–21, ASIC upgraded its Markets Assessment and Intelligence (MAI) system and enhanced its data analysis capabilities.

MAI is a key business system which supports ASIC's mandated responsibilities to supervise trading on Australian licensed financial markets. This upgrade delivered more scalable and secure data storage by replacing outdated Adobe Flash with HTML5. The new system leverages AWS cloud capabilities to flexibly scale market surveillance capacity. This future-proofs ASIC to process ever-growing volumes of data sets, cover broader market activities and improve performance.

ASIC also engaged with other Government agencies and various data providers to compile more comprehensive data sets to strengthen our supervisory efforts and ensure the integrity of Australian financial markets.

This series of activities set a strong foundation for ASIC's expansion of monitoring capabilities into the fixed income, commodities and currency markets, while maintaining our strength in real-time surveillance of listed securities and derivatives markets.

## 3.7 Corporate

The corporate sector includes **auditors and liquidators**, which are subject to separate fees and levies. The corporate subsectors include **corporations** (listed corporations, unlisted public companies, large proprietary companies, and small proprietary companies), **auditors of disclosing entities, registered company auditors, and registered liquidators**.

In 2020–21, our work in this sector focused on establishing the Corporate Governance Consultative Panel and supporting the healthy operation of capital markets by promoting best practice corporate culture and conduct and ensuring that investors are treated fairly in corporate transactions. We also responded to the impact of the COVID-19 pandemic on businesses and consumers, including by facilitating virtual meetings and extending temporary relief for capital raising.

### Facilitating fundraising

The COVID-19 pandemic continued to cause ongoing uncertainties for companies seeking to raise capital. We ensured that our capital markets continued to function efficiently and fairly through a range of measures, including:

- › **Extending temporary capital raising relief:** After consultation with a range of capital market participants, we extended our temporary relief helping listed companies raise capital quickly using ‘low doc’ offers to 31 December 2020. We also worked closely with ASX, which extended its temporary waiver to 30 November 2020. This allowed companies to raise an increased amount of capital without shareholder approval subject to certain conditions.
- › **Introducing new permanent relief:** Since August 2020, issuers can rely on legislative relief to facilitate voluntary escrow arrangements and pre-prospectus advertising in connection with IPOs without the need to apply for individual relief.

### Corporate Governance Consultative Panel

We established the Corporate Governance Consultative Panel in 2020 to enable ASIC to gain a deeper understanding of developments and emerging issues in corporate governance practices.

Members of this Panel include listed company directors, industry association representatives, institutional investors and academics.

The Panel met twice in 2020–21 to discuss the impact of the COVID-19 pandemic; environmental, social and governance issues; cyber resilience; and insolvency reforms.

## Guidance and relief for financial reports and audits under COVID-19 pandemic conditions

ASIC has assisted companies, directors and auditors in meeting their reporting and audit obligations having regard to the impact of the COVID-19 pandemic. This includes:

- › **liaison:** regular contact with large and small audit firms, accounting bodies, the Australian Institute of Company Directors, standard setters, other regulators internationally, the Group of 100 and others to monitor emerging reporting and audit issues, resource pressures and other relevant developments
- › **focus areas:** outlining reporting and audit focus areas, including asset values, liabilities, solvency and going concern, as well as disclosures on uncertainties, key assumptions, underlying drivers of results, strategies, risks and future prospects
- › **extended reporting deadlines:** providing an additional one month for listed and unlisted entities to lodge audited financial reports for balance dates up to 7 January 2021 and balance dates between 23 June 2021 and 7 July 2021
- › **timing of annual general meetings:** adopting a 'no action' position where annual general meetings of public companies for year-ends up to 7 July 2021 are held seven months, rather than five months, after year end and virtual meetings are held for year-ends to 31 March 2021
- › **guidance:** providing FAQs on our website to address common questions on the reporting and audit obligations of companies, directors and auditors given the impacts from the pandemic
- › **reviews of reports and audits:** focusing our financial reporting surveillances and audit inspections to promote informed markets about the impacts of the pandemic on entities through audited financial reports
- › **regulatory activities:** some changes to our regulatory activities to ease the burden on companies, directors and auditors who may be under pressure due to remote work and other impacts of the pandemic
- › **presentations:** a number of webinars and podcasts on COVID-19 pandemic impacts and guidance.

## Response to the COVID-19 pandemic: Financial reports

The COVID-19 pandemic created unprecedented challenges for preparers of financial reports and their auditors. ASIC proactively identified potential issues and released FAQs with information on how to address those issues for both preparers and auditors.

Critical areas included asset values (including impairment), going concern and solvency, Government support (both received and the impact of withdrawal), the risk of extended lockdowns, and, for financial institutions, expected credit losses. ASIC encouraged entities to consider both internal and external factors.

The FAQs also provided information to directors on the matters which needed to be addressed in documents accompanying the financial report. For example, the operating and financial review was to focus on risks specific to the entity and industry and disclose strategies to mitigate those risks.

Financial reports selected for review as part of ASIC's annual surveillance program specifically included entities we assessed as likely to have been either adversely or favourably affected by the pandemic. To ensure that stakeholders were properly informed about an entity's performance, we considered whether the positive or negative impacts of the COVID-19 pandemic were adequately disclosed and whether the entity may have misled users and obscured its performance by reporting on a pre-pandemic and post-pandemic basis.

Management was encouraged to be neither overly optimistic nor pessimistic in its assumptions about the future and in addressing other estimation uncertainties affecting the carrying amounts of assets and liabilities. Key assumptions needed to be disclosed and the reasons for management's decisions properly documented.

Acknowledging the difficulties created by employees working remotely, entities were offered an additional month in which to lodge their financial report. ASIC also had ongoing discussions with auditors about their ability to conduct an audit.

## Holding auditors to account

Auditors play a vital role in underpinning investor trust and confidence in the quality of financial reports, which provide important information for investors and others who make decisions based on those reports. Audit quality is even more important in the context of COVID-19 pandemic conditions. There can be more difficult judgements about asset values, liabilities, solvency, going concern and disclosures, as well as challenges from any remote work arrangements.

ASIC is taking a broader, more intensive supervisory and enforcement approach to our work program on audit. This includes increasing transparency by publishing the level of adverse findings for large audit firms, publishing the largest six firm annual inspection reports, and progressing work on assessing the severity of our findings as well as broader measures and indicators of audit quality. We are reviewing firm culture in relation to audit quality, and how the largest six firms attract and retain the right talent for quality audits.

This year, we continued our review of the financial statements of listed and other public interest entities and the audit files of a number of these entities.

Our inspection findings showed that more can be done to improve audit quality. See Report 677 *Audit inspection report: 1 July 2019 to 30 June 2020* and our supplementary report containing a broader group of audit quality measures and indicators, Report 678 *Audit quality measures, indicators and other information 2019–20*. These, together with the largest six firm inspection reports, were released on 22 December 2020.

In November 2020, the Parliamentary Joint Committee released its final report on the regulation of auditing in Australia. We will provide input to any proposed legislative or standard changes and publish required policy and guidance following the Government's response to the report recommendations.

## Providing certainty to the market during the COVID-19 pandemic: Virtual meetings of members

In March 2021, ASIC published a temporary no-action position to facilitate the convening and holding of member meetings using virtual technology. The no-action position applies to meetings held between 21 March 2021 and 31 October 2021, or any earlier date for which measures are passed by Parliament relating to the use of virtual technology in member meetings. It also allows entities with balance dates up to 7 April 2021 an additional two months to hold their annual general meetings.

ASIC's no-action position was designed to give certainty to the market given that the ongoing COVID-19 pandemic still created uncertainty around gatherings and travel. It followed on from the expiry of Corporations (Coronavirus Economic Response) Determination (No. 3) 2020 on 21 March 2021, which had permitted the convening and holding of virtual meetings during the pandemic.

The no-action position maintained the status quo while Parliament considered legislation introduced by the Government in relation to the use of virtual technology to hold member meetings. This legislation was passed in August 2021.



## Providing certainty to the market during the COVID-19 pandemic: Virtual meetings for companies in external administration

The temporary modifications to the operation of the Corporations Act made by the Corporations (Coronavirus Economic Response) Determination (No. 1) 2020 confirmed that meetings of members and creditors for companies in external administration could be held using virtual technology.

ASIC provided input to Treasury on reforms to implement permanent changes to allow the use of virtual technology to conduct meetings for companies in external administration.

On 15 December 2020, the *Corporations Amendment (Corporate Insolvency Reforms) Act 2020* received royal assent. Schedule 4 of this Act, dealing with virtual meetings and electronic communications, commenced on 16 December 2020.

ASIC notified registered liquidators about the passing of these reforms on 21 December 2020.

## Implementing insolvency law reform

On 24 September 2020, the Government announced reforms to Australia's insolvency framework to help more small businesses restructure and survive the economic impact of the COVID-19 pandemic. These reforms were aimed at incorporated businesses with liabilities of less than \$1 million. Key elements of the reforms included introducing a new:

- › restructuring process that allowed eligible small businesses to remain in control during the restructuring process
- › class of registered liquidator for individuals who wished to be registered only to act as a restructuring practitioner under the new restructuring process
- › simplified liquidation process for eligible small businesses.

Legislation passed both Houses of Parliament in December 2020 and commenced on 1 January 2021. To support these reforms, ASIC:

- › developed 20 new forms or documents and updated existing forms where necessary
- › enhanced IT systems to enable electronic lodgement of these new and amended forms
- › updated the application process to allow individuals to apply to be registered as a liquidator only to act as a restructuring practitioner under the new restructuring process, including issuing guidance to assist the person prepare their application
- › published on our website information about the new restructuring and simplified liquidation processes.

The Government's temporary COVID-19 pandemic measures to assist companies continue to operate during the pandemic included temporary safe harbour relief for directors from personal liability for insolvent trading for debts incurred in the ordinary course of business. This temporary measure ceased on 31 December 2020.

The reforms extended this temporary measure for a short period to protect directors during the period from when they resolved to appoint a restructuring practitioner to when the appointment could be made.

ASIC published information to assist directors of eligible companies understand the temporary relief measure and what they had to do to access the temporary safe harbour relief introduced by these reforms, including enhancing IT systems to enable directors to make the necessary notifications.

## Court applications: Registered liquidators

ASIC deals with court applications under Chapter 5 of the Corporations Act that must be served on ASIC, including:

- › novel applications for relief due to the COVID-19 pandemic
- › applications under Chapter 5 or Schedule 2 where ASIC is named as a party
- › registered liquidator replacement and/or retirement applications
- › an application for an inquiry into the conduct of a registered liquidator under section 45-1 or section 90-15 of Schedule 2
- › applications under Chapter 5 or Schedule 2 where the court has specifically requested ASIC's assistance or has ordered ASIC to respond in writing to the application.

During the financial year ended 30 June 2021, the Registered Liquidators legal team considered 296 court applications and 17 applications for authorisation as an eligible applicant.

## Financial reporting surveillance

Quality financial reports provide important information for investors and other stakeholders in making decisions about the allocation of scarce resources.

In 2020–21, we proactively reviewed 254 financial reports of listed entities and other public interest entities for years ended 30 June 2020 and later. We issued media releases about five entities that recognised material changes to reported

net assets and profits totalling more than \$200 million following our inquiries on financial reports. In recent years, material changes have been made to 4% of financial reports following our review.

We issued media releases concerning material financial reporting changes following our inquiries of Nitro Software Limited, Kresta Holdings Limited, Elixinol Global Limited, LawFinance Limited and Ainsworth Game Technology Limited.

We continue to publicly highlight focus areas for directors, preparers and auditors ahead of each reporting season so that these areas can be addressed before financial reports are issued and the market is properly informed.

## Audit inspections

Auditors play a vital role in underpinning investor trust and confidence in the quality of financial reports.

In 2020–21, we proactively reviewed 45 audit files relating to audits of listed entity and other public interest entity financial reports.

Our inspection findings show that more needs to be done to improve audit quality (see Report 677 *Audit inspection report 1 July 2019 to 30 June 2020* issued in December 2020). Auditors have primary responsibility for audit quality, supported by audit committees and others in the financial reporting ecosystem.

While audit firm action plans remain important in improving audit quality, ASIC has adopted new regulatory initiatives, including:

- › a focus on enforcement actions for auditor conduct matters
- › reviewing the culture within the largest six audit firms focused on audit quality and firm talent for quality audits
- › increased transparency by publishing the level of adverse findings for each of the largest six audit firms.

We published a supplementary report with a broader group of audit quality measures and indicators (*Report 678 Audit quality measures, indicators and other information 2019–20*).

## Better data

ASIC publishes statistical data on corporate insolvency in Australia from 1999. Our Series 1 (Companies entering external administration for the first time) and Series 2 (All formal insolvency appointments) statistics have historically been published on our website on a monthly basis more than one month in arrears.

In April 2020, to provide more timely data in response to the COVID-19 pandemic, we started publishing statistics of companies entering external administration on a weekly basis. The new Series 1B compared the current period (both weekly and monthly) to the same period in the prior year.

We provided more timely information to assist market participants in monitoring the impact of Government measures introduced to support the economy in response to the COVID-19 pandemic, specifically around corporate insolvency.

We quickly identified that rather than the expected increase in formal appointments from the economic impact of the COVID-19 pandemic, there was in fact a material decline in formal appointments which coincided with measures introduced by the Government. This decline was sustained throughout 2020–21.

During the course of the 2020–21 financial year, the published statistics were enhanced to provide additional data at both the state and industry levels to help identify areas or industries suffering stress.

ASIC will continue to seek to enhance the data it publishes to provide more accurate and timely information.

## Directors disqualified from managing corporations

ASIC takes action to prevent directors with a history of failed companies from continuing to manage corporations.

In September 2020, ASIC disqualified Michael David Steele from managing corporations for the maximum period of five years. Mr Steele was an officer of two companies that were placed into external administration owing investors more than \$4.5 million.

ASIC found that Mr Steele failed to lodge documents with the ATO, failed to invest money as promised, and transferred investor funds into his personal accounts for personal expenses. Mr Steele had also been convicted in 2018 and 2019 of failing to assist the liquidators.

## Illegal phoenix activity and directors' duties

Addressing illegal phoenix activity continues to be a focus for ASIC. Ensuring that directors comply with their duties is a key element.

In December 2020, Andre Kunz, former director of Total Hoarding Supplies Pty Ltd ACN 107 987 271 (Deregistered) (THS) and Sybab Pty Ltd ACN 144 935 311 (Deregistered) (Sybab), was convicted of breaching his duties as a director after engaging in illegal phoenix activity. Mr Kunz was sentenced to a community corrections order for two years and 200 hours of community service work and was ordered to pay a fine of \$2,000. Because of the conviction, he is automatically disqualified from managing corporations for five years.

The ASIC investigation found that Mr Kunz dishonestly transferred over \$2 million of assets belonging to THS to Sybab, a company of which he was also a director. The consideration for the asset transfer was a 20-year loan with Sybab, with no repayment to be made before the end of the loan period. THS was subsequently unable to continue to trade and generate cash flow to be able to meet its liabilities, leading to the company's insolvency. At the time of the asset transfer, THS was being pursued by the Bendigo and Adelaide Bank for outstanding loans of over \$1.6 million.

The investigation was aided by a report from the liquidators of THS, which ASIC funded through the Assetless Administration Fund.

## Registered liquidator misconduct

We take a holistic and scalable approach to the regulation of registered liquidators. When ASIC considers reports of misconduct against registered liquidators, we take into account factors such as the information differential between the consumer and the liquidator, and whether the underlying behaviour of the registered liquidator meets the high standards expected by the community and at law.

We received a report of misconduct from a small community-based organisation regarding an insolvent company and deposit funds not being repaid to it by the registered liquidator. ASIC determined that this was not a commercial dispute relating to a pre-appointment transaction; rather, the liquidator appeared to have received the deposit after their appointment to the insolvent company and had not delivered the ordered equipment.

ASIC inquired of the liquidator on what basis the funds were being retained, triggering the immediate repayment of the money to the organisation, which was then able to continue its fundraising activities to support its local community.

## SMSF auditors' activities and outcomes

ASIC works with the ATO as co-regulators of approved SMSF auditors. ASIC is responsible for the registration of SMSF auditors. The ATO monitors SMSF auditor conduct and refers auditors to ASIC where it considers that their conduct is causing harm to consumers. ASIC can disqualify, suspend or impose additional conditions on the registration of an SMSF auditor.

During 2020–21, the ATO referred 32 approved SMSF auditors to ASIC for action. ASIC initiated another eight SMSF auditor surveillance cases based on other sources, including four because the auditors had breached conditions previously imposed on their registrations and four because of concerns that the auditors were not fit and proper persons.

Actions taken by ASIC included one disqualification, one ASIC-initiated registration cancellation, and the imposition of additional conditions on a registration. ASIC also accepted the voluntary cancellation of 12 auditors as negotiated outcomes from our investigation of matters referred by the ATO.

## 3.8 Large financial institutions

### Supervision of large financial institutions

ASIC conducts intensive supervision of Australia's largest and most complex institutions that have the greatest potential to affect consumers: CBA, WBC, NAB, ANZ, AMP and Suncorp.

As set out in Chapter 2, the focus in 2020–21 was on:

- › monitoring how the institutions responded to the pandemic (particularly issues confronting vulnerable consumers)
- › including Suncorp in the cohort with a comprehensive review of two of the key systems that enable the early detection and prevention of customer harms (the incidents management and internal dispute resolution systems)
- › the initiation of reviews of the institutions' internal audit functions
- › continued monitoring of actions taken and outcomes achieved by institutions in response to reviews conducted in prior years, including internal dispute resolution and breach reporting in the context of incident management.

## Management of customer complaints and internal dispute resolution

Our work reviewing the internal dispute resolution practices of CBA, WBC, NAB, ANZ and AMP sought to uplift the way customer complaints are managed and responded to with a view to preventing poor outcomes from recurring in the future. Our key findings included:

- › poor and fragmented complaint management **systems and data** did not support robust and consistent resolution and response to complaints and limited opportunities for analysis and improvement
- › weak **processes and practices** resulted in the under-recording of complaints, longer resolution times and inconsistent identification of systemic issues
- › poor **accountability** limited end-to-end oversight of customer complaints
- › a lack of strategic focus on addressing the **systemic issues** arising out of customer complaints.

The institutions responded positively to our findings and put forward action plans to rectify the issues identified. During 2020–21, we engaged regularly with them to track progress against their action plans and to test for improved customer outcomes through the monitoring of key performance metrics. We observed positive changes across a range of metrics, indicating that outcomes for customers have improved. For example, in the year following our reviews (as compared to the year prior):

- › complaints to AFCA relating to the reviewed institutions made up a smaller proportion of the total complaints to AFCA, suggesting a relative improvement in internal complaints management processes of the reviewed institutions compared to the non-reviewed population
- › on average, the institutions were the subject of a smaller proportion of complaints to AFCA after the customer had already lodged their complaint directly to the institution, suggesting that the institutions' internal responses to complaints have been more effective and satisfactory to customers
- › on average, a smaller proportion of complaints about the institutions made to AFCA required escalation and resolution through AFCA's case management process, suggesting that more customers have had their complaints dealt with in a more efficient manner with less external intervention by AFCA required.



# 4

## ASIC's people

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## 4.1 Workforce planning

### Employment at ASIC

All employees are employed by the Chair of ASIC under section 120 of the ASIC Act. The Chair also determines their terms and conditions of engagement. Most of ASIC's employees (96.7%) are covered by the ASIC Enterprise Agreement 2019–22. ASIC will negotiate a new enterprise agreement in 2022.

### Working at ASIC

ASIC measures engagement through the employee engagement survey, Your Voice, which was launched in April 2021. The survey had an 83% participation rate and delivered a strong employee engagement score of 78%.

The results highlighted the importance of teamwork at ASIC, with supportive, friendly and approachable team members being most commonly mentioned as reasons for working at ASIC. Wellbeing was identified as a major contributor to employee engagement and our results in this area have improved significantly since the previous survey in 2019. 'Going the extra mile' and a 'commitment to ASIC's goals' also featured strongly.

Wellbeing across ASIC has been a strong focus during the pandemic. We conducted seven Support and Wellbeing surveys to identify the challenges faced by employees and the impact of these challenges on engagement and productivity. These surveys were actively supported and allowed us to adapt quickly to the changing environment.

As team members transitioned back into the office after initial lockdowns, we refreshed our flexible working policy to support a culture where working flexibly aligns with ASIC's values, is considered part of our new ways of working, and is applied consistently across ASIC.

As part of a broader workforce planning strategy, we refreshed ASIC's capability framework to identify our capability strengths and gaps, as well as our critical roles, and to plan more effectively for leadership succession. This framework aligns with ASIC's strategic priorities and was developed with our current and future (two-to-three year) capability requirements in mind. It has the flexibility to be updated as capability requirements change and enables us to target talent acquisition and development resources where capability gaps exist.

We further examined pay equity during this period, comparing indicators such as gender, group/function, career level, and tenure. Our findings indicate that we have reduced the gender pay gap since 2019 and, at some leadership levels, have closed this gap. Overall, where pay gaps did exist, we found that these gaps favoured neither gender. We have already established several interventions to further reduce pay gaps and will continue to work on these and other initiatives in the coming year.

Team members continued to be adaptive and work effectively despite new work arrangements.

## Recruitment

We continue to invest in our workforce and recruit based on merit. We value sharp, analytical minds that challenge and improve the way things are done. We recruit people from a wide variety of disciplines, including law, finance, economics, statistics and analytics, business and accounting, mathematics, arts and social science, and information technology and computer science.

## Graduate and postgraduate program

We have a well-recognised national 18-month graduate program, providing professional development in both business and interpersonal skills, as well as rotation opportunities through different teams. Our multi-staged recruitment process enables us to attract diverse candidates.

In 2020–21, we:

- › received over 2,500 graduate applications
- › employed 11 graduates and three postgraduates
- › were ranked #3 in the Australian Government category by the Australian Association of Graduate Employers.

In 2021, we welcomed our second postgraduate cohort. This 24-month program recognises the cohort's previous experience and offers rotations and other professional development opportunities.

## Staff benefits

In addition to professional development opportunities, benefits provided to our employees this year included:

- › up to 15.4% superannuation contribution
- › the potential to receive an annual performance bonus at the ASIC 4 to executive level
- › individual and team recognition and awards
- › study assistance.

## Mentoring

We provide our people with opportunities to participate in a range of mentoring programs. In 2020–21, these included the following:

- › **ASIC mentoring program:** This year, the program supported the professional development of 143 mentees and 105 mentors across ASIC.
- › **Women in Banking and Finance:** Conducted externally, this program supported six women team members, preparing them for senior leadership roles.
- › **Women in Law Enforcement Strategy:** Conducted externally, this 10-month program seeks to address the under-representation of women in law enforcement agencies, particularly at senior levels. This year, five team members participated as mentees and two senior executives as mentors.

› **Positive Action towards Career Engagement (PACE) mentoring program:**

Conducted externally, this four-month program offered through the Australian Network on Disability connects students and jobseekers with disability to mentors from the business community. It provides mentors with the opportunity to develop their leadership skills and disability confidence, while mentees gain vital workplace experience, develop skills and expand their networks. This year, five team members participated as mentors.

## Learning

We develop team member capabilities through formal and on-the-job learning activities. These activities are aligned to the capabilities identified in our organisational capability framework and our professional and technical capability frameworks, which focus on building and maintaining capability in regulatory practice, enforcement, law, data analytics, accounting and auditing. During 2020–21, we delivered 614 learning activities with a record 46,690 completions.

ASIC continues to sponsor, guide, develop and deliver capability-building activities by working in partnership with our Professional and Technical Learning Networks, Communities of Practice and Learning Champions.

## Work health and safety

ASIC's early intervention approach to managing injuries and illnesses continues to provide excellent results. The ASIC Comcare premium is low, with our premium rate 0.12%, last year's rate 0.15%, and the overall scheme average rate 0.79%. One notifiable incident reportable to Comcare was identified with no ongoing action required.

The COVID-19 pandemic continues to have a significant impact on work health and safety, and we have seen a large increase in risk assessments from 18 last year to 330 this year.

We remain committed to training and supporting our Health and Safety Representatives, First Aid Officers and Harassment Contact Officers.

Our focus on psychological safety means that we continue to provide programs to support people leaders and team members to create a psychologically safe workplace through a series of webinars and e-learn modules.

For 'R U OK Day?' in September 2020, guest speaker Andrew Carnegie, psychologist, spoke on *'Being ok and beyond – practical tips to better health and wellbeing'*, which was well received. Our Employee Assistance Provider is well utilised at approximately 8% and our external wellbeing check-in support service FBG Group has been a valuable addition.

ASIC's flu vaccination program began in April 2021, offering a pharmacy voucher system only, with 634 vaccinations provided.

## 4.2 Diversity and inclusion at ASIC

ASIC is committed to workplace diversity and fostering an inclusive environment where our people, stakeholders and communities are valued and treated with fairness and respect.

Diversity and inclusion remained a priority in 2020–21 and our commitment to this is a key pillar of our culture. This year, we:

- › published our Multicultural Action and Rainbow Action plans
- › developed an Aboriginal and Torres Strait Islander Employment Strategy and an Indigenous Cultural Safety Strategy
- › maintained a gender-balanced leadership team at the Senior Executive Service (SES) level, with women comprising 59% of senior executives
- › increased our Indigenous workforce to 1.63% (from 1.44% last year)
- › achieved bronze status in the Australian Workplace Equality Index
- › established a new diversity network: Parents and Carers
- › adopted an intersectional approach to understanding domestic and family violence.

### Women in ASIC

ASIC continues its support for women in leadership and senior positions. This year, we continued to meet our diversity employment goal of 40-40-20 (40% women, 40% men and 20% any gender identity) for leadership roles with Executive Level 1 (54%), Executive Level 2 (49%) and SES (59%) positions.

The Women in ASIC Committee delivered regular Communities of Practice events to discuss topics related to women in leadership and workforce participation. The Committee welcomed Dr Sally Pitkin at our annual international Women’s Day celebration and recognised Alex Purvis, Senior Manager, Superannuation, with the Women in Leadership award.

### Equitable gender briefing

The Legal Services Directions 2017 require Commonwealth entities to use all reasonable endeavours to select female barristers with seniority, expertise and experience in the relevant practice area. This aims to increase briefing rates so that senior female barristers account for at least 25% of all briefs, or 25% of the value of all brief fees paid to senior barristers, and junior female barristers account for at least 30% of all briefs, or 30% of the value of all brief fees paid to junior barristers.

In 2020–21, ASIC exceeded all targets for both junior and senior female barristers. ASIC achieved 53% on the value of briefs and 56% on the number of briefs for briefing junior female barristers, where the target is 30%. For senior female barristers where the target is 25%, ASIC achieved 28% on the value of briefs and 26% on the number of briefs. ASIC continues to work to ensure that female barristers, especially those in senior roles, are equitably briefed alongside their male counterparts.

## Rainbow Network

Our Rainbow Network continues to raise awareness about LGBTIQ+ issues in the workplace and provides support to ASIC team members.

This year, the network published the ASIC **Rainbow Action Plan 2020–21**, developed a newsletter for network members, and supported the attainment of bronze status in the Australian Workplace Equality Index. This index is a national benchmark which gauges the overall impact of LGBTIQ+ inclusion initiatives on organisational culture.

The network continues to collaborate with our peer regulators through the Rainbow Regulators Network. In 2020–21, we celebrated Wear it Purple Day virtually with these peers.

## Reconciliation Action Plan

ASIC's most recent Reconciliation Action Plan (RAP) was successfully finalised in December 2020. As this was ASIC's first Stretch RAP 2017–20, our focus was on strategic approaches and embedding our commitments across the three RAP pillars of Respect, Relationships and Opportunities within our organisation. Achievements over this RAP include ASIC's progress to build strong relationships with around 14 Indigenous businesses, equating to a \$4.6 million spend over the entire RAP period. We continue our innovative approach to engage ASIC team members and build an understanding of Aboriginal and Torres Strait Islander histories, cultures and experiences through RAP events. COVID-19 pandemic

restrictions over 2020–21 have meant utilising virtual platforms in engaging ways, including:

- › a cooking demonstration focusing on Indigenous food knowledge and traditional spices with the Torres Strait owned business Mabu Mabu, celebrating the NAIDOC theme 'Always Was, Always Will Be'
- › a virtual screening of the documentary *In My Blood It Runs* with an opportunity to engage in Q&A sessions to celebrate Reconciliation Week's theme 'In this Together'.

Having celebrated over 10 years of our Reconciliation journey, ASIC's next RAP focuses on measurement and evaluation. We engaged EY to work collaboratively with ASIC to develop a framework to measure progress towards clear RAP outcomes through engagement across the organisation. This approach has allowed ASIC to develop clear outcomes and associated targets for our next RAP for ASIC teams to progress towards. Measuring ASIC's RAP progress, as opposed to tracking outputs, will allow for deeper analysis of progress made towards set outcomes based on ASIC's unique contribution to Reconciliation, allowing us to target our efforts where they will be most effective. ASIC is currently engaging with Reconciliation Australia to have our next RAP endorsed.

## Indigenous employment initiatives at ASIC

This year, ASIC launched an Aboriginal and Torres Strait Islander Employment Strategy and an Indigenous Cultural Safety Strategy. Both strategies have supported our Indigenous employment goals, with ASIC reaching its highest employment figure for Indigenous team members of 1.6%.

ASIC continues to participate in initiatives, including:

- › the Indigenous Apprenticeship Program
- › the Indigenous Graduate Program.

ASIC also launched Indigenous Cultural Safety training, which seeks to empower ASIC leaders to promote inclusion of our Indigenous team members and stakeholders through information, allyship, advocacy and support. This training confirms our commitments as outlined in ASIC's RAP, Diversity and Inclusion Strategy and Indigenous Cultural Safety Strategy.

## Multicultural access and equity

This year, ASIC's Multicultural Committee published the **ASIC Multicultural Action Plan 2020–22**. This plan focuses on our commitment to ensuring that our programs and services meet the needs of all Australians, regardless of their cultural and linguistic background, and strengthening our capacity as a culturally competent organisation.

As part of its plan, the Committee participated in new research with the Diversity Council Australia and the University of Sydney Business School, as detailed in the report ***Counting Culture: Towards A Standardised Approach to Measuring and Reporting on Workforce Cultural Diversity in Australia***. This research has developed a standardised approach for defining, measuring and reporting on workforce cultural diversity in a respectful, accurate and inclusive way.

The Committee also launched its Leadership Event Series, which explores the career experiences of many culturally diverse leaders.

## Accessibility

ASIC remains committed to accessibility for our stakeholders and an accessible and inclusive workplace for our people.

ASIC's websites are designed to be read by screen readers, transcripts and captions are available for all video files, and a text equivalent is available for all images. The Digital Assistance team in ASIC's Contact Centre supports customers who require additional assistance with online transactions.

Our Accessibility Committee continues to provide a workplace for eligible employees to access without exclusion. The Committee is in the second year of its **ASIC Accessibility Action Plan 2020–22**, launching Welcoming Customers with a Disability and Disability Confidence training and continuing its commitment to the PACE Mentoring program.

The Accessibility Committee also welcomed Dr Ben Gauntlett, Australia's Disability Discrimination Commissioner, to celebrate International Day of People with Disability.

## ASIC in the community

ASIC in the community is a national program that provides all ASIC team members with opportunities to connect with charities that are important to them. Under the program, staff can contribute to charity through volunteering, workplace giving and fundraising campaigns. Due to restrictions from the COVID-19 pandemic, community volunteering was limited for 2020–21.

This year, our workplace giving supporters donated \$113,577.20. ASIC team members contributed on average \$4,000+ each fortnight via payroll to 40 charities, with 187 employees (around 9%) contributing throughout the year.

The main channel for fundraising at ASIC is the Graduate Fundraising Project, where graduate cohorts raise funds for a charity partner through staff appeals throughout the year.

Since February 2021, the 2021 graduates have raised \$2,558 for SmartMeals, a campaign project run by StreetSmart Australia. Established in March 2020 in response to the COVID-19 pandemic, the SmartMeals program utilises the unused capacity of local cafes and restaurants to provide meals for local overstretched homeless and community groups, while also keeping hospitality workers in jobs.

Due to remote working, the 2021 graduate cohort was forced to be creative with fundraising ideas while ensuring that events were engaging for staff members participating. This experience has been both challenging and rewarding, enabling the graduates to interact with staff across ASIC offices, foster their communication skills, and develop meaningful connections outside their immediate teams.





# 5

## Financial Statements

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# Independent Auditor's Report



## INDEPENDENT AUDITOR'S REPORT

To the Treasurer

### Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission (the Entity) for the year ended 30 June 2021:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2021 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2021 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a summary of significant accounting policies and other explanatory information.

### Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Chair is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Chair is also responsible for such internal control as the Chair determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chair is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Chair is also responsible for disclosing, as applicable, matters related to

going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

### **Auditor's responsibilities for the audit of the financial statements**

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



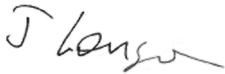
Lorena Skipper  
Executive Director  
Delegate of the Auditor-General

Canberra  
1 September 2021

# Statement by the Accountable Authority and Chief Financial Officer

In our opinion, the attached financial statements for the year end 30 June 2021 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Australian Securities and Investments Commission will be able to pay its debts as and when they fall due.



J.P. Longo  
Chair  
1 September 2021



E. L. Hodgson  
Chief Financial Officer  
1 September 2021

# Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2021

	Notes	2021 \$'000	2020 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	1.1A	<b>282,840</b>	275,356
Suppliers	1.1B	<b>135,855</b>	149,288
Depreciation and amortisation	3.2	<b>70,513</b>	63,481
Finance costs	1.1C	<b>2,150</b>	1,397
Impairment loss on financial instruments		<b>53</b>	40
Write-down and impairment of other assets	1.1D	<b>704</b>	2
<b>Total expenses</b>		<b>492,115</b>	489,564
<b>LESS:</b>			
<b>Own-source revenue</b>			
Sale of goods and rendering of services		<b>1,343</b>	1,703
Revenue from other Australian Government entities	1.2A	<b>30,351</b>	5,073
Other revenue	1.2B	<b>8,904</b>	11,284
<b>Total own-source revenue</b>		<b>40,598</b>	18,060
<b>Gains</b>			
Reversal of write-downs and impairment	3.1B	<b>8</b>	57
<b>Total gains</b>		<b>8</b>	57
<b>Net Cost of Services</b>		<b>451,509</b>	471,447
<b>Total revenue from Government</b>	1.2C	<b>437,092</b>	403,261
<b>Surplus/(Deficit)</b>		<b>(14,417)</b>	(68,186)
<b>Total comprehensive income/(loss)</b>		<b>(14,417)</b>	(68,186)

The above statement should be read in conjunction with the accompanying notes.

# Statement of Financial Position

AS AT 30 JUNE 2021

	Notes	2021 \$'000	2020 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	3.1A	46,304	41,151
Trade and other receivables	3.1B	157,936	170,493
<b>Total financial assets</b>		<b>204,240</b>	211,644
<b>Non-financial assets</b>			
Buildings	3.2	214,302	236,404
Plant and equipment	3.2	25,896	19,511
Computer software	3.2	83,417	74,007
Prepayments		13,533	17,706
<b>Total non-financial assets</b>		<b>337,148</b>	347,628
<b>Total assets</b>		<b>541,388</b>	559,272
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	3.3A	29,750	30,798
Other payables	3.3B	34,209	37,217
<b>Total payables</b>		<b>63,959</b>	68,015
<b>Interest-bearing liabilities</b>			
Leases	3.4	217,968	242,810
<b>Total interest-bearing liabilities</b>		<b>217,968</b>	242,810
<b>Provisions</b>			
Employee provisions	6.1	81,387	83,248
Other provisions	3.5	13,961	12,739
<b>Total provisions</b>		<b>95,348</b>	95,987
<b>Total liabilities</b>		<b>377,275</b>	406,812
<b>Net assets</b>		<b>164,113</b>	152,460
<b>EQUITY</b>			
Contributed equity		500,703	474,633
Reserves		22,500	22,500
Accumulated deficit		(359,090)	(344,673)
<b>Total equity</b>		<b>164,113</b>	152,460

The above statement should be read in conjunction with the accompanying notes.

# Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2021

	Notes	2021 \$'000	2020 \$'000
<b>CONTRIBUTED EQUITY</b>			
Opening balance		474,633	436,058
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations		6,904	13,426
Departmental capital budget		20,856	25,149
Restructuring	8.2	(1,690)	-
<b>Total transactions with owners</b>		<b>26,070</b>	<b>38,575</b>
<b>Closing balance as at 30 June</b>		<b>500,703</b>	<b>474,633</b>
<b>RETAINED EARNINGS</b>			
Opening balance		(344,673)	(295,515)
Adjustment on initial application of AASB 16		-	19,028
<b>Adjusted opening balance</b>		<b>(344,673)</b>	<b>(276,487)</b>
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period		(14,417)	(68,186)
<b>Total comprehensive loss</b>		<b>(14,417)</b>	<b>(68,186)</b>
<b>Closing balance as at 30 June</b>		<b>(359,090)</b>	<b>(344,673)</b>
<b>ASSET REVALUATION RESERVE</b>			
Opening balance		22,500	22,500
<b>Closing balance as at 30 June</b>		<b>22,500</b>	<b>22,500</b>
<b>TOTAL EQUITY</b>			
Opening balance		152,460	163,043
Adjustment on initial application of AASB 16		-	19,028
<b>Adjusted opening balance</b>		<b>152,460</b>	<b>182,071</b>
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period		(14,417)	(68,186)
<b>Total comprehensive loss</b>		<b>(14,417)</b>	<b>(68,186)</b>
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations		6,904	13,426
Departmental capital budget	5.1A	20,856	25,149
Restructuring		(1,690)	-
<b>Total transactions with owners</b>		<b>26,070</b>	<b>38,575</b>
<b>Closing balance as at 30 June</b>		<b>164,113</b>	<b>152,460</b>

The above statement should be read in conjunction with the accompanying notes.



# Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2021

	Notes	2021 \$'000	2020 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		484,672	426,545
Operating cash received		1,343	1,703
Net GST received		15,002	20,922
Cost recoveries		6,728	8,057
Other cash received		28,100	10,887
<b>Total cash received</b>		<b>535,845</b>	<b>468,114</b>
<b>Cash used</b>			
Employees		283,077	262,990
Suppliers		148,863	194,067
Interest payments on lease liabilities		2,134	1,209
Section 74 receipts transferred to OPA		28,768	20,667
<b>Total cash used</b>		<b>(462,842)</b>	<b>(478,933)</b>
<b>Net cash from/(used by) operating activities</b>		<b>73,003</b>	<b>(10,819)</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of leasehold improvements, plant and equipment and intangibles		73,044	34,756
<b>Net cash (used by) investing activities</b>		<b>(73,044)</b>	<b>(34,756)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity		29,784	35,967
<b>Total cash received</b>		<b>29,784</b>	<b>35,967</b>
<b>Cash used</b>			
Principal payments of lease liabilities		24,590	14,462
<b>Total cash used</b>		<b>(24,590)</b>	<b>(14,462)</b>
<b>Net cash from/(used by) financing activities</b>		<b>5,194</b>	<b>21,505</b>
<b>Net increase/(decrease) in cash held</b>		<b>5,153</b>	<b>(24,070)</b>
Cash and cash equivalents at the beginning of the reporting period		41,151	65,221
<b>Cash and cash equivalents at the end of the reporting period</b>	3.1A	<b>46,304</b>	<b>41,151</b>

The above statement should be read in conjunction with the accompanying notes.

# Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2021

	Notes	2021 \$'000	2020 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Grants	2.1A	6,007	6,255
Impairment loss allowance on financial instruments	2.1B	60,436	69,110
Claims for unclaimed monies	2.1C	160,701	127,163
Promotional costs for MoneySmart initiatives		574	565
<b>Total expenses</b>		<b>227,718</b>	203,093
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Fees		892,685	814,536
Supervisory cost recovery levies		62,960	59,602
<b>Total taxation revenue</b>		<b>955,645</b>	874,138
<b>Non-taxation revenue</b>			
Supervisory cost recovery levies		235,781	263,288
Fees and fines	2.2A	321,137	221,036
Unclaimed monies lodgements	2.2B	295,304	201,896
<b>Total non-taxation revenue</b>		<b>852,222</b>	686,220
<b>Total revenue</b>		<b>1,807,867</b>	1,560,358
<b>Net contribution by services</b>		<b>1,580,149</b>	1,357,265

The above schedule should be read in conjunction with the accompanying notes.

# Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2021

	Notes	2021 \$'000	2020 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents		1,524	1,435
Supervisory cost recovery levies receivable	4.1A	314,471	330,543
Fees and fines receivable	4.1B	141,513	138,836
Trade and other receivables	4.1C	10,006	7,901
<b>Total assets administered on behalf of Government</b>		<b>467,514</b>	<b>478,715</b>
<b>LIABILITIES</b>			
<b>Payables and provisions</b>			
Suppliers and other payables	4.2A	44,526	40,333
Unclaimed monies provisions	4.2B	491,183	417,284
<b>Total liabilities administered on behalf of Government</b>		<b>535,709</b>	<b>457,617</b>
<b>Net assets/(liabilities)</b>		<b>68,195</b>	<b>21,098</b>

The above schedule should be read in conjunction with the accompanying notes.

# Administered Reconciliation Schedule

FOR THE YEAR ENDED 30 JUNE 2021

	2021 \$'000	2020 \$'000
<b>Opening assets less liabilities as at 1 July</b>	<b>21,098</b>	56,550
<b>Net contribution by services:</b>		
Administered income	<b>1,807,867</b>	1,560,358
Administered expenses	<b>(227,718)</b>	(203,093)
	<b>1,580,149</b>	1,357,265
<b>Transfers (to)/from the Australian Government</b>		
Appropriation transfers from Official Public Account:		
Special (unlimited) and ordinary appropriations		
Appropriation Act No. 1	<b>7,777</b>	5,059
Banking Act unclaimed monies	<b>52,551</b>	25,450
Life Insurance Act unclaimed monies	<b>4,960</b>	5,979
Section 77 PGPA Act	<b>32,298</b>	29,630
Total of appropriation transfers from Official Public Account	<b>97,586</b>	66,118
Administered transfers to Official Public Account	<b>(1,767,028)</b>	(1,458,835)
<b>Closing assets less liabilities as at 30 June</b>	<b>(68,195)</b>	21,098

The above schedule should be read in conjunction with the accompanying notes.

# Administered Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2021

	2021 \$'000	2020 \$'000
<b>OPERATING ACTIVITIES</b>		
<b>Cash received</b>		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act, Superannuation Industry (Supervision) Act and ASIC Supervisory Cost Recovery Levy	1,467,555	1,252,283
Corporation Act unclaimed monies	88,418	58,410
Banking Act unclaimed monies	167,555	121,974
Life Insurance Act unclaimed monies	39,331	21,512
<b>Total cash received</b>	<b>1,762,859</b>	<b>1,454,179</b>
<b>Cash used</b>		
Refunds paid to:		
Company shareholders	29,254	26,203
Deposit-taking institution account holders	52,588	25,486
Life insurance policy holders	4,960	5,979
Promotion expenses for MoneySmart Initiatives	724	620
Grants	5,780	3,283
Net GST paid	22	315
<b>Total cash used</b>	<b>(93,328)</b>	<b>(61,886)</b>
<b>Net cash from operating activities</b>	<b>1,669,531</b>	<b>1,392,293</b>
<b>Cash from Official Public Account for:</b>		
Appropriations	97,586	66,118
<b>Less: Cash to Official Public Account for:</b>		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act and ASIC Supervisory Cost Recovery Levy fees and charges	1,471,724	1,256,939
Corporations Act unclaimed monies	88,418	58,410
Banking Act unclaimed monies	167,555	121,974
Life Insurance Act unclaimed monies	39,331	21,512
<b>Total cash to Official Public Account</b>	<b>(1,767,028)</b>	<b>(1,458,835)</b>
<b>Net increase/(decrease) in cash held</b>	<b>89</b>	<b>(424)</b>
Cash and cash equivalents at the beginning of the reporting period	1,435	1,859
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>1,524</b>	<b>1,435</b>

The above schedule should be read in conjunction with the accompanying notes.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2021

## Overview

### Objectives of the Australian Securities and Investments Commission (ASIC)

ASIC is an independent Commonwealth Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001*, and other legislation, throughout Australia. ASIC is a not-for-profit entity and our objectives, outlined in s1(2) of the ASIC Act, include:

- › the promotion of confident and informed participation of investors and consumers in the financial system;
- › the maintenance, facilitation and improvement in the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy; and
- › to administer the laws that confer functions and powers on it effectively and with a minimum of procedural requirements.

ASIC collects and administers revenue under the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009* and prescribed fees set by the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003*, the *National Consumer Credit Protection Act 2009*, the Business Names Registration (Fees) Regulations 2010 and the *Superannuation Industry (Supervision) Act 1993*. In addition, ASIC collects revenue under the *ASIC Supervisory Cost Recovery Levy Act 2017*, and the ASIC Supervisory Cost Recovery Levy Regulations 2017. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items. Administered items are distinguished by shading in these financial statements.

ASIC is structured to deliver a single outcome, and the result is in the Statement of Comprehensive Income:

*Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.*

The continued existence of ASIC in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for ASIC's administration and programs.

### **Basis of preparation**

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

The financial statements and notes have been prepared in accordance with the:

- › Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR); and
- › Australian Accounting Standards – Reduced Disclosure Requirement issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

### **New Accounting Standards**

All new accounting standards, amendments to standards and interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect and are not expected to have a future material effect on ASIC's financial statements.

AASB 1059 *Service Concession Arrangements: Grantors* became effective on 1 July 2020 but does not apply to ASIC.

### **Taxation**

ASIC is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

#### **Reporting of Administered activities**

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Administered Schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

### **Events after the reporting period**

There were no events occurring after balance date that had a material effect on the Departmental or Administered financial statements.

## Note 1. Departmental financial performance

This section analyses the financial performance of ASIC for the year ended 30 June 2021

### 1.1 Expenses

	2021 \$'000	2020 \$'000
<b>1.1A: Employee benefits</b>		
Wages and salaries	215,154	208,968
Superannuation		
Defined-benefit schemes	11,260	12,018
Defined-contribution schemes	28,687	25,403
Leave and other entitlements	25,808	28,047
Separation and redundancies <sup>1</sup>	1,931	920
<b>Total employee benefits</b>	<b>282,840</b>	<b>275,356</b>

1. Separation and redundancy costs are generally calculated on the basis of two weeks pay for every year of service for each employee with a minimum of four weeks and a maximum of 48 weeks.

#### Accounting Policy

Accounting policies for employee related expenses are detailed in Note 6 People and relationships.



	2021 \$'000	2020 \$'000
<b>1.1B: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
Legal and forensic costs	46,380	46,352
Office computer and software expenses	32,718	29,372
Consultants and specialist services	23,653	26,083
Property-related outgoings	8,910	9,406
Information costs	4,115	5,337
Other goods and services	3,454	3,775
Bank fees	3,343	2,921
Communications	3,203	2,346
Learning and development	3,149	2,780
Postage and freight	2,526	2,693
Recruitment	1,916	2,079
Security	1,743	1,696
Travel	471	4,318
<b>Total goods and services supplied or rendered</b>	<b>135,581</b>	<b>139,158</b>
Goods supplied	1,145	1,556
Services rendered	134,436	137,602
<b>Total goods and services supplied or rendered</b>	<b>135,581</b>	<b>139,158</b>
<b>Other suppliers</b>		
Short-term leases	404	10,160
Workers compensation expense	14	(288)
Fringe benefits tax <sup>1</sup>	(144)	258
<b>Total other suppliers</b>	<b>274</b>	<b>10,130</b>
<b>Total suppliers</b>	<b>135,855</b>	<b>149,288</b>

1. The credit in Fringe Benefits Tax expense is from overpayments in 2019 and 2020.

The above lease disclosures should be read in conjunction with Notes 1.1B, 1.1C and 3.4.

## Accounting Policy

### Short-term leases and leases of low-value assets

ASIC has elected not to recognise the right of use (ROU) assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). ASIC recognises the lease payments associated with these leases as an expense on a straight-line basis over the life of the lease terms.

	2021 \$'000	2020 \$'000
<b>1.1C: Finance costs</b>		
Unwinding of restoration provision	16	188
Interest on lease liability	2,134	1,209
<b>Total finance costs</b>	<b>2,150</b>	<b>1,397</b>
<b>1.1D: Write-down and impairment of other assets</b>		
Write-off of leasehold improvements	390	-
Write-off of plant & equipment	314	2
<b>Total write-down and impairment of other assets</b>	<b>704</b>	<b>2</b>

## 1.2 Own-source revenue

### Accounting Policy

#### Rendering of services

Revenue from rendering of services is recognised when the resources have been purchased. Revenue is recognised when:

- › the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- › the probable economic benefits associated with the transaction will flow to ASIC.

#### Operating lease revenue

Operating sublease revenue is recognised as revenue on commencement of the lease under the Memorandum of Understanding. The leases terms are on a 12 month rolling basis.

#### Resources received free of charge

Resources received free of charge are recognised as revenue when, and only when, the fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

	2021 \$'000	2020 \$'000
<b>1.2A: Revenue from other Australian Government entities<sup>1</sup></b>		
Australian Taxation Office (ATO) <sup>2</sup>	20,260	5,073
Department of Home Affairs (DHA)	10,091	-
	<b>30,351</b>	5,073
<b>1.2B: Other revenue</b>		
Cost recoveries <sup>3</sup>	6,738	8,920
Other <sup>2</sup>	2,166	2,364
<b>Total other revenues</b>	<b>8,904</b>	11,284

1. Relates to reimbursement of operating and capital expenditure incurred by ASIC on government programs funded directly by other Australian Government entities.
2. Line items and comparatives have been changed to provide greater transparency, due to the material increase in funding from other Australian Government entities.
3. Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

### **1.2C: Revenue from Government**

Appropriations:

Departmental appropriations <sup>1</sup>	377,871	362,066
Departmental special appropriations <sup>2</sup>	59,221	41,195
<b>Total revenue from Government</b>	<b>437,092</b>	403,261

1. Ordinary annual appropriations, originally \$382.014m, have been reduced by \$4.143m as part of the Modernising Business Registers program. Refer to Note 8.2.
2. A special account is a limited special appropriation that notionally sets aside an amount that can be expended for a particular purpose. \$59.2m of ASIC's 2020–21 ordinary annual appropriation has been allocated to the Enforcement Special Account, which was established to fund the costs arising from the investigation and litigation of matters of significant public interest.

## **Accounting Policy**

### **Revenue from Government**

Amounts appropriated for departmental appropriations for the period (adjusted for any formal additions and reductions) are recognised as revenue from Government when ASIC gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

## Note 2. Income and expenses administered on behalf of Government

This section analyses the activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 2.1 Administered – expenses

	2021 \$'000	2020 \$'000
<b>2.1A: Grants</b>		
Rendering of services		
Insolvency practitioners	6,007	6,255
<b>Total grants</b>	<b>6,007</b>	<b>6,255</b>

#### Accounting Policy

ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.

Grant liabilities are recognised to the extent that (i) the services required to be performed by the grantee have been performed or (ii) the grant eligibility criteria have been satisfied, but payments due have not been made. When the Government enters into an agreement to make these grants and services, but services have not been performed or criteria satisfied, this is considered a commitment.

	2021 \$'000	2020 \$'000
<b><u>2.1B: Impairment loss allowance on financial instruments</u></b>		
Impairment of receivables	54,406	63,920
Waiver of fees and charges owing	6,030	5,190
<b>Total impairment on financial instruments</b>	<b>60,436</b>	<b>69,110</b>
<b><u>2.1C: Claims for unclaimed monies</u></b>		
Claims – Bank and deposit-taking institution account holders	100,705	82,848
Claims – Life Insurance policy holders	20,384	10,997
Claims – <i>Corporations Act 2001</i>	39,612	33,318
<b>Total other expenses</b>	<b>160,701</b>	<b>127,163</b>

### Accounting Policy

Refer to Note 4.1 for the policy pertaining to the impairment of receivables and fee waivers.

In determining whether a fee should be waived in whole or part, ASIC considers the extent to which the company's officers or its representatives contributed to the circumstances of the matter, in accordance with Part 7 of the Finance Minister's Delegation under section 63 of the PGPA Act.

Administered expenses for refunds of unclaimed monies under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001* are recognised by estimating the value of claims likely to be repaid in respect of unclaimed money collected by ASIC as at balance date. The methodology used to determine the value of probable claims is determined by an independent actuary. Successful claims are paid out of the provision account.

## 2.2 Administered – income

### Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by ASIC on behalf of the Government.

Administered revenue is generated from fees and fines under the following legislation:

- › *Corporations (Fees) Act 2001*
- › *Corporations (Review Fees) Act 2003*,
- › National Consumer Credit Protection (Fees) Regulation 2010,
- › Business Names Registration (Fees) Regulation 2012 and
- › *Superannuation Industry (Supervision) Act 1993*.

Administered fee revenue is recognised on an accruals basis when:

- › the client or the client group can be identified in a reliable manner;
- › an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions; and
- › the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Administered taxation revenue is recognised at its nominal amount due and an expense is recognised for impaired debts.

	2021 \$'000	2020 \$'000
<b>Non-taxation revenue</b>		
<b><u>2.2A: Fees and fines</u></b>		
Fines	241,250	149,265
Searches and information brokers fees	64,905	59,725
Fee for service and insolvency practitioners	14,982	12,046
<b>Total fees and fines</b>	<b>321,137</b>	<b>221,036</b>
<b><u>2.2B: Unclaimed monies lodgements</u></b>		
<i>Corporations Act 2001</i> unclaimed monies	88,418	58,410
<i>Banking Act 1959</i> unclaimed monies	167,555	121,974
<i>Life Insurance Act 1995</i> unclaimed monies	39,331	21,512
<b>Total unclaimed monies</b>	<b>295,304</b>	<b>201,896</b>

### Accounting Policy

ASIC undertakes the collection of certain levies on behalf of the Government. These comprise of:

- › the ASIC Supervisory Cost Recovery Levy Act 2017; and
- › the ASIC Supervisory Cost Recovery Levy Regulations 2017.

ASIC also receives non-taxation revenue from search fees, fines – including late fees, court fines, penalties and infringement notices – and from unclaimed monies received under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001*. This revenue is not available to ASIC and is transferred to the OPA.

Administered revenue arising from levies is recognised on an accrual basis.

The collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less, rather than more, likely.

## Note 3. Departmental financial position

This section analyses ASIC's assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in the People and relationships section.

### 3.1 Financial assets

	2021 \$'000	2020 \$'000
<b>3.1A: Cash and cash equivalents</b>		
Cash in special accounts	45,174	39,599
Cash at bank	1,130	1,552
<b>Total cash and cash equivalents</b>	<b>46,304</b>	<b>41,151</b>

The closing balance of Cash in special accounts does not include amounts held in trust (\$11.724m in 2021 and \$8.838m in 2020). See Note 5.2 Special Accounts for more information.

### Accounting Policy

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a) cash on hand;
- b) cash in special accounts.

	2021 \$'000	2020 \$'000
<b>3.1B: Trade and other receivables</b>		
<b>Goods and services receivables:</b>		
Goods and services	47,781	40,381
<b>Total goods and services receivables (gross)</b>	<b>47,781</b>	40,381
<b>Less impairment allowance</b>	<b>(630)</b>	(585)
<b>Total goods and services receivables (net)</b>	<b>47,151</b>	39,796
<b>Appropriations receivables:</b>		
Appropriations receivable	105,195	126,031
<b>Total appropriations receivable</b>	<b>105,195</b>	126,031
<b>Other receivables:</b>		
GST receivable from the Australian Taxation Office	5,590	4,666
<b>Total other receivables</b>	<b>5,590</b>	4,666
<b>Total trade and other receivables (net)</b>	<b>157,936</b>	170,493
<b>Trade and other receivables are expected to be recovered:</b>		
No more than 12 months	157,936	170,493
Credit terms for goods and services were within 20 days (2020: 20 days)		
<b>Reconciliation of the movement in the impairment allowance account</b>		
As at 1 July	585	602
Amounts recovered and reversed	(8)	(57)
Increase recognised in net cost of services	53	40
<b>Total as at 30 June</b>	<b>630</b>	585

## Accounting Policy

### Receivables

Trade receivables and other receivables are classified as 'loans and receivables' and recorded at face value less any impairment. Trade receivables are recognised where ASIC becomes party to a contract and has a legal right to receive cash. Trade receivables are derecognised on payment.

Financial assets are assessed for impairment at the end of each reporting period. Allowances are made when collectability of the debt is no longer probable.



### 3.2 Non-financial assets

#### Reconciliation of the opening and closing balances of property, plant & equipment and intangibles

	Buildings \$'000	Plant & equipment \$'000	Computer software \$'000	Total \$'000
<b>As at 1 July 2020</b>				
Gross book value	324,261	70,148	395,242	<b>789,651</b>
Accumulated depreciation/amortisation and impairment	(87,857)	(50,637)	(321,235)	<b>(459,729)</b>
<b>Total as at 1 July 2020</b>	<b>236,404</b>	<b>19,511</b>	<b>74,007</b>	<b>329,922</b>
Additions:				
By purchase	17,453	14,503	25,735	<b>57,691</b>
Internally developed	-	-	16,678	<b>16,678</b>
ROU assets	10,012	-	-	<b>10,012</b>
<b>Total additions</b>	<b>27,465</b>	<b>14,503</b>	<b>42,413</b>	<b>84,381</b>
Depreciation and amortisation	(4,266)	(7,793)	(33,003)	<b>(45,062)</b>
Depreciation of ROU assets	(25,451)	-	-	<b>(25,451)</b>
<b>Total depreciation and amortisation</b>	<b>(29,717)</b>	<b>(7,793)</b>	<b>(33,003)</b>	<b>(70,513)</b>
ROU assets – adjustments <sup>1</sup>	(1,655)	-	-	<b>(1,655)</b>
Disposals				
From disposal of entities or operations (including restructuring)	(17,805)	(11)	-	<b>(17,816)</b>
Other	(390)	(314)	-	<b>(704)</b>
<b>Total as at 30 June 2021</b>	<b>214,302</b>	<b>25,896</b>	<b>83,417</b>	<b>323,615</b>
<b>Total as at 30 June 2021 represented by:</b>				
Gross book value	268,496	75,882	437,640	<b>782,018</b>
Accumulated depreciation/amortisation and impairment	(54,194)	(49,986)	(354,223)	<b>(458,403)</b>
<b>Total as at 30 June 2021</b>	<b>214,302</b>	<b>25,896</b>	<b>83,417</b>	<b>323,615</b>
<b>Carrying amount of ROU assets</b>	<b>173,373</b>	<b>-</b>	<b>-</b>	<b>173,373</b>

1. The ROU asset for 100 Market Street Sydney was measured using an estimate of the net lettable area (NLA). A review undertaken during the 2021 financial year determined that the actual NLA was less than the estimated NLA.

The carrying value of leasehold improvements, plant & equipment and computer software was reviewed at 30 June 2021. No indicators of impairment were found.

## Accounting Policy

Assets are recorded at cost of acquisition, except where stated below.

The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

### Asset Recognition Threshold

Purchases of leasehold improvements, plant and equipment are initially recognised at cost in the Statement of Financial Position, except for purchases costing less than \$5,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions taken up by ASIC where there exists an obligation to restore the premises to their original condition at the conclusion of the lease. These costs are included in the value of ASIC's property expenses with a corresponding provision for the 'make good' recognised.

### Lease Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 ASIC has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, GGS and Whole of Government financial statements.

### Revaluations

Following initial recognition at cost, leasehold improvements, plant and equipment (excluding ROU assets) are carried at latest revaluation less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended on the volatility of movements in market values for the relevant assets. An independent valuation of ASIC's assets was undertaken as at 30 June 2019.

## Accounting Policy (continued)

Revaluation adjustments are made on a class basis. Any revaluation increment was credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date was eliminated against the gross carrying amount of the asset and the asset was restated to the revalued amount.

### Depreciation

All depreciable leasehold improvements, plant and equipment assets are written down to their estimated residual values over their estimated useful lives to ASIC, using the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2021	2020
Leasehold improvements	<b>Residual lease term</b>	Residual lease term
Plant and equipment	<b>2 to 80 years</b>	2 to 80 years

### Impairment

All assets were assessed for impairment as at 30 June 2021. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the entity were deprived of the asset, its value in use is taken to be its current replacement cost.

### Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

## Accounting Policy (continued)

### Intangibles

ASIC's intangibles comprise software either purchased or internally developed for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful life of ASIC's hardware is 2 to 10 years (2020: 2 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2021.

### Significant accounting judgements and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- › The fair value of leasehold improvements and property, plant and equipment (excluding ROU assets) is assessed at market value or current replacement cost as determined by an independent valuer and is subject to management assessment between formal valuations.

### 3.3 Payables

	2021 \$'000	2020 \$'000
<b>3.3A: Suppliers</b>		
Trade creditors and accruals	29,750	30,798
<b>Total suppliers</b>	<b>29,750</b>	<b>30,798</b>

Supplier payables are settled per the terms of the purchase order or contract and are expected to be settled within 12 months.

#### 3.3B: Other payables

Prepayments received/unearned income	11,404	15,423
Salaries and bonuses	18,990	16,603
Separations and redundancies	644	1,401
Other <sup>1</sup>	3,171	3,790
<b>Total other payables</b>	<b>34,209</b>	<b>37,217</b>

1. Includes GST payable of \$2.982m (2020: \$3.553m)

### 3.4 Interest-bearing liabilities

Lease liabilities	217,968	242,810
<b>Total leases</b>	<b>217,968</b>	<b>242,810</b>

Total cash outflow for leases for the year ended 30 June 2021 was \$26.725m (2020: \$15.671m).

#### Maturity analysis – contractual undiscounted cash flows

Within 1 year	23,181	27,085
Between 1 to 5 years	107,184	107,766
More than 5 years	102,535	118,831
<b>Total leases</b>	<b>232,900</b>	<b>253,682</b>

The above lease disclosures should be read in conjunction with Notes 1.1B, 1.1C and 3.4.

### Accounting Policy

For all new contracts entered into, ASIC considers whether the contract is, or contains a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'.

Once it has been determined that a contract is, or contains a lease, the lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, if that rate is readily determinable, or the Department of Finance's incremental borrowing rate.

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification to the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset or profit and loss depending on the nature of the reassessment or modification.

### 3.5 Other provisions

	Provision for restructuring \$'000	Provision for restoration costs \$'000	Provision for settlement costs \$'000	Total Other Provisions \$'000
As at 1 July 2020	300	6,419	6,020	12,739
Additions	22	452	2,670	3,144
Amounts reversed	-	(988)	(950)	(1,938)
Amortisation of restoration provision discount	-	16	-	16
<b>Total as at 30 June 2021</b>	<b>322</b>	<b>5,899</b>	<b>7,740</b>	<b>13,961</b>

### Accounting Policy

#### Restoration costs

ASIC currently has two lease agreements (2020: four) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. The provision reflects the current best estimate of these future restoration costs discounted to reflect the present value of the future payments.

#### Settlement costs

ASIC recognises a provision for the estimated costs that will be paid on settlement of current legal proceedings based on past history of settlement costs.

The accounting policy for the provision for restructuring is contained in Note 6 People and relationships.

## Note 4. Assets and liabilities administered on behalf of the Government

This section analyses assets used to conduct operations and the operating liabilities incurred as a result of activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 4.1 Administered – financial assets

	2021 \$'000	2020 \$'000
<b>4.1A: Supervisory cost recovery levies receivables</b>		
Supervisory cost recovery levies receivables – taxation	62,960	59,602
Supervisory cost recovery levies receivables – non-taxation	256,589	274,088
<b>Total supervisory cost recovery levies receivables (gross)</b>	<b>319,549</b>	<b>333,690</b>
Less impairment loss allowance		
Supervisory cost recovery levies	5,078	3,147
<b>Total supervisory cost recovery levies receivables (net)</b>	<b>314,471</b>	<b>330,543</b>
<b>4.1B: Other taxation receivables</b>		
Fees and fines receivable	219,745	219,965
<b>Total other taxation receivables (gross)</b>	<b>219,745</b>	<b>219,965</b>
Less impairment loss allowance		
Fees and fines	78,232	81,129
<b>Total other taxation receivables (net)</b>	<b>141,513</b>	<b>138,836</b>
Taxation receivables are due from entities that are not part of the Australian Government. Credit terms for goods and services were within 30 days (2020: 30 days)		
<b>4.1C: Trade and other receivables</b>		
Information brokers' fees	9,532	7,449
GST receivable	474	452
<b>Total trade and other receivables (gross)</b>	<b>10,006</b>	<b>7,901</b>

## Accounting Policy

### Receivables

Administered receivables are recognised at their nominal value less an impairment allowance. The Finance Minister has determined that statutory receivables are not financial instruments and accordingly ASIC has assessed administered receivables for impairment under AASB 136 *Impairment of Assets* (FRR 26.3).

The impairment allowance is raised against receivables for any doubtful debts and any probable credit amendments, and is based on a review of outstanding debts at balance date. This includes an examination of individual large debts and disputed amounts with reference to historic collection patterns.

The impairment allowance expense is calculated using estimation techniques to determine an estimate of current receivables which are unlikely to be collected in the future.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under s63 of the PGPA Act.

## 4.2 Administered – payables

	2021 \$'000	2020 \$'000
<b>4.2A: Suppliers and other payables</b>		
Supplier payables	28	178
Refund of fees payable	22,196	19,060
Unallocated monies	10,535	9,917
Grants payable <sup>1</sup>	4,222	3,995
Other non-current payables <sup>2</sup>	7,545	7,183
<b>Total payables</b>	<b>44,526</b>	<b>40,333</b>

All payables are for entities that are not part of the Australian Government.

All payables, with the exception of Other non-current payables, are expected to be settled within 12 months. Settlement is usually made within 30 days.

1. Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.
2. Other non-current payables are over payments of fees where payments are made to ASIC in error. The settlement period is expected to be greater than 12 months as these are unidentified payments.



	2021 \$'000	2020 \$'000
<b>4.2B: Unclaimed monies provisions</b>		
<i>Corporations Act 2001 claims</i>	<b>215,427</b>	205,071
<i>Banking Act 1959 claims</i>	<b>228,710</b>	180,591
<i>Life Insurance Act 1995 claims</i>	<b>47,046</b>	31,622
<b>Total other provisions</b>	<b>491,183</b>	417,284

## Accounting Policy

### Provisions

The provisions recognised in the Administered Schedule of Assets and Liabilities are for estimated claims payable from collections of unclaimed monies administered by ASIC as at balance date. ASIC adopted a provision for future claims based on an independent valuation as at 30 June, calculated by a registered actuary, under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.

### Significant accounting judgements and estimates

The provision has been estimated taking into account the historic claims pattern experienced since 2002 and the outstanding lodgements. The estimate reflects the volatility of unclaimed monies lodgements and claims from year to year, which is impacted by factors including economic events, legislative change, media exposure and the behaviour of claimants, each of which has differed significantly from year to year and over time. The estimated future flow of refunds over time has been discounted to present value at a risk-free rate of interest based on government bond rates with similar terms to the expected refunds. Allowance has been made for payment of compounding interest for all claims from 1 July 2013 on unclaimed balances in accordance with actual legislated interest rates and estimated future interest rates based on economist expectations for inflation in the medium to longer term, noting legislated interest rates are linked to movements in the CPI.

## Note 5. Funding

This section identifies ASIC's funding structure.

### 5.1 Appropriations

#### 5.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2021	Annual appropriation \$'000	Adjustments to appropriation <sup>1,2</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2021 (current and prior years) \$'000	Variance <sup>3</sup> \$'000
<b>Departmental</b>					
Ordinary annual services	441,235	24,625	<b>465,860</b>	528,118	<b>(62,258)</b>
Capital Budget <sup>4</sup>	20,856	-	<b>20,856</b>	20,749	<b>107</b>
Other Services					
Equity Injections	6,904	-	<b>6,904</b>	9,035	<b>(2,131)</b>
<b>Total Departmental</b>	<b>468,995</b>	<b>24,625</b>	<b>493,620</b>	<b>557,902</b>	<b>(64,282)</b>
<b>Administered</b>					
Ordinary annual services	9,708	-	9,708	7,674	2,034
<b>Total Administered</b>	<b>9,708</b>	<b>-</b>	<b>9,708</b>	<b>7,674</b>	<b>2,034</b>

1. Section 74 receipts (\$28.768m).
2. Section 75 Machinery of Government transfer (\$4.143m).
3. The variance in Departmental expenses is due to the payment of prior year accrued expenses in the current year.
4. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

### Accounting Policy

#### Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCB) are recognised directly in contributed equity in that year.

Annual appropriations for 2020	Annual appropriation \$'000	Adjustments to appropriation <sup>1</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2020 (current and prior years) \$'000	Variance <sup>2</sup> \$'000
Departmental					
Ordinary annual services	403,261	20,667	423,928	515,165	(91,237)
Capital Budget <sup>3</sup>	25,149	–	25,149	26,569	(1,420)
Other Services					
Equity Injections	13,426	–	13,426	9,398	4,028
<b>Total Departmental</b>	<b>441,836</b>	<b>20,667</b>	<b>462,503</b>	<b>551,132</b>	<b>(88,629)</b>
Administered					
Ordinary annual services	10,261	–	10,261	5,194	5,067
<b>Total Administered</b>	<b>10,261</b>	<b>–</b>	<b>10,261</b>	<b>5,194</b>	<b>5,067</b>

1 Section 74 receipts.

2 The variance in Departmental expenses is due to the payment of prior year accrued expenses in the current year and approximately \$20m of expenditure funded from the opening balance of the Enforcement Special Account.

3 Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

	2021 \$'000	2020 \$'000
<b>5.1B: Unspent annual appropriations ('recoverable GST exclusive')</b>		
<b>Departmental</b>		
<i>Appropriation Act (No. 1) DCB 2017–2018<sup>1</sup></i>	-	3,604
<i>Appropriation Act (No. 1) DCB 2018–2019<sup>2</sup></i>	<b>4,409</b>	4,409
<i>Appropriation Act (No. 2) 2018–2019</i>	-	21
<i>Appropriation Act (No. 4) 2018–2019</i>	-	3
<i>Appropriation Act (No. 1) 2019–2020<sup>3</sup></i>	-	115,311
<i>Appropriation Act (No. 1) DCB 2019–2020</i>	-	329
<i>Appropriation Act (No. 3) 2019–2020</i>	-	1,042
<i>Appropriation Act (No. 4) 2019–2020</i>	<b>1,891</b>	6,468
<i>Appropriation Act (No. 1) 2020–2021</i>	<b>96,891</b>	-
<i>Appropriation Act (No. 1) DCB 2020–21</i>	<b>436</b>	-
<i>Appropriation Act (No. 2) 2020–2021</i>	<b>1,433</b>	-
<i>Supply Act (No. 2) 2020–2021</i>	<b>1,037</b>	-
<i>Appropriation Act (No. 3) 2020–2021</i>	<b>228</b>	-
Enforcement Special Account	<b>45,174</b>	39,599
<b>Total departmental</b>	<b>151,499</b>	170,786

Unspent departmental appropriations include cash balances of \$1.130m (2020: \$1.552m).

1. Includes \$3.604m quarantined under section 51 of the PGPA Act. The balance is not available beyond 30 June 2020, following the repeal of Appropriation Act (No.1) 2017–2018 on 1 July 2020.
2. This amount is not available beyond 30 June 2021, following the repeal of Appropriation Act (No.1) 2018–2019 on 1 July 2021
3. \$5.048m has been transferred to the ATO under section 75 of the PGPA Act. Refer to Note 8.2 Restructuring for further details.

#### **Administered**

<i>Appropriation Act (No. 1) 2017–2018<sup>1</sup></i>	-	284
<i>Appropriation Act (No. 1) 2018–2019<sup>2</sup></i>	<b>2,933</b>	3,239
<i>Appropriation Act (No. 1) 2019–2020</i>	<b>4,312</b>	6,202
<i>Supply Act (No. 1) 2019–2020</i>	<b>1,087</b>	3,836
<i>Appropriation Act (No. 1) 2020–2021</i>	<b>3,916</b>	-
<i>Supply Act (No. 1) 2020–2021</i>	<b>2,907</b>	-
<b>Total administered</b>	<b>15,155</b>	13,561

Unspent administered appropriations include cash balances of \$0.320m (2020: \$0.598m).

1. This amount is not available beyond 30 June 2020, following the repeal of Appropriation Act (No.1) 2017–2018 on 1 July 2020.
2. This amount is not available beyond 30 June 2021, following the repeal of Appropriation Act (No.1) 2018–2019 on 1 July 2021.

### 5.1C: Special appropriations ('recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2021 \$'000	2020 \$'000
s69 <i>Banking Act 1959</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from banking and deposit-taking institutions. ASIC receives special appropriations from the OPA (section 69 <i>Banking Act 1959</i> ) to refund amounts to banking and deposit-taking institution account holders.	52,551	25,450
s216 <i>Life Insurance Act 1995</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. ASIC receives special appropriations from the OPA (section 216 <i>Life Insurance Act 1995</i> ) to refund amounts to life insurance policy holders.	4,960	5,979
s77 PGPA Act, <i>Corporations Act 2001</i> , <i>National Consumer Credit Protection Act 2009</i> , <i>Business Names Registration (Fees) Regulations 2010</i> and <i>Superannuation Industry (Supervision) Act 1993</i> . (Refunds of overpaid Corporations Act fees and charges), Administered	Unlimited	ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the OPA as received. Refunds of overpayments are appropriated under section 77 of the PGPA Act.	4,020	4,750
s77 PGPA Act, <i>Corporations Act 2001</i> (Refunds of unclaimed money held under s1341 <i>Corporations Act 2001</i> ), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies under s1341 of the <i>Corporations Act 2001</i> .	28,278	24,880
<b>Total</b>			<b>89,809</b>	<b>61,059</b>

## 5.2 Special Accounts

	Enforcement Special Account <sup>1</sup>		ASIC Trust and Other Moneys Special Account 2018 <sup>2</sup>	
	2021 \$'000	2020 \$'000	2021 \$'000	2020 \$'000
Balance brought forward from previous period	39,599	62,954	8,838	12,196
<b>Increases</b>				
Appropriation for the reporting period	59,221	41,195	-	-
Other increases	5,964	7,549	3,682	9,884
Available for payments	104,784	111,698	12,520	22,080
<b>Decreases</b>				
Departmental				
Cash payments from the Special Account	(59,610)	(72,099)	-	-
Total departmental	(59,610)	(72,099)	-	-
Administered				
Cash payments from the Special Account	-	-	(796)	(13,242)
Total administered	-	-	(796)	(13,242)
Balance carried forward to the next period	45,174	39,599	11,724	8,838
Balance represented by:				
Cash held in entity bank accounts	-	-	11,724	8,838
Cash held in the Official Public Account	45,174	39,599	-	-
	45,174	39,599	11,724	8,838

1. Appropriation: *s78 Public Governance, Performance and Accountability Act 2013*.

Establishing Instrument: *s78 Public Governance, Performance and Accountability Act 2013*.

Purpose: the Enforcement Special Account (ESA) is a departmental special account which was established by a determination of the Finance Minister on 23 August 2016 to fund the costs of ASIC arising from the investigation and litigation of matters of significant public interest.

2. Appropriation: *s78 Public Governance, Performance and Accountability Act 2013*.

Establishing Instrument: *s78 Public Governance, Performance and Accountability Act 2013*.

Purpose: the ASIC Trust and Other Moneys Special Account was established by a determination of the Finance Minister on 30 June 2018,

(a) to perform duties or exercise powers for and on behalf of the Commonwealth in relation to money and other property vested in or held on behalf of the Commonwealth as a trustee, including:

(i) by making payments in relation to deregistered companies and property vested in the Commonwealth under Part 5A.1 of the Corporations Act;

(ii) by making payments in relation to liabilities imposed on property vested in the Commonwealth under Part 5A.1 of the Corporations Act; or

(iii) by making payments in relation to expenses incurred by or on behalf as the Commonwealth as a trustee.

- (b) to perform functions or exercise powers in relation to money or other property held on behalf of or for the benefit of a person other than the Commonwealth, including:
  - (i) in relation to money or other property held temporarily by ASIC as a consequence of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC;
  - (ii) by making payments to or for the benefit of a person for whose benefit the money was held by ASIC;
  - (iii) making payments of amounts required or contemplated to be paid by ASIC in the course of an investigation;
  - (iv) making payments to give effect to court orders, enforceable undertakings, settlements, transfers of assets, or other disbursements of monies held by ASIC on behalf of a person other than the Commonwealth; or
  - (v) making payments in relation to expenses incurred in relation to holding and realising third party assets, or locating and identifying any person for whose benefit an amount is held.
- (c) to perform functions and to exercise powers in relation to security bonds and security deposits lodged by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees, including security bonds and security deposits lodged under section 912B of the Corporations Act, and regulations 7.6.02AAA and 7.6.02AA of the Corporations Regulations, including by:
  - (i) discharging, returning or releasing a security bond or security deposit lodged with ASIC in whole or in part; or
  - (ii) making payments from security bonds or security deposits to compensate a person other than the Commonwealth who has suffered a pecuniary loss.
- (d) to repay an amount where a court order, Act or other law requires or permits the repayment of an amount received under clause 7; or
- (e) to reduce the balance of the special account (and, therefore, the available appropriation for the special account) without making a real or notional payment.

ASIC also has a Services for Other Entities and Trust Moneys Special Account – Australian Securities and Investments Commission (SOETM). This account was established under s78 *Public Governance, Performance and Accountability Act 2013*. The SOETM combines the purposes of the Other Trust Moneys and the Services for other Government and Non-agency Bodies special accounts into a single standard-purpose Special Account. The SOETM enables ASIC to continue to hold and expend amounts on behalf of persons or entities other than the Commonwealth. The SOETM will typically be used to accommodate small amounts of miscellaneous monies, for example, amounts received in connection with services performed for or on behalf of any persons or entities that are not agencies as prescribed under the PGPA Act, such as other governments. For the year ended 30 June 2021, the account had a nil balance and there were no transactions debited or credited to it during the current or prior reporting period.

The closing balance of the ASIC Trust and Other Moneys Special Account 2018 includes amounts held in trust: \$8.838m in 2020 and \$11.724m in 2021.

### 5.3 Regulatory charging summary

	2021 \$'000	2020 \$'000
<b>Amounts applied</b>		
Departmental		
Appropriation applied	321,829	337,843
<b>Total amounts applied</b>	<b>321,829</b>	<b>337,843</b>
<b>Expenses</b>		
Departmental	321,829	337,843
<b>Total expenses</b>	<b>321,829</b>	<b>337,843</b>
<b>External Revenue</b>		
Administered		
Fees for services	14,596	11,274
ASIC Supervisory Cost Recovery Levy	307,223	326,569
<b>Total external revenue</b>	<b>321,829</b>	<b>337,843</b>

#### Regulatory charging activities

On 20 April 2016, the Australian Government announced it would introduce an industry funding model for ASIC. Under the industry funding model ASIC's regulatory costs will be partially recovered from the industry sectors we regulate, through a combination of:

- (a) general industry levies (cost recovery levies);
- (b) statutory industry levies; and
- (c) cost recovery fees (fees for service), for user-initiated, transaction-based activities where we provide a specific service to individual entities.

ASIC's costs associated with regulatory activities will be recovered from industry as outlined in ASIC's Cost Recovery Implementation Statement. Activities include:

- › supervision and surveillance;
- › enforcement;
- › stakeholder engagement;
- › education;
- › guidance; and
- › policy advice.

The cost recovery implementation statement for the above activities is available at:

<https://asic.gov.au/media/5uyj11nb/cris-asic-industry-funding-model-2020-21-for-feedback-published-23-july-2021.pdf>



## 5.4 Net cash appropriation arrangements

	2021 \$'000	2020 \$'000
<b>Total comprehensive (loss) – as per the Statement of Comprehensive Income</b>	<b>(14,417)</b>	<b>(68,186)</b>
<i>Plus: depreciation/amortisation expenses previously funded through appropriations</i>		
(departmental capital budget funding and/or equity injections)	<b>45,062</b>	47,431
<i>Plus: depreciation ROU assets</i>	<b>25,451</b>	16,050
<i>Less: lease principal repayments</i>	<b>24,590</b>	14,462
<b>Net cash operating surplus/(deficit)</b>	<b>31,506</b>	<b>(19,167)</b>

## Note 6. People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

### 6.1 Employee provisions

	2021 \$'000	2020 \$'000
Annual leave entitlement	<b>28,068</b>	25,950
Long service leave entitlement	<b>52,230</b>	54,923
Restructuring provision	<b>1,089</b>	1,358
Redundancy provision	-	1,017
<b>Total employee provisions</b>	<b>81,387</b>	<b>83,248</b>

## Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 Employee Benefits) and termination benefits expected within 12 months of the end of the reporting period are measured at their nominal amounts.

Other long term employee benefits are measured as net total of the present value of the defined benefit obligations at the end of the reporting period minus the fair value at the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

### Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time leave is taken, including ASIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an independent actuary dated 18 December 2018. Actuarial reviews of long service leave are undertaken at least every five years. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

### Superannuation

ASIC employees are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined-benefit schemes of the Australian Government. The PSSap is a defined-contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedule and notes.

ASIC makes employer contributions to its employees' defined-benefit superannuation schemes at rates determined by an actuary to be sufficient to meet the current cost to the Government, and ASIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

### Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

## Accounting Policy (continued)

### Restructuring

ASIC recognises a provision for restructuring when the Government has announced a funding measure which will result in a future reduction in functions, resources and staff and the costs associated with these future reductions can be reliably estimated.

### Significant accounting judgement and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- › Leave provisions involve assumptions based on the expected tenure of existing staff, patterns of leave claims and payouts, future salary movements and future discount rate.

## 6.2 Key management personnel remuneration

Key management personnel (KMP) are those persons having authority and responsibility for planning, directing and controlling the activities of ASIC, directly or indirectly. ASIC has determined the key management personnel to be members of the Commission, the Portfolio Minister, the Minister for Superannuation, Financial Services and the Digital Economy and ASIC Executive Directors. Key management personnel remuneration is reported in the table below:

	2021 \$'000	2020 \$'000
Short-term employee benefits	6,558	8,300
Post-employment benefits	642	845
Other long-term benefits	55	183
Termination benefits	89	-
<b>Total key management personnel remuneration expenses<sup>1</sup></b>	<b>7,344</b>	<b>9,328</b>

The total number of key management personnel who are included in the above table is 19 (2020: 21). During the 2020–21 financial year ASIC was repaid \$118,557 from one former KMP. ASIC also received \$69,292 from a former KMP under 16A(2) of the *Remuneration Tribunal Act 1973*. During the 2020–21 financial year ASIC identified eight overpayments to two former and one current KMP totalling \$3,651.53. These payments were recoverable payments under 16A(2) of the *Remuneration Tribunal Act 1973* and have been repaid to the Commonwealth.

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by ASIC.

## 6.3 Related party disclosures

### Related party relationships

ASIC is an Australian Government controlled entity. Related parties to ASIC are Key Management Personnel including the Commission members and ASIC Executive Directors that have the responsibilities for planning, directing, and controlling ASIC's resources.

### Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

ASIC transacts with other Australian Government controlled entities consistent with normal day-to-day business operations provided under normal terms and conditions, including the payment of workers compensation and insurance premiums, sub-leasing of office space and payment of superannuation contributions. These are not considered individually significant to warrant separate disclosure as related party transactions.

## Note 7. Managing uncertainties

This section describes how ASIC manages financial risks within its operating environment.

### 7.1 Contingent assets and liabilities

	2021 \$'000	2020 \$'000
<b>7.1: Departmental contingent assets and liabilities</b>		
<b>Continent assets</b>		
Balance from previous period	5,526	9,638
New contingent assets	8,175	3,722
Re-measurement	1,055	1,663
Assets realised	(1,582)	(7,949)
Assets relinquished	(1,635)	(1,548)
<b>Total contingent assets</b>	<b>11,539</b>	<b>5,526</b>
<b>Continent liabilities</b>		
New contingent liabilities	(1,200)	-
<b>Total contingent liabilities</b>	<b>(1,200)</b>	<b>-</b>
<b>Net contingent assets/(liabilities)</b>	<b>10,339</b>	<b>5,526</b>

### **Quantifiable contingencies (ASIC Departmental)**

The above table contains 23 matters (2020:19 matters) where a contingent asset is disclosed in respect of cases where ASIC has received an award of costs in its favour, however agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated these matters represent a combined receivable of \$11.539m (2020: \$5.526m), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

The above table contains 1 matter (2020: 0 matters) where a contingent liability is disclosed in respect of a case where ASIC has had costs awarded against it, however agreement with respect to the quantum payable by ASIC has not been reached. ASIC has estimated this matter represent a payable of \$1.200m (2020: \$0m), which is disclosed as a contingent liability because realisation of this payable is not virtually certain.

### **Unquantifiable contingencies (ASIC Departmental)**

ASIC is party to many civil litigation matters arising out of its statutory duty to administer and enforce laws for which it is responsible.

Like any corporate body, ASIC may from time to time be the subject of legal proceedings for damages brought against it or may receive notice indicating that such proceedings may be brought. In either case ASIC, like any other party to civil litigation, may be required to pay the other party's costs if ASIC is unsuccessful.

### **Civil litigation brought, or threatened to be brought, against ASIC as a defendant**

There are, at the date of this report, six matters (2020: four matters) of this type where proceedings are current. In these matters, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- › successfully defend the actions instituted; and
- › not be required to pay any damages.

Conversely, ASIC, like any other party to civil litigation, may be entitled to recover costs arising out of such litigation if it is successful. In addition to the matters specifically referred to in this note, ASIC has legal action pending in a number of other matters, however, due to the uncertainty over the outcome of outstanding and pending court cases, duration of court cases and the legal costs of the opposing party, ASIC is unable to reliably estimate either its potential payments to, or potential cost recoveries from, opposing litigants. There may also be other matters where ASIC has received an award of costs in its favour, however no contingent asset has been disclosed as recovery of the debt is not probable. There may also be other matters where no contingency has been quantified because the costs awarded for or against ASIC are estimated to be less than \$20,000 each.

## Accounting Policy

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position but are reported in this note. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than unlikely.

### Significant accounting judgements and estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

## Quantifiable administered contingencies – Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the number of claims that are likely to be lodged with ASIC in respect to unclaimed monies was conducted by a registered actuary. ASIC adopted the registered actuary's calculation for the likely claims payable, reported in Note 4.2B.

The contingent liability represents an estimate of the principal unclaimed monies that have been lodged with ASIC but where the likelihood of a successful claim is regarded as unlikely. No allowance has been made for the compounding interest, which is payable for a successful claim lodged from 1 July 2013 in accordance with legislated interest rates. The contingent liability has been calculated by deducting from the total principal balance, excluding interest, of unclaimed monies lodged but not yet claimed, the undiscounted amount of the provision for future refunds excluding any interest.

	2021 \$'000	2020 \$'000
<i>Banking Act 1959</i>	<b>588,337</b>	523,334
<i>Life Insurance Act 1995</i>	<b>104,570</b>	85,739
<i>Corporations Act 2001</i>	<b>423,687</b>	379,573

## Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

## Accounting Policy

Administered contingent liabilities represent a repayment estimate of unclaimed monies that are considered unlikely to be paid. There are no administered contingent assets as at 30 June 2021 (2020: nil).

## 7.2 Financial instruments

	Notes	2021 \$'000	2020 \$'000
<b>7.2A: Categories of financial instruments</b>			
<b>Financial assets at amortised cost</b>			
Cash and cash equivalents	3.1A	<b>46,304</b>	41,151
Trade receivables	3.1B	<b>47,151</b>	39,796
<b>Total financial assets at amortised cost</b>		<b>93,455</b>	80,947
<b>Financial liabilities at amortised cost</b>			
Trade creditors	3.3A	<b>29,750</b>	30,798
<b>Total financial liabilities at amortised cost</b>		<b>29,750</b>	30,798

### Accounting Policy

#### Financial assets

In accordance with AASB 9 Financial Instruments, ASIC classifies its financial assets in the following categories:

- › Cash and cash equivalents are measured at nominal amounts.
- › Trade receivables are measured at amortised cost.

The classification depends on both ASIC's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition.

Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

#### Financial assets at amortised cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and
2. the cash flows are solely payments of principal and interest on the principal outstanding amount.

### Accounting Policy (continued)

Amortised cost is determined using the effective interest method.

#### Effective interest method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

#### Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on the simplified approach.

The simplified approach for trade debtors is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

#### Financial liabilities at amortised cost

Supplier payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

#### Accounting judgement and estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of financial assets and liabilities within the next reporting period.

	2021	2020
	\$'000	\$'000

### 7.2B: Impairment loss on financial instruments

#### Financial assets at amortised cost

Impairment	53	40
<b>Net gain/(loss) on financial assets at amortised cost</b>	<b>53</b>	<b>40</b>



### 7.3 Administered – financial instruments

	Notes	2021 \$'000	2020 \$'000
<b>Financial assets at amortised cost</b>			
Cash and cash equivalents <sup>1</sup>		1,524	1,435
Trade receivables	4.1C	9,532	7,449
<b>Total financial assets at amortised cost</b>		<b>11,056</b>	<b>8,884</b>
<b>Total financial assets</b>		<b>11,056</b>	<b>8,884</b>
<b>Financial liabilities</b>			
<b>Financial liabilities at amortised cost</b>			
Grants payable	4.2A	4,222	3,995
Suppliers payables	4.2A	28	178
<b>Total financial liabilities at amortised cost</b>		<b>4,250</b>	<b>4,173</b>
<b>Total financial liabilities</b>		<b>4,250</b>	<b>4,173</b>

1. Cash and cash equivalents is cash on hand only and is recognised at its nominal amount.

### 7.4 Fair value measurement

	2021 \$'000	2020 \$'000
<b>Non-financial assets:</b>		
Leasehold improvements	40,929	29,786
Plant and equipment	25,896	19,511
<b>Total non-financial assets</b>	<b>66,825</b>	<b>49,297</b>

ASIC did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2021.

#### Accounting Policy

ASIC deems transfers between levels of the fair value hierarchy to have occurred at the end of the reporting period. See Note 3.2 for further details on ASIC's valuation policy and procedures.

## Note 8. Other information

### 8.1 Current/non-current distinction for assets and liabilities

	2021 \$'000	2020 \$'000
<b>8.1A: Current/non-current distinction for assets and liabilities</b>		
<b>Assets expected to be recovered in:</b>		
<b>No more than 12 months</b>		
Cash and cash equivalents	46,304	41,151
Trade and other receivables	157,936	170,493
Prepayments	13,533	17,706
<b>Total no more than 12 months</b>	<b>217,773</b>	<b>229,350</b>
<b>More than 12 months</b>		
Buildings	214,302	236,404
Plant and equipment	25,896	19,511
Computer software	83,417	74,007
<b>Total more than 12 months</b>	<b>323,615</b>	<b>329,922</b>
<b>Total assets</b>	<b>541,388</b>	<b>559,272</b>
<b>Liabilities expected to be settled in:</b>		
<b>No more than 12 months</b>		
Suppliers	29,750	30,798
Other payables	34,209	37,217
Leases	21,501	24,918
Employee provisions	22,580	22,376
Other provisions	7,740	6,020
<b>Total no more than 12 months</b>	<b>115,780</b>	<b>121,329</b>
<b>More than 12 months</b>		
Leases	196,467	217,892
Employee provisions	58,807	60,872
Other provisions	6,221	6,719
<b>Total more than 12 months</b>	<b>261,495</b>	<b>285,483</b>
<b>Total liabilities</b>	<b>377,275</b>	<b>406,812</b>

	2021 \$'000	2020 \$'000
<b>8.1B: Administered – current/non-current distinction for assets and liabilities</b>		
<b>Assets expected to be recovered in:</b>		
<b>No more than 12 months</b>		
Cash and cash equivalents	1,524	1,435
Supervisory cost recovery levies receivable	314,471	330,543
Fees and fines receivable	141,513	138,836
Trade and other receivables	10,006	7,901
<b>Total no more than 12 months</b>	<b>467,514</b>	<b>478,715</b>
<b>More than 12 months</b>		
<b>Total more than 12 months</b>	-	-
<b>Total assets</b>	<b>467,514</b>	<b>478,715</b>
<b>Liabilities expected to be settled in:</b>		
<b>No more than 12 months</b>		
Supplier and other payables	36,981	33,150
<b>Total no more than 12 months</b>	<b>36,981</b>	<b>33,150</b>
<b>More than 12 months</b>		
Supplier and other payables	7,545	7,183
Unclaimed monies provisions	491,183	417,284
<b>Total more than 12 months</b>	<b>498,728</b>	<b>424,467</b>
<b>Total liabilities</b>	<b>535,709</b>	<b>457,617</b>

## 8.2 Restructuring

2021  
\$'000

	Modernising Business Registers Australian Taxation Office <sup>1</sup>
<b><u>FUNCTIONS RELINQUISHED</u></b>	
Revenue relinquished	
Revenue from Government <sup>2</sup>	4,143
<b>Total revenue relinquished</b>	<b>4,143</b>
Assets relinquished	
Appropriations receivable	(9,191)
Buildings – ROU asset	(15,339)
Buildings – leasehold improvements	(2,466)
Plant and equipment	(11)
Prepayments	(42)
<b>Total assets relinquished</b>	<b>(27,049)</b>
Liabilities relinquished	
Lease liabilities	16,006
Provision for restoration obligations – leased premises	120
Provision for employee entitlements	5,090
<b>Total liabilities relinquished</b>	<b>21,216</b>
<b>Net (assets)/liabilities relinquished<sup>3</sup></b>	<b>(1,690)</b>

1. Under the Modernising Business Registers (MBR) Program, the Government decided to establish a new whole of government registry platform; the Australian Business Registry Services (ABRS). As part of the MBR Program, in-scope business registers are to be transferred (in multiple stages) from ASIC to the ATO, along with associated ASIC staff. The first stage of the transfer of staff and Departmental resources (appropriation) took place on 15 April 2021.
2. \$4.143m of employee and supplier expenses will be recognised by the ATO in the 2021 financial year, with ASIC's Departmental appropriation being reduced by the corresponding amount.
3. With the exception of employee entitlements provision amounts and prepayments, the net book value of assets and liabilities were transferred to the ATO for no consideration.

### 8.3 Expenditure relating to statutory board and tribunal

#### Accounting Policy

Pursuant to Parts 11 and 12 of the ASIC Act and the *Superannuation (Resolution of Complaints) Act 1993*, ASIC is required to support the Companies Auditors Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of this board and the tribunal are included in the Statement of Comprehensive Income of ASIC.

	2021 \$'000	2020 \$'000
Companies Auditors Disciplinary Board	371	502
Superannuation Complaints Tribunal	2,025	7,686

The Superannuation Complaints Tribunal is an independent body with distinct responsibilities as set out under the *Superannuation (Resolution of Complaints) Act 1993* and has operated under the budgetary umbrella of ASIC since 1 July 1998.

### 8.4 Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. ASIC takes a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

Vested assets are not available to ASIC and are not recognised in the financial statements.

	2021 Quantity	2020 Quantity
Class of asset		
Land	544	592
Shares	175	122
Other	150	99
<i>Closing balance</i>	<b>869</b>	813

Land is comprised of real property as described on the relevant Land Titles Registry. Shares are comprised of parcels of shares in both private and publicly listed companies and include those parcels held by the company as trustee. Other assets include such property as intellectual property (e.g. trademarks) and mortgages.

## 8.5 Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* and the *Corporations Regulations 2001* require applicants for a dealer's or investment adviser's licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	2021 \$'000	2020 \$'000
Security deposits under <i>Corporations Regulations 2001</i> regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	83	83
Bank guarantees	8,550	8,780
<i>Closing balance</i>	<u>8,633</u>	<u>8,863</u>
Security deposits under the <i>Corporations Act 2001</i> s1284(1) (liquidators)		
Insurance bond	1,800	1,800
<i>Closing balance</i>	<u>1,800</u>	<u>1,800</u>

## 8.6 Budgetary reports and explanations of major variances

### 8.6A: Departmental Budgetary Reports

The following tables provide a comparison of the original budget as presented in the 2020–21 Portfolio Budget Statements (PBS) to the 2020–21 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/- 10% and greater than +/- \$5m are provided.

### Statement of Comprehensive Income

	Actual	Original Budget	Variance
	2021 \$'000	2021 \$'000	2021 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	282,840	279,639	3,201
Suppliers	135,855	148,724	(12,869)
Depreciation and amortisation	70,513	69,673	840
Finance costs – unwinding of restoration provision	2,150	2,220	(70)
Impairment loss on financial instruments	53	-	53
Write-down and impairment of assets	704	-	704
<b>Total expenses</b>	<u>492,115</u>	<u>500,256</u>	<u>(8,141)</u>

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>LESS:</b>			
<b>Own-source revenue</b>			
Sale of goods and rendering of services	1,343	2,000	(657)
Revenue from other Australian Government entities	30,351	10,645	19,706
Other revenue	8,904	625	8,279
<b>Total own-source revenue</b>	<b>40,598</b>	<b>13,270</b>	<b>27,328</b>
<b>Gains</b>			
Reversal of write-downs and impairment	8	-	8
<b>Total gains</b>	<b>8</b>	<b>-</b>	<b>8</b>
<b>Net Cost of Services</b>	<b>451,509</b>	<b>486,986</b>	<b>(35,477)</b>
<b>Total revenue from Government</b>	<b>437,092</b>	<b>441,007</b>	<b>(3,915)</b>
<b>Surplus/(Deficit)</b>	<b>(14,417)</b>	<b>(45,979)</b>	<b>31,562</b>
<b>Total comprehensive income/(loss)</b>	<b>(14,417)</b>	<b>(45,979)</b>	<b>31,562</b>

#### Explanations of major variances

#### Affected line items

##### Own-source revenue

This revenue stream was higher than budget due to receipts during the year from ATO and DHA, which were provided to fund both capital and operating expense requirements for these programs. At the time of the preparation of the Portfolio Budget Statements, the funding requirement for these programs had not been confirmed.

The increase mainly relates to higher than expected court cost recoveries in relation to ESA matters. These revenues are unpredictable and therefore subject to variation.

The reduction in the deficit is primarily driven by the revenue variances mentioned above. Most of the funding received was for capital expenditure.

Sale of goods and rendering of services

Other revenue

Surplus/(Deficit)

## Statement of Financial Position

	Actual	Original Budget	Variance
	2021 \$'000	2021 \$'000	2021 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	46,304	30,307	15,997
Trade and other receivables	157,936	132,315	25,621
<b>Total financial assets</b>	204,240	162,622	41,618
<b>Non-financial assets</b>			
Buildings	214,302	255,688	(41,386)
Plant and equipment	25,896	14,881	11,015
Computer software	83,417	76,364	7,053
Other non-financial assets	13,533	17,706	(4,173)
<b>Total non-financial assets</b>	337,148	364,639	(27,491)
<b>Total assets</b>	541,388	527,261	14,127
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	29,750	28,754	996
Other payables	34,209	37,997	(3,788)
<b>Total payables</b>	63,959	66,751	(2,792)
<b>Interest-bearing liabilities</b>			
Leases	217,968	231,265	(13,297)
<b>Total interest-bearing liabilities</b>	217,968	231,265	(13,297)
<b>Provisions</b>			
Employee provisions	81,387	82,255	(868)
Other provisions	13,961	12,749	1,212
<b>Total provisions</b>	95,348	95,004	344
<b>Total liabilities</b>	377,275	393,020	(15,745)
<b>Net assets</b>	164,113	134,241	29,872
<b>EQUITY</b>			
Contributed equity	500,703	502,393	(1,690)
Reserves	22,500	22,500	-
Accumulated deficits	(359,090)	(390,652)	31,562
<b>Total equity</b>	164,113	134,241	29,872



## Explanations of major variances

## Affected line items

### Financial assets

The variance is driven by mainly lower than expected expenditure and unbudgeted court cost recoveries related to ESA matters.

Cash and cash equivalents

The increase mainly relates to the outstanding cash incentives claims in relation to property accommodation fitouts, payable in 2021–22.

Trade and other receivables

### Non-financial assets

The decrease mainly relates to transfer of building related assets in relation to Machinery of Government functional transfers from ASIC to ATO.

Buildings

The increase is driven by capital expenditure funded by ATO and DHA.

Plant & equipment

## Statement of Changes in Equity

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>CONTRIBUTED EQUITY</b>			
Opening balance	474,633	474,633	-
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations	6,904	6,904	-
Departmental capital budget	20,856	20,856	-
Restructuring	(1,690)	-	(1,690)
<b>Total transactions with owners</b>	<b>26,070</b>	<b>27,760</b>	<b>(1,690)</b>
<b>Closing balance as at 30 June</b>	<b>500,703</b>	<b>502,393</b>	<b>(1,690)</b>
<b>RETAINED EARNINGS</b>			
Opening balance	(344,673)	(344,673)	-
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	(14,417)	(45,979)	31,562
<b>Total comprehensive loss</b>	<b>(14,417)</b>	<b>(45,979)</b>	<b>31,562</b>
<b>Closing balance as at 30 June</b>	<b>(359,090)</b>	<b>(390,652)</b>	<b>31,562</b>
<b>ASSET REVALUATION RESERVE</b>			
Opening balance	22,500	22,500	-
<b>Closing balance as at 30 June</b>	<b>22,500</b>	<b>22,500</b>	<b>-</b>

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>TOTAL EQUITY</b>			
<b>Opening balance</b>	152,460	152,460	-
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	(14,417)	(45,979)	31,562
<b>Total comprehensive loss</b>	(14,417)	(45,979)	31,562
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations	6,904	6,904	-
Departmental capital budget	20,856	20,856	-
Restructuring	(1,690)	-	(1,690)
<b>Total transactions with owners</b>	26,070	27,760	(1,690)
<b>Closing balance as at 30 June</b>	164,113	134,241	29,872

### Explanations of major variances

The variances are supported by the explanations provided above in the Statement of Comprehensive Income and the Statement of Financial Position portions of this note.

### Cash Flow Statement

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	484,672	441,007	43,665
Operating cash received	1,343	40,803	(39,460)
Net GST received	15,002	-	15,002
Cost recoveries	6,728	-	6,728
Other cash received	28,100	10,291	17,809
<b>Total cash received</b>	535,845	492,101	43,744

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>Cash used</b>			
Employees	283,077	279,639	3,438
Suppliers	148,863	150,627	(1,764)
Interest payments on lease liabilities	2,134	2,210	(76)
Transfers to the Official Public Account	28,768	-	28,768
<b>Total cash used</b>	(462,842)	(432,476)	(30,366)
<b>Net cash from/(used by) operating activities</b>	73,003	59,625	13,378
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	73,044	65,938	7,106
<b>Total cash used</b>	(73,044)	(65,938)	(7,106)
<b>Net cash (used by) investing activities</b>	(73,044)	(65,938)	(7,106)
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity	29,784	27,760	2,024
<b>Total cash received</b>	29,784	27,760	2,024
<b>Cash used</b>			
Principal payments of lease liabilities	24,590	32,291	(7,701)
<b>Total cash used</b>	(24,590)	(32,291)	7,701
<b>Net cash from financing activities</b>	5,194	(4,531)	9,725
<b>Net increase/(decrease) in cash held</b>	5,153	(10,844)	15,997
Cash at the beginning of the reporting period	41,151	41,151	-
<b>Cash at the end of the reporting period</b>	46,304	30,307	15,997

### Explanations of major variances

The variances are supported by the explanations provided above in the Statement of Comprehensive Income and the Statement of Financial Position portions of this note.

### 8.6B: Administered budgetary reports

The following tables provide a comparison of the original budget as presented in the 2020–21 Portfolio Budget Statements (PBS) to the 2020–21 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/- 10% and greater than +/- \$5m are provided.

#### Administered Schedule of Comprehensive Income

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>EXPENSES</b>			
Grants	6,007	7,118	(1,111)
Impairment loss allowance on financial instruments	60,436	76,049	(15,613)
Claims for unclaimed monies	160,701	101,852	58,849
Promotional costs for MoneySmart initiatives	574	574	-
<b>Total expenses</b>	<b>227,718</b>	<b>185,593</b>	<b>42,125</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Fees	892,685	855,473	37,212
Supervisory cost recovery levies	62,960	61,853	1,107
<b>Total taxation revenue</b>	<b>955,645</b>	<b>917,326</b>	<b>38,319</b>
<b>Non-taxation revenue</b>			
Supervisory cost recovery levies	235,781	271,791	(36,010)
Fees and fines	321,137	206,899	114,238
Unclaimed monies	295,304	153,541	141,763
<b>Total non-taxation revenue</b>	<b>852,222</b>	<b>632,231</b>	<b>219,991</b>
<b>Total revenue</b>	<b>1,807,867</b>	<b>1,549,557</b>	<b>258,310</b>
<b>Net contribution by services</b>	<b>1,580,149</b>	<b>1,363,964</b>	<b>216,185</b>

## Explanations of major variances

## Affected line items

The decrease in the impairment loss allowance is due to the delay in the ASIC/ATO MOG as the review of aged debt and write offs processed commenced later in the financial year than expected.

Impairment loss allowance on financial instruments

The increase in unclaimed monies claim expense is due to valuation adjustment of the claims provision. The valuation is directly impacted by emerging trends of higher lodgements received for all categories of unclaimed monies. Refer to the Accounting Policy note at 4.2B.

Claims for unclaimed monies

The difference between budgeted and actual revenue reflects the estimated impact of Government decisions since the budget was prepared.

Taxation revenue – Supervisory cost recovery levies

The increase in revenue for fees and fines is due to the unexpected value of compliance matters fines during 2020–21.

Fees and fines

Significant increase in the volume of records lodged under the *Banking Act 1959*, combined with more lodgements received under s601 of the *Corporations Act 2001* and higher value of lodged records under the *Life Insurance Act 1995* has contributed to an increase in lodgement revenue.

Non-taxation revenue – Unclaimed monies

## Administered Schedule of Assets and Liabilities

	Actual	Original Budget	Variance
	2021	2021	2021
	\$'000	\$'000	\$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	1,524	1,419	105
Supervisory cost recovery levies receivable	314,471	339,313	(24,842)
Fees and fines receivable	141,513	153,251	(11,738)
Trade and other receivables	10,006	8,221	1,785
<b>Total assets administered on behalf of Government</b>	467,514	502,204	(34,690)
<b>LIABILITIES</b>			
<b>Payables and provisions</b>			
Suppliers and other payables	44,526	42,242	2,284
Unclaimed monies provisions	491,183	409,336	81,847
<b>Total liabilities administered on behalf of Government</b>	535,709	451,578	84,131
<b>Net assets/(liabilities)</b>	(68,195)	50,626	(118,821)

### Explanations of major variances

### Affected line items

The provision for unclaimed monies payable valuation is impacted by emerging actual experience of higher lodgements, change in claim trends, higher discount rate and lower CPI. These combined factors have impacted all unclaimed monies categories and resulted in overall increase to the provision.

Unclaimed monies provisions



# 6

## Appendices

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# 6.1 Appendices relating to ASIC's governance and operations

## Parliamentary oversight

### Responsible Minister

At 30 June 2021, the Minister responsible for ASIC was the Treasurer, the Hon. Josh Frydenberg MP.

### Parliamentary committees

ASIC is accountable to Parliament through the following Parliamentary committees:

- › Parliamentary Joint Committee on Corporations and Financial Services
- › Senate Standing Committee on Economics
- › House of Representatives Standing Committee on Economics
- › other parliamentary committees and inquiries as required.

### Correspondence with members of Parliament

ASIC receives correspondence from members of Parliament both directly and indirectly through requests from Treasury.

We aim to respond to 100% of correspondence within 28 days of receipt. In 2020–21, we received 204 letters and emails from members of Parliament and responded to 202. We responded to 67% of this correspondence within 14 days and 96% within 28 days.

## Financial and operational oversight

ASIC is a non-corporate Commonwealth entity under the PGPA Act, which primarily governs our use and management of public resources.

The PGPA Act also requires ASIC to prepare a corporate plan covering our purpose, environment, performance, capability, and risk oversight and management for the budget forward estimates period.

ASIC's Interim Corporate Plan, to address the impact of the COVID-19 pandemic, was published in June 2020 and the priorities outlined in it have been incorporated into our current Corporate Plan. ASIC's Corporate Plan for 2020–24 was published in August 2020.

The Auditor-General audits our annual financial statements on behalf of the Parliament.



## External scrutiny of our agency

### Implementation of Royal Commission recommendations

The Royal Commission provided its final report to the Government on 1 February 2019. On 4 February 2019, the Treasurer released the Government's response to the Royal Commission recommendations.

We have remained focused on a range of initiatives we began before or in response to the Royal Commission's recommendations and we continue to take action on all Royal Commission recommendations directed at ASIC.

We have published regular updates on our actions to implement Royal Commission recommendations, including in April 2021: **Report 688 ASIC enforcement update July to December 2020.**

Details of our actions are set out in Chapter 1.

### Judicial decisions and decisions of administrative tribunals and the Office of the Australian Information Commissioner

There were no judicial decisions, administrative tribunal decisions, or decisions by the Office of the Australian Information Commissioner in 2020–21 that have had, or may have, a significant impact on ASIC's operations.

### Parliamentary Joint Committees

During 2020–21, ASIC testified before the following Parliamentary Joint Committees and provided answers to Questions on Notice:

- › Joint Committee on Corporations and Financial Services – Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
- › Joint Committee on Corporations and Financial Services – Inquiry into litigation funding and the class action industry
- › Joint Committee on Corporations and Financial Services – Inquiry into mobile payment and digital wallet financial services
- › Joint Committee on Law Enforcement – Inquiry into criminal activity and law enforcement during the COVID-19 pandemic.

ASIC made submissions to the following Parliamentary Joint Committee inquiries:

- › Joint Committee on Corporations and Financial Services – Inquiry into mobile payment and digital wallet financial services
- › Joint Standing Committee on Trade and Investment Growth – Inquiry into the prudential regulation of investment in Australia's export industries
- › Joint Committee on Law Enforcement – Inquiry into criminal activity and law enforcement during the COVID-19 pandemic.

## Senate Committees

During 2020–21, ASIC testified before the following Senate Committees and provided answers to Questions on Notice:

- › Senate Economics Legislation Committee – Senate Estimates
- › Senate Economics References Committee – Treasury Laws Amendment (2021 Measures No. 1) Bill 2021
- › Senate Economic Legislation Committee – Inquiry into the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020
- › Senate Economic Legislation Committee – Inquiry into the Treasury Laws Amendment (Your Future, Your Super) Bill 2021 [Provisions]
- › Senate Select Committee on Australia as a Technology and Financial Centre.

ASIC made submissions to the following Senate Committee inquiries:

- › Senate Economics References Committee – Treasury Laws Amendment (2021 Measures No. 1) Bill 2021
- › Senate Economic Legislation Committee – Inquiry into the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020
- › Senate Economic Legislation Committee – Inquiry into the Treasury Laws Amendment (Your Future, Your Super) Bill 2021 [Provisions]
- › Senate Select Committee on Australia as a Technology and Financial Centre.

## House of Representatives Committees

During 2020–21, ASIC testified before the following House of Representatives Committee and provided answers to Questions on Notice:

- › House of Representatives Standing Committee on Economics – Review of ASIC Annual Report.

ASIC made submissions to the following House of Representatives Committee inquiry:

- › House of Representatives – Inquiry into the Tax Treatment of Employee Share Schemes.

## Corporate governance

### The role of the Chair and the Commission

In line with the PGPA Act, the Chair as accountable authority will govern ASIC in a way that is not inconsistent with the policies of the Australian Government.

Our Chair has sole executive management responsibility and relies on and uses our key senior executives to carry out day-to-day management activities and deal with operational issues. The Chair delegates functions where he considers this would benefit the executive management of ASIC.

The Commission acts as a strategic non-executive body, focusing on high-level regulatory and statutory decision making and stakeholder management. It provides support to the Chair on organisational oversight.

In 2020–21, ASIC continued to implement its program to improve its governance, structure and decision-making processes. As set out in Chapter 1, ASIC introduced the role of Chief Risk Officer to implement our new risk management framework. We also introduced a Head of Office function to increase internal oversight and executive accountability and enable the Commission to give greater focus to strategic matters, regulatory decision making, external engagement and communication.

The Commission utilises a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles. Details of these committees are set out in Chapter 1.

Commission meetings take place twice a month and may be convened more regularly as required. The Commission also meets as a team on a weekly basis to provide early direction or guidance on issues, or to consider urgent matters. Unscheduled Commission meetings are called to obtain Commission decisions on specific issues where required outside of the meeting timetable.

The Commission appoints and evaluates the performance of its Executive Directors and Senior Executive Leaders and approves budgets and business plans for each team.

Commissioners are appointed by the Governor-General on the nomination of the Treasurer. The Treasurer may nominate only those people who are qualified by knowledge of, or experience in, business, the administration of companies, financial markets, financial products and financial services, law, economics or accounting.

Commissioners are appointed on fixed terms that may be terminated only for the reasons set out in section 111 of the ASIC Act. The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

The ASIC Act requires Commissioners to disclose to the Minister direct or indirect pecuniary interests in corporations carrying on business in Australia, businesses in Australia, interests regulated by ASIC, or expectations, understandings, arrangements or agreements for future business relationships.

Chris Savundra, General Counsel, is the primary source of legal advice to the Commission, providing legal counsel on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission delegates various powers and functions to Executive Directors, Senior Executive Leaders, Regional Commissioners and employees reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

The Commission held 38 meetings in 2020–21. The Commission Enforcement Committee met 21 times, the Commission Regulatory Committee met 13 times, and the Commission Risk Committee met 10 times in 2020–21.

Additional information on ASIC's internal governance is published on our website.

## Audit Committee and audit services

The Audit Committee operates independently of management and plays a key role in assisting the Chair to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. The Committee does this by providing independent assurance to the Chair on ASIC's financial and performance reporting, risk oversight and management, and system of internal control.

ASIC's Audit Committee Terms of Reference, which are available on our **website**, set out the Committee's role, authority, membership and functions, and its procedural, reporting and administrative arrangements.

The Committee met six times during the year, with four regular and two special meetings. Details of the Audit Committee's membership in 2020–21, including remuneration for the period, are set out in Table 6.1.1.

**Table 6.1.1 Membership of the Audit Committee, 2020–21**

Member	Member experience	No. of meetings	Remuneration (excluding GST)
Peter Achterstraat AM (Chair)	<p>Peter holds a Bachelor of Economics (Hons), a Bachelor of Laws, and a Bachelor of Commerce from the Australian National University, and has been inducted into the ANU College of Business and Economics Hall of Fame. He has been awarded a Member of the Order of Australia for significant service to public administration through financial management and governance roles. Peter currently retains the following positions:</p> <ul style="list-style-type: none"> <li>› NSW Productivity Commissioner</li> <li>› Chairman, Bankstown Airport Limited</li> <li>› Chair, Sydney Financial Forum</li> <li>› Chair, Australian Taxation Office Audit and Risk Committee.</li> </ul>	6	\$38,409

Member	Member experience	No. of meetings	Remuneration (excluding GST)
Lisa Woolmer (Deputy Chair)	<p>Lisa holds a Bachelor of Economics and Postgraduate Diploma in Japanese Business Communication from Monash University, and a Postgraduate Diploma of Employment Relations from the University of Canberra. She is a member of both the Australian Institute of Company Directors and Chartered Accountants Australia and New Zealand. Lisa currently retains the following positions:</p> <ul style="list-style-type: none"> <li>› Independent Chair/member of audit and risk committees for Comcare, Adult Community and Further Education Board, Bayside City Council, Glen Era City Council, City of Whitehorse, Mornington Peninsula Shire Council and Orygen.</li> </ul> <p>She is a former Principal at PWC, Melbourne.</p>	6	\$29,023
Timothy Montgomery	<p>Timothy holds a Bachelor of Economics and a Bachelor of Science (Hons) from the Australian National University, a Graduate Certificate in Management from the Australian Graduate School of Management, and a Graduate Certificate in Statistics from the University of Canberra. He currently retains the following positions:</p> <ul style="list-style-type: none"> <li>› Program Manager, Technology and Security Division, Australian Bureau of Statistics</li> <li>› Senior ICT roles across Commonwealth agencies</li> <li>› ICT management consultant roles.</li> </ul>	6	nil (a)

Member	Member experience	No. of meetings	Remuneration (excluding GST)
Cathie Armour (ASIC Commissioner)	Cathie is an ASIC Commissioner and holds a Bachelor of Economics and a Bachelor of Laws (Hons) from the Australian National University, and a Masters of Law from Sydney University.	6	nil (b)

(a) Audit Committee services are being provided free of charge in accordance with an MOU between ASIC and the Australian Bureau of Statistics (ABS).

(b) Commissioner Armour ceased as a Committee member on 12 June 2021. ASIC's key management personnel remuneration details are provided in Table 6.1.10.

### Peter Achterstraat AM

Chair  
Audit Committee  
August 2021

## Consultative panels and committees

ASIC takes a consultative approach to addressing harms and emerging developments in Australia's financial system.

As part of ASIC's strategic change program, we have enhanced our advisory panel processes to bolster their efficiency and to ensure that we are effectively engaging with our stakeholders to gain a deeper understanding of industry and consumer developments, consult on policy matters, and identify threats and harms in the sectors we regulate.

### ASIC Business Advisory Panel

ASIC's Business Advisory Panel enables direct consultation with the business community about our registry and licensing services, with an emphasis on small business. It advises on strategic direction, including proposed legislative and policy changes, as well as operations and improvement initiatives, with a focus on registry and assessing the impacts to business.

Panel members were drawn from a wide range of business, industry and professional organisations. Each member represents an area of relevant experience and expertise.

During the 2020–21 year, the Panel's themes of engagement included the continuation of the Government's commitment to modernise business registers and the introduction of a director identification number.

The Panel was discontinued in March 2021 following the transfer of ASIC registry staff and functions to the ATO.

### ASIC Consultative Panel

The ASIC Consultative Panel was established in 2020 to provide ASIC with a flexible and responsive approach to external engagement. It enables ASIC to consult on proposed regulatory changes; provides intelligence on the external environment, including market conditions; and can assist ASIC in identifying threats and harms in the markets we regulate.

Panel members are senior representatives from the academic, consumer, industry, legal and regulatory sectors and are appointed in their personal capacity. They can be called upon to consult on emerging issues as they arise and meet as a group at a plenary meeting at least once annually.

In November 2020, the inaugural plenary meeting of the Panel was hosted virtually by ASIC. Members discussed trends in financial services, banking and consumer behaviour. The Panel also reflected on emerging threats and harms within ASIC's regulatory remit to assist in the development of its strategic priorities for 2021–22.

### Consumer Advisory Panel

Established in 1998, ASIC's Consumer Advisory Panel (CAP) advises ASIC on current issues affecting retail investors and consumers in the financial services and wealth management industries. Information from CAP members also informs ASIC's surveillance, enforcement, policy and financial education initiatives.

Due to the COVID-19 pandemic, CAP met virtually three times in 2020–21. Priority areas of CAP member focus included:

- › impacts of the pandemic and measures responding to it on different consumer cohorts (borrowers and debtors, superannuation fund members, insurance policy holders, retail investors, timeshare members and small businesses)
- › implementation of reforms resulting from the Royal Commission, including the deferred sales model for add-on insurance
- › product intervention orders and ASIC's consultation on the implementation of the design and distribution obligations
- › ASIC's consultation on the issues and impediments relating to the supply of good quality and affordable personal advice
- › the Financial Advisers Standards and Ethics Authority Code
- › ASIC consultations on updates to internal dispute resolution standards and requirements and remediation guidance in Regulatory Guide 256 *Client review and remediation conducted by advice licensees* and the inaugural independent review of AFCA
- › responsible lending, debt management firms and the buy now pay later sector.

CAP also held two out-of-session virtual meetings, the first focusing on retirement incomes and the second a joint meeting with the ACCC's equivalent consumer panel, the Consumer Consultative Committee.

## **Corporate Governance Consultative Panel**

The Corporate Governance Consultative Panel was established in 2020 to enable ASIC to gain a deeper understanding of developments and emerging issues in corporate governance practices.

Members of this Panel include listed company directors, industry association representatives, institutional investors and academics.

The Panel met twice in 2020–21 to discuss the impact of the COVID-19 pandemic; environmental, social and governance issues; cyber resilience; and insolvency reforms.

## **Digital Finance Advisory Panel**

The Digital Finance Advisory Panel (DFAP) was established in 2015 to help inform ASIC's fintech and regtech approach and to advise on engagement with the sector. Members of DFAP are drawn from a cross-section of the fintech and regtech communities, academia and consumer organisations.

DFAP also has active observer members from public sector and regulatory agencies, which facilitates dialogue between industry and the public sector. The establishment of DFAP has helped foster a network of domestic departments and agencies dealing with innovative businesses, which has promoted a coordinated approach to financial innovation and regtech.

DFAP met four times in 2020–21 and discussed and provided observations to ASIC on topics such as the issues of interest to the Senate Select Committee on Financial Technology and Regulatory

Technology, decentralised finance, open banking, consumer credit reforms, central bank digital currencies, and the implementation of the Government's enhanced regulatory sandbox.

## **Financial Advisers Consultative Panel**

The Financial Advisers Consultative Panel was established in 2017. Its members are practising financial advisers who are skilled in insurance, superannuation (including self-managed funds) and digital financial advice. The members sit in a personal capacity.

The Panel met three times in 2020–21. It discussed a number of topics of interest this year, including Royal Commission law reform and ASIC's work in relation to unmet advice needs, life insurance, general advice, and fee and cost disclosure for superannuation and managed investment products.

## **Markets Consultative Panel**

The Markets Consultative Panel was established in 2010 and advises on ASIC's approach to its responsibilities for supervision of the Australian market and on broader market developments. Members are drawn from the financial services industry, with experience in retail markets, institutional banking, asset management and academia.

During 2020–21, the Panel met five times. Issues discussed included equity and debt capital markets, retail investor trading, climate disclosures, resilience, cyber risk, crypto assets, market events, and the implementation of the product intervention power and design and distribution obligations.



## Disciplinary or peer review panels

The panels listed below have disciplinary or peer review functions and assist in our regulatory decision making.

### Financial Services and Credit Panel

The Financial Services and Credit Panel (FSCP) makes decisions about whether to ban individuals from providing financial services or engaging in credit activities. Matters are referred to sitting panels drawn from the FSCP. Each sitting panel consists of two experienced industry participants from the financial services or credit sector and an ASIC staff member.

The FSCP regime, which operates alongside ASIC’s existing administrative decision-making processes, is reserved for matters that we consider are appropriate for peer review because of their

significance, complexity or novelty. No matters were referred to the FSCP during 2020–21.

### Liquidator registration and disciplinary committees

Applications for registration as a liquidator, or to vary or remove conditions imposed on a liquidator’s registration, and potential disciplinary action against registered liquidators are referred to committees convened by ASIC.

Each committee consists of an ASIC delegate who chairs the committee, a registered liquidator chosen by the Australian Restructuring, Insolvency and Turnaround Association, and a person appointed by the Minister, as set out in sections 20-10, 20-45 and 40-45 of Schedule 2 to the Corporations Act.

During 2020–21, ASIC convened 37 committees to consider applications for registration as a liquidator, and registered 31 liquidators, as set out in Table 6.1.2.

**Table 6.1.2 Committees convened, 2020–21**

Results of committees convened in 2020–21	Convened	Registered
Applicants should be registered (no conditions)	17	15 <sup>1</sup>
Applicants should be registered (conditions)	10	10
Applicant – not registered	8	–
Committee decision pending	2	–
Prior year committee decision registered during the year	–	6
<b>Total</b>	<b>37</b>	<b>31</b>

<sup>1</sup> Two registrations were pending at the end of 2020–21.

During 2020–21, ASIC received two applications from liquidators to vary or remove conditions attached to their registration. The applications were referred to committees convened by ASIC for consideration. One committee decided to remove a condition imposed on the liquidator’s registration and ASIC implemented that decision. One committee decided to vary the conditions imposed and ASIC implemented that decision.

Also during 2020–21, two disciplinary committees considered matters referred by ASIC. Both committees decided that the liquidator registrations should continue.

The register of liquidators and a summary of disciplinary actions can be found on the ASIC website.

## Markets Disciplinary Panel

The Markets Disciplinary Panel (MDP) is a peer review panel engaged by ASIC to make decisions about whether infringement notices should be given to market participants for alleged contraventions of the market integrity rules. It consists of part-time members with extensive market or professional experience. Matters are referred to the MDP by ASIC as an alternative to bringing civil proceedings.

During 2020–21, the MDP issued infringement notices in respect of two matters:

- › Macquarie Securities (Australia) Limited (MSAL) paid a \$126,000 infringement notice in connection with a buy-back transaction. The MDP was of the view that MSAL had not acted in accordance with its client’s instructions by entering

into a transaction on ASX’s common ‘dark market’ that was not made in the ordinary course of trading because MSAL’s order was preferenced ahead of another participant’s orders that had time priority.

- › Life Trading Pty Ltd Limited (Life Trading) paid a \$200,000 infringement notice, and entered into an enforceable undertaking to appoint an independent expert to review and report on Life Trading’s supervisory framework in relation to its futures trading business, in connection with the MDP’s view that Life Trading did not have an appropriate supervisory framework throughout the period from January 2019 to June 2020.

The infringement notices issued by the MDP are published on the MDP Outcomes Register on the ASIC website. Compliance with an infringement notice is not an admission of guilt or liability, and the market participant is not taken to have contravened subsection 798H(1) of the Corporations Act.

## Regional action

### Australian Capital Territory

This year, the ACT team continued to build collaborative working relationships at the state and Commonwealth levels of the public service.

Throughout the year, the team met regularly with representatives from the Department of Social Services, Services Australia, the Department of Education, Skills and Employment, the Department of the Prime Minister and Cabinet (Office for Women), the ABS, the Department of Agriculture, Water and the Environment, the National Indigenous Australians Agency, the ATO and Treasury to discuss the Government support available to Australians during the pandemic.

In August 2020, Regional Commissioner Laura Higgins invited Australian Statistician and Agency Head of the ABS, Dr David Gruen, to provide a virtual group of 200+ stakeholders with insights on the role of data in shaping responses to the pandemic.

The Consumer Insights and Communications team in the ACT office has a strong relationship with ACT schools. This year, as part of our education outreach work, we led a number of financial education presentations and workshops in Canberra secondary schools. The team also met regularly with the ACT Education Directorate to support the expansion of its financial education program.

In May 2021, Commissioner Danielle Press joined presenters from the Australian Small Business and Family Enterprise Ombudsman, the ACCC, the Fair Work Ombudsman and the ATO in Canberra for a live-streamed webcast providing information for small business operators across Australia.

### New South Wales

Throughout 2020–21, we met with financial institutions based in New South Wales to assess how they are dealing with the impacts of the COVID-19 pandemic and their operational resilience. Generally, institutions have introduced programs to address the effects of the pandemic at an operational level.

Our New South Wales Acting Regional Commissioner and Executive Director of Markets, Greg Yanco, warned first-time investors to be aware of the inherent volatility and complexities of market trading. He advised first-time investors to focus on long-term goals and not make rash decisions based on a fear of missing out on market falls or gains.

We continue to monitor institutions remotely to gather information on trends, identify risks and respond to requests, including through information-sharing arrangements with APRA and leveraging established working arrangements with senior executives to both supervise and support institutions.

Our regulatory work and priorities have temporarily changed to allow us and regulated entities to focus on the impact of the COVID-19 pandemic. This includes the deferral of some activities and the redeployment of staff to address issues of immediate concern, maintaining the integrity of markets and protecting vulnerable consumers. We have established three ASIC-wide working groups to focus on scams, false and misleading advertising, and unlicensed advice.

### **Northern Territory**

We have maintained consistent in-person engagement and communication with multiple Commonwealth and Northern Territory Government agencies, industry bodies, regional and community groups, and other key industry stakeholders throughout the year. In October 2020, ASIC delivered 'COVID-19 and Small Business' workshops and participated in business fairs in Alice Springs, Katherine and Darwin.

In May 2021, ASIC hosted an event for 60 people from the business, education and community sectors to discuss challenges that local stakeholders may be facing, ASIC's role during the COVID-19 pandemic, and ASIC's current and future priorities. Commissioner Sean Hughes spoke at the event alongside Australian Small Business and Family Enterprise Ombudsman Bruce Billson and Northern Territory Minister for Small Business Paul Kirby MLA. ASIC also attended and supported Financial Counselling Australia's national conference in Darwin in May 2021.

### **Queensland**

This year, we took part in a range of stakeholder events which were primarily conducted virtually. We continued to meet with consumer groups and regulators, as well as our Regional Liaison Committee, to better understand how the COVID-19 pandemic conditions were affecting consumers and businesses in Queensland, and take action as appropriate.

In March 2021, we participated in panel discussions at the Financial Counsellors Association Queensland Conference in Far North Queensland.

### **South Australia**

Regional engagement continued in a virtual format throughout 2020–21. Then-Chair James Shipton and Commissioner Danielle Press joined Regional Commissioner Melissa Smith at a meeting of members of the Regional Liaison Committee and discussion with our key industry stakeholders focusing on ASIC's response to the pandemic and the shared experiences faced by South Australian industry.

The South Australian office has a strong relationship with local universities. Our Small Business Engagement team presented to the University of Adelaide's Entrepreneur and Venture Advice Clinic, which provides advice to small businesses. In October 2020 and May 2021, the team provided a general overview of ASIC and its investigation powers.

In May 2021, Commissioner Danielle Press joined presenters from the Australian Small Business and Family Enterprise Ombudsman, the ACCC, the Fair Work Ombudsman and the ATO in Canberra for a live-streamed webcast from South Australia, providing information for small business operators across Australia.

## **Tasmania**

Due to the uncertainty caused by the COVID-19 pandemic and restrictions, we did not undertake many of our normal stakeholder activities. We did, however, maintain our connections with the University of Tasmania, attending a University open day in April.

## **Victoria**

Throughout this financial year, Victoria's Regional Commissioner, Warren Day, appeared on ABC's *Drive* program to discuss a range of topics, including debt, hardship assistance, superannuation and buy now pay later services.

In November 2020, ASIC team members were invited to a virtual NAIDOC Week event discussing Victoria's truth and justice process with guest speaker Marcus Stewart, Co-Chair of the First Peoples' Assembly of Victoria.

In March 2021, ASIC's Small Business Engagement and Compliance team supported the Victorian Government's Small Business Bus program and attended various locations across Melbourne. The buses provide an opportunity to engage with the community, sole traders and small businesses by actively listening, answering queries and providing assistance.

In April 2021, ASIC's registry colleagues in Traralgon were farewelled ahead of their transition to the ATO. The event was attended by then-Chair James Shipton, Deputy Chair Karen Chester and Commissioners Sean Hughes, Cathy Armour and Danielle Press. Hosting the event was Chief Operating Officer and Victoria's Regional Commissioner, Warren Day.

## **Western Australia**

In 2020–21, we continued virtual meetings with stakeholders in light of the COVID-19 pandemic restrictions. Our engagement with local and interstate stakeholders included 10 liaison meetings during the period, convened by the Credit and Banking, Financial Reporting and Audit, Corporations, Insolvency Practitioners and Market Supervision teams.

The Regional Liaison Committee convened on three occasions, with virtual attendance by Deputy Chair Karen Chester in August 2020, Commissioner Danielle Press in November 2020 and Commissioner Cathie Armour in April 2021.

## ASIC's people

ASIC continues to attract and retain highly skilled employees who are instrumental in ensuring that we carry out our regulatory functions and achieve our regulatory goals.

As at 30 June 2021, ASIC had a total of 2,008 full-time equivalent (FTE) employees. Table 6.1.3 and Table 6.1.4 show a breakdown by location for each classification in 2020–21 and 2019–20 respectively. Table 6.1.5 and Table 6.1.6 provide a detailed picture of the gender breakdown of our people in 2020–21 and 2019–20 respectively.

**Table 6.1.3 ASIC employees (FTE), by location, 2020–21<sup>1,2,3,4</sup>**

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	1
Deputy Chair	1	–	–	–	–	–	–	–	1
Member	2	1	–	–	–	–	–	–	3
SES	19	35	–	2	2	–	1	–	59
ELS	–	1	–	–	–	–	–	–	1
Exec 2	208	289	50	29	11	14	7	–	608
Exec 1	138	230	45	34	13	3	6	1	470
ASIC 4	147	181	43	24	12	1	1	–	409
ASIC 3	116	109	32	16	8	5	3	–	289
ASIC 2	123	11	13	1	1	1	1	–	151
ASIC 1	16	–	–	–	–	–	–	–	16
<b>Total</b>	<b>771</b>	<b>857</b>	<b>183</b>	<b>106</b>	<b>47</b>	<b>24</b>	<b>19</b>	<b>1</b>	<b>2,008</b>

1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).

2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.

3 Excludes contractors and secondments from other agencies.

4 Data rounded – some totals and subtotals may vary.

**Table 6.1.4 ASIC employees (FTE), by location, 2019–20<sup>1,2,3,4</sup>**

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	<b>1</b>
Deputy Chair	1	1	–	–	–	–	–	–	<b>2</b>
Member	3	1	–	–	–	–	–	–	<b>4</b>
SES	16	35	–	1	1	–	1	–	<b>54</b>
Exec 2	190	284	48	28	8	11	5	–	<b>574</b>
Exec 1	135	220	41	32	11	3	4	1	<b>447</b>
ASIC 4	151	161	38	27	13	2	–	–	<b>392</b>
ASIC 3	125	91	32	12	8	4	5	–	<b>277</b>
ASIC 2	142	13	11	1	2	1	–	–	<b>170</b>
ASIC 1	19	–	–	–	–	–	–	–	<b>19</b>
<b>Total</b>	<b>783</b>	<b>806</b>	<b>170</b>	<b>101</b>	<b>43</b>	<b>21</b>	<b>15</b>	<b>1</b>	<b>1,940</b>

- 1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).
- 2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
- 3 Excludes contractors and secondments from other agencies.
- 4 Data rounded – some totals and subtotals may vary.

**Table 6.1.5 Combined totals by gender and employment type, 2020–21<sup>1,2,3,4</sup>**

Roles	Permanent				Temporary				Total
	Full-time		Part-time		Full-time		Part-time		
	Female	Male	Female	Male	Female	Male	Female	Male	
Chair	–	–	–	–	–	1	–	–	<b>1</b>
Deputy Chair	–	–	–	–	1	–	–	–	<b>1</b>
Member	–	–	–	–	2	1	–	–	<b>3</b>
SES	27	18	–	1	7	6	–	–	<b>59</b>
ELS	1	–	–	–	–	–	–	–	<b>1</b>
Exec 2	200	282	77	12	21	14	1	1	<b>608</b>
Exec 1	180	193	53	3	15	21	5	–	<b>470</b>
ASIC 4	196	140	27	3	18	24	1	–	<b>409</b>
ASIC 3	129	101	15	1	23	16	4	–	<b>289</b>
ASIC 2	62	27	26	4	18	7	5	2	<b>151</b>
ASIC 1	5	1	3	–	3	2	1	1	<b>16</b>
<b>Total</b>	<b>800</b>	<b>762</b>	<b>201</b>	<b>24</b>	<b>108</b>	<b>92</b>	<b>17</b>	<b>4</b>	<b>2,008</b>

1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).

2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.

3 Excludes contractors and secondments from other agencies.

4 Data rounded – some totals and subtotals may vary.



**Table 6.1.6 Combined totals by gender and employment type, 2019–20<sup>1, 2, 3, 4</sup>**

Roles	Permanent				Temporary				Total
	Full-time		Part-time		Full-time		Part-time		
	Female	Male	Female	Male	Female	Male	Female	Male	
Chair	–	–	–	–	–	1	–	–	<b>1</b>
Deputy Chair	–	–	–	–	1	1	–	–	<b>2</b>
Member	–	–	–	–	2	2	–	–	<b>4</b>
SES	17	14	4	1	9	9	–	–	<b>54</b>
Exec 2	182	268	73	12	18	19	1	1	<b>574</b>
Exec 1	157	192	48	6	16	23	5	–	<b>447</b>
ASIC 4	184	127	26	1	24	26	3	1	<b>392</b>
ASIC 3	101	86	14	–	44	28	1	3	<b>277</b>
ASIC 2	73	23	33	6	18	4	11	2	<b>170</b>
ASIC 1	7	1	3	1	4	2	–	–	<b>19</b>
<b>Total</b>	<b>721</b>	<b>711</b>	<b>201</b>	<b>27</b>	<b>136</b>	<b>115</b>	<b>21</b>	<b>8</b>	<b>1,940</b>

- 1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).
- 2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
- 3 Excludes contractors and secondments from other agencies.
- 4 Data rounded – some totals and subtotals may vary.

Table 6.1.7 shows ASIC employees by stakeholder team. Most of our staff are employed under the ASIC Enterprise Agreement 2019–22, which is ongoing. Table 6.1.8 shows the industrial arrangements for all ASIC employees.

We continue to provide our people with the opportunity to receive an annual performance bonus. Table 6.1.9 shows the performance payments we made in 2020–21.

**Table 6.1.7 ASIC employees (FTE) by stakeholder team, 2020–21**

Stakeholder teams	Total net FTE
<b>Markets</b>	
Corporations	33
Financial Reporting and Auditing	30
Insolvency Practitioners	27
Market Infrastructure	31
Market Supervision	87
<b>Financial Services and Wealth</b>	
Financial Advisers	54
Investment Managers	42
Superannuation	39
Credit, Retail Banking and Payments	62
Insurers	40
<b>Financial Capability/Consumer Insights and Communications</b>	45
<b>Assessment and Intelligence</b>	170
<b>Supervision</b>	33
<b>Office of Enforcement<sup>1</sup></b>	
<b>Financial Services Enforcement</b>	
Financial Services Enforcement	173
Wealth Management Enforcement Major Financial Institutions <sup>2</sup>	75
<b>Markets Enforcement</b>	
Corporations and Corporate Governance	45
Enforcement WA and Criminal Intelligence Unit	49
Markets Enforcement	47
<b>Registry</b>	147
<b>Total net FTE</b>	<b>1,229</b>

1 Plus 73 FTE staff working on ESA matters, and an additional 101 FTEs providing Enforcement support services and legal counsel.

2 We adopt the definition used in the last few financial years. The 75 FTEs for Wealth Management Enforcement Major Financial Institutions are reported as a separate line under Office of Enforcement. The remaining FTE working on Enforcement in the ESA group are reported in note 1 above.

**Table 6.1.8 Industrial arrangements for ASIC employees as at 30 June 2021<sup>1</sup>**

Classification	ASIC Act s120(1)	AWA <sup>2</sup>	EA <sup>3</sup>	Total
ASIC 1	–	–	10	<b>10</b>
ASIC 2	–	–	74	<b>74</b>
ASIC 3	–	–	238	<b>238</b>
ASIC 4	–	–	432	<b>432</b>
Exec 1	–	–	530	<b>530</b>
Exec 2	–	–	736	<b>736</b>
ELS	8	–	–	<b>8</b>
SES	34	7	16	<b>57</b>
<b>Total</b>	<b>42</b>	<b>7</b>	<b>2,036</b>	<b>2,085</b>

1 The number of industrial arrangements for ASIC team members is calculated based on total headcount as at 30 June rather than FTEs. This is because each industrial instrument belongs to an individual, regardless of their work pattern, and our obligations against those instruments related to a number of people, not FTEs.

2 Australian Workplace Agreement.

3 Enterprise agreement.

**Table 6.1.9 Performance payments, 2020–21, by classification**

Classification	No. of recipients	Aggregate	Minimum	Maximum	Average
ASIC 4	317	\$1,059,893	\$583	\$14,867	\$3,312
Exec 1	456	\$2,613,259	\$681	\$18,334	\$5,681
Exec 2	686	\$6,122,662	\$521	\$28,537	\$8,848

Note: This table includes payments for the 2019–20 performance year which were paid in 2020–21, plus any pro-rata payments for the 2020–21 performance year for staff who left ASIC in 2020–21. The table includes the registry.

## Executive remuneration

ASIC's executive remuneration is determined by:

- › the *Remuneration Tribunal Act 1973*
- › the ASIC Act
- › the ASIC Enterprise Agreement 2019–22
- › remuneration policies and procedures.

**Commission remuneration** is set according to the *Remuneration Tribunal Act 1973* and the Remuneration Tribunal Determinations. This year, ASIC implemented a new Statutory Appointments Governance Framework – Remuneration Expense and Relocation Policy to support the Determinations and provide clear guidance on Commission remuneration.

## Executive Director and Senior Executive Leader remuneration

is determined under section 120 of the ASIC Act. Remuneration and conditions are consistent across the cohort and jobs are evaluated under Mercer IPE methodology. Remuneration for Executive Directors and Senior Executive Leaders is based on a fixed total remuneration package that comprises base salary and superannuation and may include car allowance. Contracts under the ASIC Act provide for contingent remuneration (bonuses) of between 3% and 15% of base salary, conditional upon achieving performance priorities. No bonuses have been paid during 2020–21 due to the COVID-19 pandemic Government wage freeze. Bonuses were provisioned in the financial statements; however, at the time of publication, they were not yet awarded. ASIC is moving to remove bonuses from executive remuneration over the course of the next financial year, in line with the APSC Performance Bonus Guidance.

As a Commonwealth entity, we provide an annual update on the remuneration paid to the executives in the agency. Details for the 2020–21 reporting period are outlined in Tables 6.1.10, 6.1.11 and 6.1.12.

**Table 6.1.10 Remuneration paid to key management personnel in 2020–21<sup>1,2</sup>**

Name	Position title	Short-term benefits			Post-employment benefits			Termination benefits (\$)	Total remuneration
		Base salary (\$)	Bonuses <sup>9</sup> (\$)	Other benefits and allowances (\$)	Superannuation contributions (\$)	Long service leave	Other long-term benefits		
Joseph Longo	Chair <sup>3</sup>	67,384	-	-	1,418	1,229	-	-	70,031
James Shipton	Chair <sup>4</sup>	743,484	-	-	21,674	(43,803)	-	-	721,355
Sarah Court	Deputy Chair <sup>3</sup>	49,479	-	-	4,596	902	-	-	54,977
Daniel Crennan	Deputy Chair <sup>5</sup>	192,094	-	-	8,848	(28,545)	-	-	172,397
Karen Chester	Deputy Chair	550,728	-	-	66,916	13,801	-	-	631,445
Catherine Armour	Commissioner	557,286	-	-	21,694	13,271	-	-	592,251
Danielle Press	Commissioner	569,536	-	-	21,694	13,271	-	-	604,501
Sean Hughes	Commissioner	528,792	-	-	59,746	12,322	-	-	600,860
Christopher Savundra	General Counsel	356,939	21,242	21,388	25,000	8,810	-	-	433,379
Greg Kirk	Executive Director Strategy	307,657	19,237	21,388	56,400	7,980	-	-	412,662
Timothy Mullaly	Executive Director Financial Services Enforcement	322,714	19,404	18,550	57,196	8,051	-	-	425,915

		Short-term benefits			Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration
Warren Day	Chief Operating Officer	344,446	20,683	25,791	56,400	8,550	-	455,870
Joanna Bird	Executive Director Wealth Management	314,874	19,237	20,931	54,210	7,980	-	417,232
Sharon Concisom	Executive Director Markets Enforcement	332,386	19,404	17,558	57,727	8,051	-	435,126
Greg Yanco	Executive Director Markets	342,216	20,350	21,388	40,248	8,430	-	432,632
Diana Steicke	Acting Executive Director Assessment & Intelligence <sup>6</sup>	240,088	14,306	21,823	21,154	5,874	-	303,245
Louise Macaulay	Chief of Staff <sup>3</sup>	28,100	1,397	2,288	3,865	530	-	36,180
Paul Newson	Executive Director Financial Services <sup>7</sup>	56,495	-	5,163	5,424	1,566	88,870	157,518

		Short-term benefits	Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration		
Rosanne Bell	Executive Director Registry <sup>8</sup>	269,328	14,973	20,831	45,554	6,395	–	357,081

- 1 This table is prepared on an accrual basis. This includes accrued long service leave which can only be realised when the vesting requirements have been met.
- 2 The remuneration for these positions is set by the Remuneration Tribunal. This is outlined in the Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2020.
- 3 Part year remuneration disclosure – commenced as a KMP on 1 June 2021.
- 4 Part year remuneration disclosure – ceased as a KMP on 31 May 2021.
- 5 Part year remuneration disclosure – ceased as a KMP on 26 October 2020.
- 6 Part year remuneration disclosure – commenced as a KMP on 24 August 2020.
- 7 Part year remuneration disclosure – ceased as a KMP on 24 August 2020.
- 8 Part year remuneration disclosure – ceased as a KMP on 13 April 2021.
- 9 Bonus values are notional only, based on the 6% bonus provision in the financial statements. Bonus percentages had not yet been awarded at the time of publication.

Table 6.1.11 Remuneration paid to senior executives in 2020–21<sup>1</sup>

Remuneration band (\$)	Number of senior executives	Short-term benefits			Average other benefits and allowances (\$)	Post-employment benefits		Average long-term service leave benefits	Average other long-term benefits	Termination benefits (\$)	Total remuneration
		Average base salary (\$)	Average bonuses <sup>2</sup> (\$)	Average salary bonuses <sup>2</sup> (\$)		Average superannuation contributions (\$)	Average long-term service leave benefits				
0–220,000	14	84,407	4,127	2,659	11,950	2,023	–	–	–	–	105,166
220,001–245,000	1	196,407	11,323	–	27,485	4,718	–	–	–	–	239,933
245,001–270,000	3	201,353	11,805	17,538	29,737	4,919	–	–	–	–	265,352
270,001–295,000	6	213,073	8,251	27,247	28,313	5,345	–	–	–	–	282,229
295,001–320,000	17	224,436	13,591	27,759	34,430	5,663	–	–	–	–	305,879
320,001–345,000	9	251,243	12,969	26,287	34,329	5,825	–	–	–	–	330,653
345,001–370,000	6	264,354	15,901	27,524	43,951	6,625	–	–	–	–	358,355
370,001–395,000	1	270,891	16,729	29,738	47,288	6,971	–	–	–	–	371,617
395,001–420,000	1	343,412	14,244	26,306	20,275	5,935	–	–	–	–	410,172
420,001–445,000	2	361,537	20,888	24,333	26,346	8,703	–	–	–	–	441,807

<sup>1</sup> This table is prepared on an accrual basis. This includes accrued long service leave which can only be utilised realised when the vesting requirements have been met.

<sup>2</sup> Bonus values are notional only, based on the 6% bonus provision in the financial statements. Bonus percentages had not yet been awarded at the time of publication.

**Other highly paid team members** are remunerated either under the ASIC Act with similar conditions to Executive Directors and Senior Executive Leaders, or through higher duties or individual flexibility arrangements under the ASIC Enterprise Agreement 2019–22.



**Table 6.1.12 Remuneration paid to other highly paid staff in 2020–21<sup>1</sup>**

Remuneration band (\$)	Number of other highly paid staff	Short-term benefits			Post-employment benefits			Other long-term benefits			Termination benefits		Total remuneration (\$)
		Average base salary (\$)	Average bonuses (\$)	Average other benefits and allowances (\$)	Average superannuation contributions (\$)	Average long service leave	Average other long-term benefits	Average termination benefits (\$)	Average termination benefits (\$)	Average total remuneration (\$)			
230,001–245,000	16	187,770	14,314	–	30,185	4,607	–	–	–	–	–	236,876	
245,001–270,000	14	203,539	14,358	–	33,635	4,934	–	–	–	–	–	256,466	
270,001–295,000	3	217,667	17,549	–	35,853	5,451	–	–	–	–	–	276,520	
295,001–320,000	1	238,249	22,461	–	34,354	5,587	–	–	–	–	–	300,651	

<sup>1</sup> This table is prepared on an accrual basis. This includes accrued long service leave which can only be utilised realised when the vesting requirements have been met.

## Governance arrangements

Remuneration reviews for senior executives are conducted by the Chair around June–July each year. In 2020–21, ASIC did not provide salary increases or bonuses to senior executives under the ASIC Act. Highly paid team members employed under the ASIC Enterprise Agreement 2019–22 had their 2% salary increase deferred six months to November 2021 in accordance with the COVID-19 pandemic Government wage freeze.

Remuneration decisions are based on:

- › the duties, responsibilities and accountabilities required by the position
- › the performance of the relevant executive
- › managing internal consistency, recognising the different skills, experience and capabilities of executives in comparable level roles.

## 6.2 Appendices relating to assessments

### Assessing misconduct and other reports

#### Misconduct reports from the public

We record and assess every report of alleged misconduct we receive and use this information to identify and respond to misconduct.

In 2020–21, we dealt with 10,711 reports of alleged misconduct. Table 6.2.1 shows the outcome of the misconduct reports received by ASIC during the financial year.

**Table 6.2.1 Misconduct issues, by category, 2020–21**

Category	2020–21
<b>Corporations and corporate governance</b>	
Governance issues	10%
Failure to provide books and records or a report on company affairs and property to a registered liquidator	7%
Fraud allegations	3%
Registered liquidator misconduct	8%
Insolvency matters	2%
Other (e.g. shareholder issues, reporting issues)	9%
<b>Subtotal</b>	<b>39%</b>
<b>Financial services and retail investors</b>	
Credit issues	10%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	17%
General licence obligations	5%
Other (e.g. insurance, advice, misleading or deceptive conduct, unconscionable conduct)	8%
<b>Subtotal</b>	<b>40%</b>

Category	2020–21
<b>Market integrity</b> – including insider trading, continuous disclosure, misleading statements, and market manipulation	12%
<b>Registry integrity</b> – including incorrect address recorded on ASIC’s register, lodging false documents with ASIC, and issues with business names	3%
<b>Subtotal</b>	<b>15%</b>
<b>Issues out of ASIC’s jurisdiction</b>	<b>6%</b>
<b>Total</b>	<b>100%</b>

Table 6.2.2 Misconduct issues, by outcome, 2020–21 and 2019–20

Misconduct reports	2020–21 Number	2019–20 Number
Total misconduct reports finalised <sup>1</sup>	10,711	12,355
Outcome	Percentage	Percentage
<b>Referred for action by ASIC<sup>2</sup></b>	<b>15%</b>	19%
<b>Resolved<sup>3</sup></b>	<b>9%</b>	10%
Compliance achieved	<0.5%	1%
Warning letter issued	6%	3%
Referred for internal or external dispute resolution	3%	6%
Assistance provided	<0.5%	<0.5%
More appropriate agency	<0.5%	<0.5%
<b>Analysed and assessed for no further action<sup>4</sup></b>	<b>65%</b>	61%
Insufficient evidence	48%	41%
No action	17%	20%
<b>No jurisdiction<sup>5</sup></b>	<b>9%</b>	8%
<b>No breach or offences</b>	<b>2%</b>	2%
<b>Total</b>	<b>100%</b>	100%

- 1 Where ASIC receives reports about the same entity and issue, we merge these matters.
- 2 The matters ASIC takes into account when deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.
- 3 This can involve referral to an external dispute resolution scheme, ASIC issuing a warning letter to the party that may be in breach of the Corporations Act, ASIC providing assistance to the reporter in the form of guidance and information about how best to resolve the matter themselves, or ASIC taking action to achieve compliance.
- 4 Preliminary inquiries made and information provided analysed and assessed for no further action by ASIC, due to insufficient evidence or other reason, such as where another agency or law enforcement body or third party (e.g. a liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.
- 5 Where relevant, ASIC directs reporters to the appropriate agency or solution.

## Breach reports from licensees and auditors

The Corporations Act requires AFS licensees to tell us in writing within 10 business days about any significant breach (or likely breach) of their obligations. We also receive breach reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by the company, managed investment scheme or AFS licensee that they are appointed to audit.

Table 6.2.3 provides a breakdown of the breach reports we assessed in 2020–21 by type and outcome.

**Table 6.2.3 Breach reports by type and outcome, 2020–21**

Type	Number
Breach reports provided by auditors	1,174
Breach reports about AFS licensees and managed investment schemes	2,435
<b>Total breach reports finalised</b>	<b>3,609</b>
Outcome	Percentage
<b>Referred for action by ASIC</b>	<b>11%</b>
Referred for compliance, investigation or surveillance	11%
Assist existing investigation or surveillance	NA <sup>1</sup>
<b>Analysed and assessed for no further action</b>	<b>89%</b>
No further action	77%
Awaiting update	12%
<b>Total</b>	<b>100%</b>

<sup>1</sup> Assist existing investigation or surveillance is no longer tracked separately. It is now included in the 'Referred for action by ASIC' figure.

For more information on the matters that require an auditor to report a breach of the law to ASIC, see sections 311, 601HG and 990K of the Corporations Act.

### Statutory reports from registered liquidators

The Corporations Act requires registered liquidators to report to ASIC if it appears that company officers are guilty of an offence. Liquidators (except in the case of a simplified liquidation) must also report if the return to unsecured creditors may be less than 50 cents in the dollar.

We received 4,566 initial reports from registered liquidators, 3,810 of which reported possible offences by company

officers. The remainder were lodged because the return to unsecured creditors may be less than 50 cents in the dollar. Of the 3,810 reports of misconduct, we requested supplementary reports from the registered liquidators in 709 cases.

These supplementary reports typically set out the results of the registered liquidator's inquiries and the evidence to support the alleged offences. We referred 18% of supplementary reports assessed in 2020–21 for compliance, investigation or surveillance action, compared to 23% in 2019–20.

Table 6.2.4 provides details of the statutory reports we assessed in 2020–21 by type and outcome.

**Table 6.2.4 Statutory reports from registered liquidators, 2020–21**

Type	Number
<b>Initial reports from registered liquidators<sup>1</sup></b>	<b>4,566</b>
Reports alleging misconduct	3,810
Reports not alleging misconduct	756
<b>Supplementary reports finalised</b>	<b>517</b>
<b>Total reports finalised (initial + supplementary)</b>	<b>5,083</b>
Outcome	Percentage
<b>Supplementary report analysed and assessed, no further information required<sup>2</sup></b>	<b>82%</b>
<b>Supplementary reports referred</b>	<b>18%</b>
<b>Total</b>	<b>100%</b>

1 We requested a further report (supplementary report) from the registered liquidator in 19% of cases.

2 There was insufficient evidence to warrant commencing a formal investigation in 82% of the cases where a supplementary report was requested and subsequently it was determined that no further information was required. We retain these reports for intelligence purposes for possible future use.

## Whistleblowing

ASIC's Office of the Whistleblower ensures that we record and assess the disclosures we receive from whistleblowers, and that we communicate with whistleblowers as we undertake our inquiries. We also engage with stakeholders about implementing Australia's corporate sector whistleblower protection regime.

This year, we dealt with 817 disclosures by whistleblowers, an increase compared to the previous year. Around 73% of these disclosures related to corporations and corporate governance, including internal company disputes. We also dealt with matters related to credit and financial services and the conduct of licensees (20%), markets (5%) and other issues (2%).

ASIC is unable to comment on our assessment of, or investigation into, whistleblower disclosures, considering the strong confidentiality protections for whistleblowers. Following our preliminary inquiries, we assessed approximately 91% of disclosures as requiring no further action by ASIC due to insufficient evidence, no actionable breach being disclosed, or the breach being in the jurisdiction or remit of other regulators. In a number of cases, we referred the matter to another agency, law enforcement body, or third party (such as a liquidator) that was better placed to deal with the issue or was already taking action.

## 6.3 Appendices relating to statements required by law

### Portfolio Budget Statement outcomes

Table 6.3.1 Agency resource statement, 2020–21

		Actual available appropriation for 2020–21 \$'000	Cash payments made <sup>1</sup> 2020–21 \$'000	Balance remaining 2020–21 \$'000
<b>Ordinary annual services<sup>2</sup></b>				
<b>Departmental</b>				
Departmental appropriation <sup>3</sup>		637,949	536,440	101,509
<b>Administered expenses</b>				
Outcome 1 – Bill 1				
Administration fund		22,985	7,674	15,311
<b>Total ordinary annual services</b>	<b>A</b>	<b>660,934</b>	<b>544,114</b>	<b>116,820</b>
<b>Other services</b>				
<b>Departmental non-operating</b>				
Equity injections <sup>4</sup>		13,396	9,035	4,361
<b>Total other services</b>	<b>B</b>	<b>13,396</b>	<b>9,035</b>	<b>4,361</b>
<b>Total available appropriations (A+B)</b>		<b>674,330</b>	<b>553,148</b>	<b>121,181</b>
<b>Special appropriations limited by criteria/amount</b>				
Banking Act 1959		N/A	52,551	N/A
Life Insurance Act 1995		N/A	4,960	N/A
<b>Total special appropriations</b>	<b>C</b>	<b>N/A</b>	<b>57,511</b>	<b>N/A</b>
<b>Total appropriations excluding special accounts (A+B+C)</b>		<b>674,330</b>	<b>610,659</b>	<b>N/A</b>



		Actual available appropriation for 2020–21 \$'000	Cash payments made <sup>1</sup> 2020–21 \$'000	Balance remaining 2020–21 \$'000
<b>Special Account<sup>5</sup></b>				
Opening balance		39,599	N/A	N/A
Appropriation receipts		59,221	N/A	N/A
Costs recovered		5,964	N/A	N/A
Payments made		N/A	59,610	N/A
<b>Total special account</b>	<b>D</b>	<b>104,784</b>	<b>59,610</b>	<b>N/A</b>
<b>Total resourcing (A+B+C+D)</b>		<b>779,114</b>	<b>670,269</b>	<b>N/A</b>
Less appropriations drawn from annual appropriations above and credited to special accounts		(59,221)	N/A	N/A
<b>Total net resourcing for ASIC</b>		<b>719,893</b>	<b>670,269</b>	<b>N/A</b>

1 Does not include GST.

2 Appropriation Bill (No. 1) 2020–21, Appropriation Bill (No. 3) 2020–21, prior year departmental appropriation and section 74 relevant agency receipts.

3 Includes \$20.856 million for the Departmental Capital Budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

4 Appropriation Bill (No. 2) and (No. 4) 2020–21

5 Does not include Special Public Money.

**Table 6.3.2 Expenses by outcome**

	Budget <sup>1</sup> 2020–21 (1) \$'000	Actual expenses 2020–21 (2) \$'000	Variance column (1) minus column (2) \$'000
<b>Outcome 1: Improved confidence in Australia’s financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets, and delivering efficient registry systems.</b>			
A Administered expenses funded by administered appropriations	12,399	7,727	4,672
B Departmental expenses funded by departmental appropriations and own-source revenue	430,583	421,602	8,981
<b>Total for Outcome 1 (A+B)</b>	<b>442,982</b>	<b>429,329</b>	<b>13,653</b>
Average FTE <sup>2</sup>	1,993	2,008	(15)

1 Based on the 2020–21 forecast as set out in ASIC’s 2020–21 Portfolio Budget Statements.

2 2020–21 Portfolio Budget Statements quoted the average staffing level, which is different from FTE. The average staffing level includes employees working on capital projects, while the FTE excludes employees working on capital projects.

## Reports required under statute and other reporting requirements

### ASIC Act

As required by section 136(1)(a) of the ASIC Act, in 2020–21, ASIC reports that we provided relief under Part 29 of the SIS Act from the requirement to hold a meeting of members for the 2019–20 year of income for one superannuation fund whose members were transferring to another fund as part of a successor fund transfer on conditions that included a requirement that the meeting of the recipient fund

allow for questions to be asked about the former fund and the successor fund transfer. We did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997*.

As required by section 136(1)(c), ASIC reports that during 2020–21 we did not conduct joint inspections with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations.

We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de

Surveillance du Secteur Financier or share any information with them under relevant provisions of the ASIC Act during 2020–21.

As required by section 136(1)(cb), ASIC reports that there were no instances during the period where ASIC failed to consult before making a product intervention order, as required by section 1023F of the Corporations Act or section 301F of the National Credit Act.

### **Commonwealth fraud control guidelines**

ASIC has a fraud control policy and plan in place, which is reviewed every two years and approved by the Operational Risk Committee.

We have appropriate fraud prevention, detection, investigation and reporting mechanisms in place, considering the nature of ASIC's activities.

ASIC conducts fraud risk assessments as part of our enterprise risk management protocols for each business unit. Results are contained in the operations risk registers.

We have taken all reasonable measures to deal appropriately with fraud.

### **Auditor-General reports**

This financial year, there was one report by the Auditor-General on ASIC's operations.

On 23 October 2020, the Auditor-General released a report on the ASIC 2019–20 financial statements audit. During the audit, the Australian National Audit Office (ANAO) identified payments made on behalf of the then-ASIC Chair and a then-Deputy Chair that it considered

may exceed the limits set in the remuneration determination made by the Remuneration Tribunal.

ASIC acknowledged the ANAO's audit findings and agreed to its recommendations.

ASIC made further changes following the release of Dr Vivienne Thom AM's review of ASIC governance. Details on these changes can be found in Chapter 1, pages 4 and 8. In August 2021, ASIC approved a new remuneration, expense and relocation policy for statutory appointees.

### **Commonwealth Ombudsman reports**

This financial year, there was one report by the Commonwealth Ombudsman on ASIC's operations.

In February 2021, the Commonwealth Ombudsman released its annual report, *Monitoring agency access to stored communications and telecommunications data under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, for the period 1 July 2018 to 30 June 2019.

The report noted that ASIC had disclosed 28 instances where officers who were no longer authorised to do so had made telecommunications data authorisations. The report further noted that ASIC took appropriate remedial action to quarantine all telecommunications data received as a result of these unauthorised disclosures.

## Other reports

This financial year, ASIC reported one alleged instance of fraud valued at approximately \$31,182.28 to the Finance Minister under section 19 of the PGPA Act. The matter was referred to the Australian Federal Police.

This financial year, there were no:

- › reports by parliamentary committees on ASIC operations
- › capability reviews of ASIC.

## Freedom of Information Act 1982

Members of the public have the right to apply to ASIC for access to documents in ASIC's possession under the *Freedom of Information Act 1982* (FOI Act).

Applications must be in writing, state that they are made under the FOI Act, provide such information as is reasonably necessary to identify the documents requested, and provide details of where notices under the FOI Act can be sent to the applicant.

Requests by email should be sent to:

**[foirequest@asic.gov.au](mailto:foirequest@asic.gov.au)**

or you may lodge a mail request to:  
Senior Manager  
Freedom of Information Team  
GPO Box 9827  
Brisbane QLD 4001

For further information on how to apply, visit our website at [www.asic.gov.au](http://www.asic.gov.au).

Categories of documents in ASIC's possession include, for operational matters:

- › licence and professional registration applications

- › applications from businesses, correspondence, internal working papers, policy proposals and submissions
- › administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers.

And, for other matters, categories of documents include:

- › law reform, including submissions and proposal papers
- › correspondence with members of the public, Government entities, parliamentary committees, business entities and other bodies
- › administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and employee management, delegation and authorisation
- › reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory documents, media releases, information releases, pamphlets and annual reports
- › other documents held as public information (in the ASCOT database).

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, legislative instruments and other regulatory publications on our website.

*ASIC Digest*, which includes ASIC regulatory documents and additional information, is published by Thomson Reuters under the terms of an agreement with ASIC.

ASIC Digest is available by subscription from Thomson Reuters, telephone 1300 304 197.

Information from ASIC’s registers and databases that is available to the public for the payment of a fee cannot be obtained under the FOI Act.

Agencies subject to the FOI Act must publish information for the public as part of the Information Publication Scheme. This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

ASIC’s Information Publication Scheme Plan, showing what information is published in accordance with the scheme requirements, can be found at <https://asic.gov.au/about-asic/freedom-of-information-foi/information-publication-scheme/>.

### ASIC’s use of compulsory information-gathering powers

Since 2010–11, ASIC has reported the use of significant compulsory information-gathering powers under statute.

This appendix discloses data by number of instances in 2020–21, with comparative data for 2019–20.

**Table 6.3.3 Use of significant compulsory information-gathering powers**

		Number of notices 2020–21	Number of notices 2019–20
<b>Appear for examination</b>			
ASIC Act, s19 <sup>1</sup>	Requirement to appear for examination	975	857
ASIC Act, s58	Power to summons a witness and take evidence	0	0
National Credit Act, s253 <sup>1</sup>	Requirement to provide reasonable assistance	74	153
<b>Give reasonable assistance</b>			
Corporations Act, s1317R	Power to require assistance in prosecutions	3	22
ASIC Act, s49(3)	Power to require reasonable assistance in prosecutions	39	13

1 These notices may include directions to provide reasonable assistance or produce documents.

		Number of notices 2020–21	Number of notices 2019–20
National Credit Act, s51	Requirement to provide reasonable assistance	0	0
Corporations Act, s601FF	Power to conduct surveillance/monitor managed investment scheme	0	0
National Credit Act, s274(4)	Requirement to provide reasonable assistance	0	0
Corporations Act, s912E	Power to require assistance and disclosure of books and information from an AFS licensee	170	274
<b>Produce documents</b>			
National Credit Act, s266	Requirement to produce books (credit activities)	75	100
National Credit Act, s267	Requirement to produce books	135	247
ASIC Act, s30	Notice to produce books about affairs of body corporate or registered scheme	862	1,040
ASIC Act, s31	Notice to produce books about financial products	10	29
ASIC Act, s32A	Notice to produce books about financial services	3	0
ASIC Act, s33	Notice to produce books in person's possession	1,969	1,589
Corporations Act, s1213P	Power to require a notified foreign passport fund to lodge a copy of the register of members.	0	0
<b>Provide access</b>			
ASIC Act, s29	Power to inspect books	0	0
Corporations Act, s821D	Power to require access to a CS facility	0	0

		Number of notices 2020–21	Number of notices 2019–20
<b>Provide information</b>			
ASIC Act, s12GY(2)	ASIC to require claims to be substantiated	0	0
ASIC Act, s37(9)(a)	Power requiring explanation of books	0	0
Corporations Act, s601HD	Power to request information about compliance plan of a registered scheme	0	0
National Credit Act, s49(1)	Requirement to provide information (statement)	46	40
Corporations Act, s912C	Power to require information from an AFS licensee	667	962
National Credit Act, Sch 2 item 17	Power to require information (obtain statement or audit report)	0	0
Corporations Act, s672A	Power to require disclosure of relevant interests	0	4
Corporations Act, s672B	Power to require disclosure of relevant interests	0	0
National Credit Act, s37(4)	Power to request information or audit report from licence applicant	0	0
Corporations Act, s792D	Power to require reasonable assistance from a market licensee	41	22
<b>Provide information and produce books</b>			
ASIC Act, s30A	Notice to auditors requiring information or books	58	70
ASIC Act, s30B	Notice to registered liquidators requiring information or books	9	5
<b>Search warrants</b>			
<i>Crimes Act 1914</i> , s3E	Warrants to search premises/ conveyance or person	0	10
ASIC Act, s36	Warrant to search premises	30	0

**Table 6.3.4 Use of other powers**

Use of other powers		Number of notices 2020–21	Number of notices 2019–20
<b>Obligations of carriers and carriage service providers</b>			
<i>Telecommunications Act 1997, s313</i>	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	0	0
<b>Provide documents, information or evidence</b>			
<i>Mutual Assistance in Business Regulation Act 1992, s10(2)</i>	Requirement to produce documents, to give information or to appear to give evidence and produce documents	62	50

### Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Government and administered by ASIC to address illegal phoenix activity or other serious misconduct. The scheme may fund the following types of activities:

- › further investigations and reports by liquidators into the failure of companies with few or no assets, where it appears that a director may be banned, or other enforcement action may result from the investigations and reports
- › liquidator recovery actions to undertake legal action to recover assets when misconduct has occurred which resulted in the dissipation of company assets
- › the appointment of reviewing liquidators to companies under external administration where ASIC suspects misconduct of either the director, the adviser or the registered liquidator

- › the appointment of liquidators to abandoned companies under Part 5.4C of the Corporations Act.

On 1 July 2020, ASIC was allocated \$7.118 million, which, together with an amount of \$6.964 million rolled over from the previous financial year, resulted in total available funds of \$14.082 million. ASIC paid and committed the amount of \$9.6 million to liquidators in 2020–21. Applications in progress and grants approved have substantially committed the balance of the funding allocation.

The 2010–21 year saw an approximate 45% decrease in liquidations. Despite this, ASIC received 781 applications (an overall 2% decrease on the previous financial year) for funding comprising:

- › 612 director banning reports (a 3.5% decrease)
- › 107 matters other than section 206F director banning reports (a 28.5% decrease)



- › 62 funding liquidator actions to recover assets (a fivefold increase).

ASIC approved grant funding for 197 director banning reports, 60 matters other than director banning reports and 2 asset recovery actions. An additional 15 variations for increased funding were approved.

ASIC also funded liquidators appointed by ASIC to 19 windings up of abandoned companies.

The AA Fund assisted in:

- › 41 director bannings, representing 93% of the total of 44 directors banned
- › 2 criminal convictions/prosecutions.

There have also been in-principle approvals across several matters for liquidators to undertake public examinations of between an estimated 37 and 45 parties.

Information on grants by ASIC under the AA Fund can be found at <https://asic.gov.au/for-finance-professionals/registered-liquidators/your-ongoing-obligations-as-a-registered-liquidator/assetless-administration-fund/>.

## Managing property vested in ASIC or the Commonwealth

ASIC administers the property of deregistered companies. This property remains vested in ASIC or, in the case of trust property, the Commonwealth until it is lawfully dealt with or evidence is provided that the property no longer vests in ASIC or the Commonwealth for some other reason.

ASIC accounts for any proceeds on realisation of property vested in it by transferring such proceeds, less the expenses incurred in dealing with the property, into the Official Public Account in accordance with our statutory duties. The proceeds are treated like any other unclaimed money for which ASIC is responsible.

In 2020–21, the number of new cases received increased to 1,737 and the number of cases finalised increased to 1,683.

Table 6.3.5 shows vested properties of deregistered companies by number of cases.

### Assets of deregistered companies vesting in ASIC or the Commonwealth

Section 601AD of the Corporations Act provides that when a company is deregistered, all of its property vests in ASIC or, in the case of trust property, the Commonwealth.

We generally only deal with vested property once an application is made by a third party for us to exercise powers under section 601AE or section 601AF of the Corporations Act. We do not consider it practical to value any identified vested property and, consequently, such property is not recorded or disclosed in these financial statements.

**Table 6.3.5 Vested properties of deregistered companies  
(by number of cases)**

Claims by type	2020–21	2019–20
Total new cases	1,737	1,608
Total finalised cases	1,683	1,610
<b>Property disposals</b>		
Transferred	46	68
Sold	13	16
No longer vested <sup>1</sup>	769	767
Other <sup>2</sup>	43	60
<b>Total property disposals</b>	<b>871</b>	911

- 1 Property is removed from ASIC's records when the company is reinstated, a third party lawfully deals with the asset, or evidence is provided that the property no longer vests in ASIC.
- 2 Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

## Ecologically sustainable development

ASIC continues to focus on our environmental performance in accordance with Government policy. In 2020–21, we continued to mitigate our impact on the environment through initiatives consistent with the *Environment Protection and Biodiversity Conservation Act 1999* principles of ecologically sustainable development (ESD). The progress and results of these initiatives are reported and reviewed by our Executive on a twice-yearly basis.

In our core business in 2020–21, we ensured that direct contributions to ESD principles were achieved by way of activities such as increasing options for

online lodgement, online self-service and digital communication channels which included reduction of hard copy mail.

## Energy efficiency

Our total electricity consumption has reduced by 57% since 2010–11.

A major driver of consumption decrease has been a reduction in our leased floor space with a 31% decrease since 2014–15, while reducing work points by only 4%. This space efficiency is complemented by ongoing energy minimisation initiatives, including programmable motion sensor-controlled lighting, LED lighting and default power saving modes for equipment. These approaches ensure the reduction of associated environmental impacts and we continue to review and report on our energy consumption

results against the Energy Efficiency in Government Operations (EEGO) Policy targets.

Our consumption of energy during the 2020–21 reporting period was influenced by significant numbers of staff working

from home during this time and the closure of various offices around the country during state lockdowns to control the COVID-19 pandemic.

**Table 6.3.6 Consumption of office energy**

Indicator	2020–21	2019–20
Light and power – ASIC tenancies (kWh)	2,124,313	2,947,775
MJ per person	2,864	4,011
Light and power – ASIC computer centres (kWh)	620,355	758,544
MJ per m <sup>2</sup>	5,120	6,064
Greenhouse gas emissions (tonnes CO <sub>2</sub> -e) – attributed to all light and power	2,138	3,318

**Resource efficiency and waste**

We have improved our sustainable consumption to minimise the environmental impacts over the whole-of-life of products. Strategies include reducing the environmental impacts of shipping by buying Australian-made copy paper and consumables supplied from state-based warehouses, reducing the waste volume going to landfill by extending waste streams to include organics and coffee cups, and reducing the potential release of harmful substances into the environment by introducing a waste stream for batteries and our continued zero IT waste to landfill policy.

The fit-out of our offices in Melbourne, Brisbane and Sydney has included landfill reduction by the extensive re-use of furniture in our offices, excess furniture sent for external re-use or recycling, and the extensive use of environmentally friendly materials such as carbon neutral flooring and 100% recyclable wall panels.

**Table 6.3.7 Resource efficiency and waste**

Indicator	2020–21	2019–20
Office paper purchased by FTE (A4 reams/FTE)	1.1	3.4
Percentage of office paper purchased with recycled content	100%	100%
Toner cartridges recycled (kgs)	140.92	416
IT equipment recycled or re-used (tonnes)	13.88	9.3

## Travel

This year, there has been an ongoing requirement for staff to work from home, given COVID-19 pandemic restrictions, with limited business essential travel. This has seen a 95% decrease in flights and associated carbon emissions. Alternative communication tools, such as telephone and video conferencing, have been extensively used, with over 220,224 video connections between ASIC employees and externals.

**Table 6.3.8 Type and amount of travel undertaken by ASIC employees**

Indicator	2020–21	2019–20
<b>Ground travel<sup>1</sup></b>		
Total number of fleet vehicles	1	2
Total distance travelled by fleet vehicles (kms)	555	20,672
Average fuel consumption of fleet vehicles (litres/100 kms)	8.83	8.53
Total direct greenhouse emissions of fleet (tonnes CO <sub>2</sub> -e)	.229	4.19
Total distance travelled using GoGet carshare (kms)	12,524	25,407
<b>Air travel</b>		
Total distance of air flights (kms)	575,445	10,524,116
Total greenhouse emissions of flights (tonnes CO <sub>2</sub> -e)	153	1,012
<b>Alternative meeting communications</b>		
Total number of video conferencing calls	220,224	41,526

<sup>1</sup> The fleet data is for the period 1 April to 31 March each year.

## Information and engagement

This year, we continued to provide options for team members' participation in our sustainability initiatives. We improved and refreshed our intranet information for team members on sustainability initiatives and performance reporting, complemented by ongoing participation in environmental activities such as Earth Hour.

## Consultancies and expenditure on advertising

During 2020–21, ASIC conducted the advertising campaigns set out in Table 6.3.9.

Further information on ASIC's advertising campaigns is available on our website at [www.asic.gov.au](http://www.asic.gov.au). Information on advertising campaign expenditure greater than \$250,000 is available in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available at [www.finance.gov.au](http://www.finance.gov.au).

**Table 6.3.9 Expenditure on advertising agency services, 2020–21**

Agency	Expenditure (\$)	Purpose
Mediabrand Australia Pty Ltd	192,500.00	Ads campaign
Mediabrand Australia Pty Ltd	137,500.00	Google Ads campaign
Mediabrand Australia Pty Ltd	14,681.11	Graduate advertising 2021–22 via GradConnection
Mediabrand Australia Pty Ltd	55,959.55	Seek ad packs FY 2020–21
Mediabrand Australia Pty Ltd	16,498.90	2021 GradAustralia Subscription
Mediabrand Australia Pty Ltd	29,645.62	LinkedIn renewal FY 2020–21
Mediabrand Australia Pty Ltd	16,498.90	GradAustralia yearly advertising campaign 2021–22
The Nielsen Company (Australia) Pty Ltd	187,930.60	Advertising Monitoring Services 2020–21
<b>Total</b>	<b>651,214.68</b>	

## Procurement

ASIC's use of Commonwealth resources and expenditure of public money is primarily governed by the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule).

Responsibility for compliance with the Commonwealth Procurement Rules (CPRs) lies with the appropriate financial delegates.

The delegates are supported by a central procurement team of qualified procurement advisers who:

- › develop and maintain our procurement processes, guidance and systems to promote compliance with the PGPA Act, the PGPA Rule and the CPRs for all levels of procurement
- › manage in partnership with the business complex and high risk procurement activities, including procurements that are subject to the mandatory procurement procedures of the CPRs
- › advise on all procurement activities.

Our procurement framework aims to facilitate compliance with the core principles and policies of the CPRs to achieve 'value for money' by 'encouraging competition', 'efficient, effective, ethical and economical use of resources', 'accountability and transparency', and 'appropriate engagement with risk' through a process that is 'commensurate with the scale and scope of the business requirement'.

We undertake regular audits of procurement and any instances of non-compliance are reported

through the compliance report and addressed, as required, through process improvement initiatives.

All major contracts entered into in 2020–21 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

## Using AusTender

This annual report contains information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available through the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

During 2020–21, ASIC awarded 795 procurement activities (each valued at \$10,000 or more reported on AusTender) for a total value of \$144.231 million. Of these procurements, 246 were valued in excess of \$80,000 for a total value of \$123.676 million.

Contracts of \$100,000 or more were reported on AusTender, in accordance with the Senate order on departmental and agency contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2021 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

**Table 6.3.10 Expenditure on non-consultancy contracts**

<b>Business data</b>	<b>2020–21</b>
Number of new non-consultancy contracts	<b>757</b>
Expenditure on new non-consultancy contracts (\$ millions)	<b>60.349</b>
Number of ongoing non-consultancy contracts	<b>992</b>
Expenditure on ongoing non-consultancy contracts (\$ millions)	<b>87.573</b>

Note: The above figures are GST inclusive. Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.

**Table 6.3.11 Additional information – reportable non-consultancy contracts**

<b>Organisations receiving a share of reportable non-consultancy contract expenditure 2020–21</b>	<b>Expenditure (\$)</b>
Oracle Corporation (Aust) Pty Ltd	<b>4,282,385.40</b>
Broadspectrum Property Pty Ltd	<b>3,135,958.71</b>
Johnson Winter & Slattery	<b>2,293,856.44</b>
Australia Post	<b>2,284,599.60</b>
DXC Technology Australia Pty Ltd	<b>2,077,542.50</b>

Note: The above figures are GST inclusive and include the names of the organisations that received the five largest shares of ASIC’s total expenditure on such contracts during the 2020–21 financial year, and the total amounts they received.

## Consultancy contracts

During 2020–21, ASIC entered into 39 new consultancy contracts, involving total expenditure of around \$5.826 million. In addition, 35 ongoing consultancy contracts were active during the year, involving total expenditure of \$8.280 million.

**Table 6.3.12 Consultancy trend data**

Business data	2020–21	2019–20
Number of new consultancies	39	39
Expenditure on new consultancies (\$ millions)	4.539	6.733
Number of ongoing consultancies	35	35
Expenditure on ongoing consultancies (\$ millions)	5.073	8.638

Note: The above figures are GST inclusive and include all consultancies valued over \$10,000, as indicated on AusTender. The figures differ from the consultancy expenditures shown in the financial statements, which are the value of all consulting costs exclusive of GST. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

**Table 6.3.13 Additional information – reportable consultancy contracts**

Organisations receiving a share of reportable consultancy contract expenditure 2020–21	Expenditure (\$)
State of Matter Consulting Pty Ltd	2,868,137.83
LAB3 Pty Ltd	793,727.00
Unify Solutions Pty Ltd	514,910.00
Wardy IT Solutions Pty Ltd	430,451.45
Deloitte Access Economics Pty Ltd	422,181.07

Note: The above figures are GST inclusive and include the names of the organisations that received the five largest shares of ASIC's total expenditure on such contracts during the 2020–21 financial year, and the total amounts they received.



## Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally and business units seeking to engage consultants must prepare a business case seeking funding. Requests to engage consultants must be linked to outcomes in business plans and must contribute to ASIC's objectives. Once the engagement of a consultant is approved, the procurement method used will be in accordance with the CPRs and ASIC's procurement policies.

Of the 39 consultants that ASIC engaged during 2020–21:

- › 36 were for specialised or professional skills
- › three were for independent research or assessment.

The method of procurement used was open tender for 30 engagements (including engagements from panels) and limited tender for 9 engagements.

The consultants were engaged for the following main service categories:

- › information technology consultation services
- › research programs
- › risk management consultation services
- › business intelligence consulting services
- › management advisory services
- › market research
- › strategic planning consultation services.

## Procurement initiatives to support small business

ASIC supports small business participation in the Australian Government procurement market. Small to medium-sized enterprise (SME) and small enterprise participation statistics are available on the Department of Finance website, [www.finance.gov.au](http://www.finance.gov.au).

ASIC recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury website, [www.treasury.gov.au](http://www.treasury.gov.au).

ASIC's procurement practices support small businesses by:

- › use of the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000, where applicable
- › encouraging use of the SME exemption under the Commonwealth Procurement Rules
- › using the Digital Transformation Agency's digital marketplace, which is accessible to SMEs and clearly identifies their SME status.

## Australian Financial Complaints Authority

ASIC has oversight of AFCA. AFCA is a single external dispute resolution (EDR) scheme for financial services that aims to resolve complaints that a financial firm could not resolve by internal dispute resolution (IDR).

Financial firms must have a dispute resolution system that consists of IDR procedures that meet the standards or requirements made or approved by ASIC, as well as membership of AFCA.

AFCA deals with financial services, credit and superannuation complaints made by consumers, small businesses and primary producers that a firm has not resolved at IDR.

In 2020–21, AFCA received 70,510 complaints, a 12.5% decrease on 2019–20, securing \$240.64 million in compensation to consumers and small businesses. AFCA continued to respond to complaints arising from the COVID-19 pandemic in 2020–21, although these complaints also declined relative to last financial year.

As an authorised EDR scheme, AFCA is governed by an independent board responsible for ensuring the scheme's ongoing compliance with the authorisation requirements, ministerial conditions and ASIC regulatory requirements.

In February 2021, Treasury published terms of reference for the inaugural Independent Review of AFCA. Required by legislation, this is an important and timely opportunity to assess AFCA's performance against its statutory mandate and to ensure that it continues to operate effectively.

In 2020–21, ASIC issued regulatory requirements and approved material changes to the AFCA Rules to close a gap in AFCA's jurisdiction identified in a judgment in the Supreme Court (NSW) in the matter of *DH Flinders Pty Ltd v AFCA*.

Under the legislative requirements, AFCA reported 67 systemic issues to ASIC in 2020–21. AFCA also reported possible serious contraventions and shared information with ASIC under applicable statutory requirements and provisions of the AFCA Rules.

Compliance with AFCA determinations is a critical part of a licensee's general obligations and critical to confidence in the financial services dispute resolution framework. In April 2021, ASIC commenced proceedings in the Federal Court against a credit assistance provider and its director for failing to comply with AFCA determinations. ASIC commenced this action under reforms resulting from the Royal Commission which mean that a failure to cooperate with AFCA is a civil penalty offence.

Other reforms affecting AFCA include:

- › ASIC's updated requirements about how financial firms deal with consumer and small business complaints under their IDR procedures (Regulatory Guide 271), which commence 5 October 2021
- › ASIC's further consultation on the IDR data collection and reporting framework
- › ASIC's updates to its remediation policy settings, which, together with the AFCA Independent Review, present an opportunity to consider the respective roles of financial firms, AFCA and ASIC in consumer remediations.

## 6.4 Five-year summary of key stakeholder data

Table 6.4.1 Five-year summary of key business and stakeholder data, 2017–21

Business data	2020–21	2019–20	2018–19	2017–18	2016–17
<b>Registry services</b>					
Companies (total)	2.9m	2.8m	2.7m	2.6m	2.5m
New companies registered	279,853	222,048	223,661	244,510	249,394
Business names (total)	2.4m	2.3m	2.3m	2.2m	2.2m
New business names registered	460,409	387,827	375,052	366,181	348,266
% company data lodged on time	94%	93%	95%	95%	95%
Total searches of ASIC databases	219.2m	243.7m	142.6m	122.5m	90.6m
<b>Regulated entities</b>					
AFS licensees	6,179	6,127	6,159	6,170	6,058
Credit licensees	4,777	4,930	5,188	5,503	5,576
Authorised market infrastructure providers	67	64	64	65	67
Registered SMSF auditors	5,540	5,699	5,919	6,039	6,339
Registered company auditors	3,553	3,781	3,962	4,226	4,365
Registered liquidators	649	633	651	663	711
Registered managed investment schemes	3,612	3,650	3,712	3,726	3,632

Business data	2020–21	2019–20	2018–19	2017–18	2016–17
<b>Fundraising and takeovers</b>					
Fundraising documents lodged	884	711	794	898	1,017
Fundraising where ASIC required additional disclosure	\$3.8bn	\$2.3bn	\$3.2bn	\$3.5bn	\$7.2bn
Control transactions – schemes and bids	85	55	73	60	72
Control transactions – schemes and bids implied target size	\$40.5bn	\$23.5bn	\$34.3bn	\$32bn	\$18bn
<b>Enforcement outcomes</b>					
Criminal and civil litigation completed <sup>1</sup>	75	72	108	127	101
% successful criminal and civil litigations <sup>2</sup>	97%	93%	94%	99%	90%
Individuals imprisoned <sup>3</sup>	7	7	10	6	13
Recoveries, costs, compensation or fines <sup>4</sup>	\$10.2m	\$1.5m	\$77.7m	\$437.8m	\$849.7m
<b>Reports of misconduct</b>					
Reports of misconduct finalised	10,711	12,355	10,249	9,567	9,011
<b>Other key statistics</b>					
Fees and charges collected for the Commonwealth	\$1,513m	\$1,358m	\$1,273m	\$1,227m	\$920m
Staff (average FTEs) <sup>5</sup>	2,008	1,940	1,701	1,656	1,640

1 This excludes summary prosecutions for strict liability offences.

2 This excludes summary prosecutions for strict liability offences.

3 This excludes custodial sentences served by way of an Intensive Correction Order or where the defendant is released on recognisance to be of good behaviour.

4 Compensation or remediation programs monitored by ASIC are not included in this statistic. The amount includes compensation or remediation agreed in court enforceable undertakings accepted by ASIC, fines and costs ordered by the courts, and infringement notices paid. The decrease compared to previous years is attributed to fewer enforceable undertakings being accepted by ASIC.

5 Data rounded. This data excludes contractors and secondees from other agencies.



# 7

## Glossary

# Glossary

Term	Definition
<b>AA Fund</b>	Assetless Administration Fund
<b>ABR</b>	Australian Business Register
<b>ABRS</b>	Australian Business Registry Services
<b>ABS</b>	Australian Bureau of Statistics
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>AFCA</b>	Australian Financial Complaints Authority
<b>AFS licence</b>	Australian financial services licence
<b>ANAO</b>	Australian National Audit Office
<b>ANZ</b>	Australia and New Zealand Banking Group Limited
<b>APRA</b>	Australian Prudential Regulation Authority
<b>APRC</b>	Asia-Pacific Regional Committee
<b>APS</b>	Australian Public Service
<b>ASIC Act</b>	<i>Australian Securities and Investments Commission Act 2001</i>
<b>ASX</b>	ASX Limited or the exchange market operated by ASX Limited
<b>ATO</b>	Australian Taxation Office
<b>BRII</b>	Business Research and Innovation Initiative
<b>CAP</b>	Consumer Advisory Panel
<b>CBA</b>	Commonwealth Bank of Australia
<b>CFDs</b>	Contracts for difference
<b>CFR</b>	Council of Financial Regulators
<b>CHES</b>	ASX Clearing House Electronic Subregister System
<b>Corporate Plan</b>	<i>Corporate Plan 2020–24</i>

Term	Definition
<b>Corporations Act</b>	<i>Corporations Act 2001</i>
<b>CP</b>	Consultation Paper
<b>CPRs</b>	Commonwealth Procurement Rules
<b>CRF</b>	Corporate Registers Forum
<b>CS facilities</b>	Clearing and settlement facilities
<b>cyber resilience</b>	An organisation's ability to prepare for, respond to and recover from a cyber attack
<b>derivative</b>	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index
<b>DFAP</b>	Digital Finance Advisory Panel
<b>DISER</b>	Department of Industry, Science, Energy and Resources
<b>EDR</b>	External dispute resolution
<b>EEGO</b>	Energy Efficiency in Government Operations Policy
<b>ERS</b>	Enhanced regulatory sandbox
<b>ESA</b>	Enforcement Special Account
<b>ESD</b>	Ecologically sustainable development
<b>FASEA</b>	Financial Advisers Standards and Ethics Authority
<b>FFNS</b>	Fees for no service
<b>FICC</b>	Fixed income, currencies and commodities
<b>financial capability</b>	The combination of an individual's attitude, knowledge, skills, confidence and ability to make sound financial decisions
<b>fintech</b>	Financial technology
<b>FOI Act</b>	<i>Freedom of Information Act 1982</i>
<b>FSCP</b>	Financial Services and Credit Panel
<b>FTE</b>	Full-time equivalent
<b>GFIN</b>	Global Financial Innovation Network

Term	Definition
<b>GST</b>	Goods and services tax
<b>IDPS</b>	Investor-directed portfolio service
<b>IDR</b>	Internal dispute resolution
<b>INFO</b>	Information Sheet
<b>Innovation Hub</b>	ASIC's online hub providing tailored content for fintech businesses that are developing innovative financial products or services
<b>Interim Corporate Plan</b>	<i>ASIC Interim Corporate Plan 2020–21: Strategic priorities responding to the impact of the COVID-19 pandemic</i>
<b>IOP</b>	Indigenous Outreach Program
<b>IOSCO</b>	International Organization of Securities Commissions
<b>IPO</b>	Initial public offering
<b>IT</b>	Information technology
<b>KMP</b>	Key management personnel
<b>kWh</b>	Kilowatt-hour, a measure of energy
<b>LED</b>	Light-emitting diode, a semiconductor device that converts electricity into light.
<b>LGBTIQ+</b>	Lesbian, gay, bisexual, transgender, intersex and queer
<b>LIBOR</b>	London Interbank Offered Rate
<b>MAI</b>	Markets Assessment and Intelligence
<b>MBR</b>	Modernising Business Registers
<b>MDA</b>	Managed discretionary account
<b>MDP</b>	Markets Disciplinary Panel
<b>MJ</b>	Megajoule, a unit of energy measurement
<b>MoG</b>	Machinery of government
<b>Moneysmart</b>	ASIC's consumer website
<b>MOU</b>	Memorandum of understanding



Term	Definition
<b>NAB</b>	National Australia Bank
<b>NAIDOC</b>	National Aborigines and Islanders Day Observance Committee
<b>National Credit Act</b>	<i>National Consumer Credit Protection Act 2009</i>
<b>OAIC</b>	Office of the Australian Information Commissioner
<b>OTC</b>	Over-the-counter
<b>PACE</b>	Positive Action towards Career Engagement
<b>PGPA Act</b>	<i>Public Governance, Performance and Accountability Act 2013</i>
<b>PGPA Rule</b>	Public Governance, Performance and Accountability Rule 2014
<b>phoenix activity (illegal)</b>	Transferring assets of an indebted company to a new company to avoid paying creditors, tax or other employee entitlements
<b>Phoenix Taskforce</b>	A cross-agency taskforce established by the Government in 2014 to combat illegal phoenix activity.
<b>PJC</b>	Parliamentary Joint Committee
<b>RAP</b>	Reconciliation Action Plan
<b>RBA</b>	Reserve Bank of Australia
<b>regtech</b>	Regulatory technology, technology designed to address regulatory challenges in the financial services sector
<b>Regulatory Transformation Program</b>	ASIC's program to increase efficiency by establishing a common language across ASIC, streamlining our regulatory business processes, making compliance and interaction with us easier through online portals, and implementing a single technology strategy
<b>REP</b>	Report
<b>RG</b>	Regulatory Guide
<b>ROA</b>	Record of Advice

Term	Definition
<b>Royal Commission</b>	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
<b>SES</b>	Senior Executive Service
<b>SFCT</b>	Serious Financial Crime Taskforce
<b>SIS Act</b>	<i>Superannuation Industry (Supervision) Act 1993</i>
<b>SME</b>	Small to medium-sized enterprise
<b>SMSF</b>	Self-managed superannuation fund
<b>SRC Act</b>	<i>Superannuation (Resolution of Complaints) Act 1993</i>
<b>Thom Review</b>	Dr Vivienne Thom AM's review of ASIC Governance
<b>UMIS</b>	Unregistered managed investment scheme
<b>WBC</b>	Westpac Banking Corporation



# 8

## Compliance index

- 8.1 Reporting requirements under the *Public Governance, Performance and Accountability Act 2013* 242
- 8.2 Additional compliance reporting requirements 253

## 8.1 Reporting requirements under the *Public Governance, Performance and Accountability Act 2013*

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>17AD(g)</b>	<b>Letter of transmittal</b>		
17AI	A copy of the letter of transmittal signed and dated by the accountable authority on the date the final text is approved, with a statement that the report has been prepared in accordance with section 46 of the PGPA Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	1
<b>17AD(h)</b>	<b>Aids to access</b>		
17AJ(a)	Table of contents	Mandatory	2–3
17AJ(b)	Alphabetical index	Mandatory	258
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	235–240
17AJ(d)	List of requirements	Mandatory	241–256
17AJ(e)	Details of contact officer	Mandatory	Inside back cover
17AJ(f)	Entity's website address	Mandatory	Inside back cover
17AJ(g)	Electronic address of report	Mandatory	Inside back cover

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>17AD(a)</b>	<b>Review by accountable authority</b>		
17AD(a)	A review by the accountable authority of the entity	Mandatory	6–8
<b>17AD(b)</b>	<b>Overview of the entity</b>		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	9–10, 184–185
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	11–21
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	30–72
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	9–10
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority	Mandatory	14
17AE(1)(aa)(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	14
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	14
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – mandatory	N/A
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, details of variation and reasons for change	If applicable, mandatory	N/A

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>17AD(c)</b>	<b>Report on the performance of the entity</b>		
<b>Annual performance statement</b>			
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the PGPA Act and section 16F of the PGPA Rule	Mandatory	30–72
<b>17AD(c)(ii)</b>	<b>Report on financial performance</b>		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	27–28, 119–180
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	214–216
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, mandatory	N/A
<b>Management and accountability</b>			
<b>Corporate governance</b>			
17AD(d)	Information on the management and accountability of the entity for the period in accordance with section 17AG	Mandatory	11–12, 184–185
17AG(2)(a)	Information on compliance with section 10 (fraud systems) of the PGPA Rule	Mandatory	217
17AG(2)(b)(i)	A certification by the accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	217

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(2)(b)(ii)	A certification by the accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting, fraud that meet the specific needs of the entity are in place	Mandatory	217
17AG(2)(b)(iii)	A certification by the accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	217
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	11–18, 184–185
17AG(2)(d)–(e)	A statement of significant issues reported to the Minister under paragraph 19(1)(e) of the PGPA Act that relate to non-compliance with finance law and action taken to remedy non-compliance	If applicable, mandatory	218
<b>Audit committee</b>			
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee	Mandatory	186
17AG(2A)(b)	The name of each member of the entity's audit committee	Mandatory	186–188
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee	Mandatory	186–188
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings	Mandatory	186
17AG(2A)(e)	The remuneration of each member of the entity's audit committee	Mandatory	186–188

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>External scrutiny</b>			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	6, 12, 217
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, mandatory	183
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than reports under section 43 of the Act), a Parliamentary Committee or the Commonwealth Ombudsman	If applicable, mandatory	217
17AG(3)(c)	Information on any capability review on the entity that was released during the period	If applicable, mandatory	6, 12, 217
<b>Management of human resources</b>			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	111–118
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, at the end of that and the previous reporting period, including the following: <ul style="list-style-type: none"> <li>(a) statistics on full-time employees</li> <li>(b) statistics on part-time employees</li> <li>(c) statistics on gender</li> <li>(d) statistics on staff location</li> </ul>	Mandatory	196–199



PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following: <ul style="list-style-type: none"> <li>› Statistics on staffing classification level</li> <li>› Statistics on full-time employees</li> <li>› Statistics on part-time employees</li> <li>› Statistics on gender</li> <li>› Statistics on staff location</li> <li>› Statistics on employees who identify as Indigenous</li> </ul>	No longer mandatory	N/A
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the Public Service Act	If applicable, mandatory	201
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements, arrangements, contracts or determinations during this period	If applicable, mandatory	201
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	No longer mandatory	N/A
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	If applicable, mandatory	113
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	No longer mandatory	201
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	No longer mandatory	201
17AG(4)(d)(iii)	Information on the average amount of performance payment, and the range of such payments, at each classification level	No longer mandatory	201
17AG(4)(d)(iv)	Information on the aggregate amount of performance payments	No longer mandatory	201

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>Assets management</b>			
17AG(5)	An assessment of the effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	171, 223–224
<b>Purchasing</b>			
17AG(6)	An assessment of the entity performance against the Commonwealth Procurement Rules	Mandatory	228
<b>Consultants</b>			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	229
17AG(7)(b)	A statement that 'During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million].'	Mandatory	230
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	231

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(7)(d)	A statement that 'Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.'	Mandatory	228
17AG(7A)(a)	A statement on the number of new reportable non-consultancy contracts that were entered into during the period, including: <ul style="list-style-type: none"> <li>(a) the total actual expenditure during the period on all such contracts (inclusive of GST)</li> <li>(b) the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period</li> <li>(c) the total actual expenditure during the period on those ongoing contracts (inclusive of GST)</li> </ul>	Mandatory	229
17AG(7A)(b)	A statement that 'Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.'	Mandatory	228
17AD(daa)	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory	230–231

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>Australian National Audit Office access clauses</b>			
17AG(8)	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, the purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, mandatory	N/A
<b>Exempt contracts</b>			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) that has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, mandatory	N/A
<b>Small business</b>			
17AG(10)(a)	A statement that '[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website.'	Mandatory	231
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	231

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature – a statement that '[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website.'	If applicable, mandatory	231
<b>Financial statements</b>			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the PGPA Act	Mandatory	Chapter 5
<b>Executive remuneration</b>			
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory	202–208
<b>Other mandatory information</b>			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that 'During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website.'	If applicable, mandatory	227
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, mandatory	N/A
17AH(1)(b)	A statement that 'Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].'	If applicable, mandatory	222–223

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	118
17AH(1)(d)	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of the FOI Act can be found	Mandatory	219
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	N/A
17AH(2)	Information required by other legislation	Mandatory	216–219

Note: N/A means not applicable.

Source: Department of Finance, Resource Management Guide No. 135 *Annual reports for non-corporate Commonwealth entities*, 2016.

## 8.2 Additional compliance reporting requirements

Description	Requirement	Source of requirement	Location (page(s))
Exercise of ASIC's powers under Part 15 of the <i>Retirement Savings Accounts Act 1997</i> and under Part 29 of the SIS Act	Mandatory	ASIC Act, s136(1)(a)	216
ASIC's monitoring and promotion of market integrity and consumer protection in relation to the Australian financial system and the provision of financial services	Mandatory	ASIC Act, s136(1)(b)	73–110
ASIC's activities in accordance with each agreement or arrangement entered into by ASIC under s11(14) of the ASIC Act	Mandatory	ASIC Act, s136(1)(c)	216
Information about the activities that ASIC has undertaken during the period in exercise of its powers, and performance of its functions, under Chapter 5 of, or Schedule 2 to, the Corporations Act and any provisions of that Act that relate to that Chapter or Schedule	Mandatory	ASIC Act, s136(1)(ca)	33–37, 105–108
Information about any instances during the period where ASIC failed to consult as required by section 1023F of the Corporations Act or section 301F of the National Credit Act	Mandatory	ASIC Act, s136(1)(cb)	217

Description	Requirement	Source of requirement	Location (page(s))
The operation of the <i>Business Names Registration Act 2011</i> , including details of the level of access to the Business Names Register using the internet and other facilities, the timeliness with which ASIC carries out its duties, functions and powers under the Act, and the cost of registration of a business name under the Act	Mandatory	ASIC Act, s136(1)(d)	37–38, 69–70
The number of times ASIC used an information-gathering power, the provision of the Corporations Act, the ASIC Act, or another law that conferred the power, and the number of times in the previous financial year ASIC used the power	Mandatory	ASIC Act, s136(1)(e), reg 8AAA(1)	219–222
ASIC’s regional administration in referring states and the Northern Territory, including a statement on our performance against service-level performance indicators during the relevant period	Mandatory	Corporations Agreement, s603(3)	60, 193–195
A report on the activities of each state and Northern Territory Regional Liaison Committee maintained by the Regional Commissioners	Mandatory	Corporations Agreement, s604(4)	193–195
A report on the work of the financial services and consumer credit external dispute resolution schemes, and ASIC’s assessment of the systemic and significant issues the schemes have raised in their reports to ASIC	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 4	210–211



Description	Requirement	Source of requirement	Location (page(s))
Commentary on ASIC's activities related to monitoring compliance with court enforceable undertakings, and on how court enforceable undertakings have led to improved compliance with the law	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 27	55, 110
Accountable authority must state, in the annual financial statements, whether, in the authority's opinion, the statements comply with subsection 42(2)	Mandatory	PGPA Act, s42(3)	123
<b>Work health and safety</b>			
(a) initiatives taken during the year to ensure the health, safety and welfare of workers who carry out work for the entity	Mandatory	<i>Work Health and Safety Act 2011</i> , s4(2) Sch 2	114
(b) health and safety outcomes (including the impact on injury rates of workers) achieved as a result of initiatives mentioned under paragraph (a) or previous initiatives	Mandatory		114
(c) statistics of any notifiable incidents of which the entity becomes aware during the year that arose out of the conduct of businesses or undertakings by the entity	Mandatory		114
(d) any investigations conducted during the year that relate to businesses or undertakings conducted by the entity, including details of all notices given to the entity during the year under Part 10 of this Act	Mandatory		N/A

Description	Requirement	Source of requirement	Location (page(s))
(e) such other matters as are required by guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit	Mandatory		N/A
<b>Environmental performance</b>			
(a) include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development	Mandatory	<i>Environment Protection and Biodiversity Conservation Act 1999, s516A(6)</i>	224–227
(b) identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development	Mandatory		224–227
(c) document the effect of the reporter's activities on the environment	Mandatory		224–227
(d) identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment	Mandatory		224–227
(e) identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures	Mandatory		224–227
Any other Committee recommendations			N/A



# 9

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