



# ANNUAL REPORT **2010–11**

- ◆ **confident and informed investors and financial consumers**
- ◆ **fair and efficient financial markets**
- ◆ **efficient registration and licensing**



**ASIC**

Australian Securities & Investments Commission

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**ASIC**

Australian Securities & Investments Commission

**GREG MEDCRAFT**

Chairman

100 Market Street, Sydney  
GPO Box 9827 Sydney NSW 2001  
DX 653 Sydney

10 October 2011

The Hon David Bradbury, MP  
Parliamentary Secretary to the Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Mr Bradbury

In accordance with subsection 136(1) of the *Australian Securities and Investments Commission Act 2001*, I am pleased to present you with the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2011.

The report has been prepared in accordance with section 136 of the ASIC Act, and in accordance with the 'Requirements for Annual Reports' guide, approved by the Joint Committee of Public Accounts and Audit, and published by the Department of the Prime Minister and Cabinet on 8 July 2011.

I note that subsection 136(3) of the ASIC Act requires the Minister to cause the annual report to be tabled in each House within 15 sitting days of the Minister's receiving the report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G Medcraft', with a long horizontal line extending to the right.

**Greg Medcraft**  
Chairman

# Chairman's report

## Recognising the contribution of Tony D'Aloisio

In beginning this report, I would like to acknowledge the leadership provided to ASIC by Tony D'Aloisio in his four years as Chairman. Tony's appointment ended in May 2011, at which time I was appointed Chairman. Much of the work covered in this year's annual report was initiated under Tony.

I inherited from Tony a Commission that is organised around clear priorities and responsibilities, and which also reflects a firm understanding of its regulatory and policy roles. Tony's legacy is an agency that is recognised for its understanding of the markets and as having an agenda that anticipates the future.

I would also like to acknowledge the support of the Deputy Chairman, Belinda Gibson, and Commissioners, Peter Boxall, Michael Dwyer and Shane Tregillis. They, along with the staff of ASIC, have been outstanding colleagues in the transition between chairmen.

I'd also like to note the contribution of Mr Tregillis, who is standing down as a Commissioner to join the Financial Ombudsman Service as Chief Ombudsman. Over the last year, Shane has skilfully steered a large share of ASIC's most challenging work in the transition to competition in exchange markets.

## Major changes affecting ASIC's work

The 2010–11 year was marked by:

- ♦ a substantial shift in the environment in securities markets, with the Government licensing a new provider (Chi-X Australia), ASIC assuming responsibilities for the real-time supervision of securities and equities markets, and ASIC publishing comprehensive new market integrity rules that accommodate the competition that has been heralded by the licensing of Chi-X
- ♦ emerging major policy changes as the Government advances reforms aimed at improving the quality of financial advice that Australians enjoy, and widening access to that advice (the Future of Financial Advice [FoFA] reforms), and reforms in superannuation reflecting the results of the *Review into the governance, efficiency, structure and operation*



Greg Medcraft, Chairman

- ♦ progress in improving financial literacy among retail consumers and investors, and extending consumers' access to impartial information on financial services and products, especially using online and digital delivery of information for consumers
- ♦ new responsibilities as ASIC's new statutory duties, in licensing and regulating consumer credit and in regulating margin lending providers, took full effect
- ♦ progress in improving ASIC's services for businesses, as ASIC processed more transactions online, laid the groundwork for new easy-to-use online access to our public registers from late 2011, and prepared for the new National Business Names register
- ♦ contributions to international cooperation and policy via the International Organization of Securities Commissions (IOSCO), including contributing to major reports aimed at assisting regulators in addressing the role of dark liquidity, direct access to electronic markets, and a report sought by G20 leaders on the impact of technology on market integrity and efficiency

## Setting priorities

From the beginning of the 2011–12 financial year, ASIC has been organised around three priorities, which are:

- ◆ confident and informed investors and financial consumers
- ◆ fair and efficient financial markets
- ◆ efficient registration and licensing.

ASIC's six major means of delivering these outcomes – effectively the tools the agency uses – are:

- ◆ engagement with industry and stakeholders, including when ASIC provides regulatory relief and when ASIC proposes change that will affect businesses
- ◆ surveillance, which is ASIC's principal means of remaining vigilant to potential problems among licensees or businesses that ASIC regulates
- ◆ guidance, which is the means by which ASIC sets expectations as to how businesses, licensees, directors and company officers will meet their statutory and regulatory obligations
- ◆ education, which is ASIC's means of improving financial literacy among consumers, and also improving understanding of the obligations on businesses, licensees, directors and company officers
- ◆ deterrence, where ASIC takes action, under statute or regulation, when it believes businesses, licensees, directors or company officers have not met their obligations
- ◆ policy advice, where ASIC provides Ministers with advice on matters where ASIC has responsibilities, and including ASIC's role in international cooperation.

**“The 2010–11 year was marked by ... progress in improving ASIC's services for businesses.”**

## Delivery mode – ASIC's major tools



**1. Engagement – with industry and stakeholders**



**2. Surveillance – remaining vigilant**



**3. Guidance – setting standards and expectations**



**4. Education – providing independent information**



**5. Deterrence – taking action under statute or regulation**



**6. Policy advice to Ministers and Government, and implementation**

# Chairman's report continued

## Confident and informed investors and financial consumers

Major outcomes in 2010–11 included:

- ♦ launching the MoneySmart website, one of the most extensive consumer education and information websites, along with the inauguration of the National Financial Literacy Strategy under the auspices of the Australian Government Financial Literacy Board. In its first four months, MoneySmart had 335,000 unique visitors, and more than 25,000 people downloaded the mobile calculator application
- ♦ setting out a new approach to training and assessment for financial advisers in anticipation of the FoFA reforms. ASIC aims to improve outcomes for consumers by raising the standard of training among advisers and ensuring standards are uniform across the sector
- ♦ completing licensing of more than 6,000 consumer credit providers, and beginning surveillance under the new national consumer credit regime, in order to achieve better outcomes for consumers and businesses in the consumer credit industry. ASIC also provided extensive guidance for businesses on their obligations under the regime
- ♦ providing comprehensive guidance for firms that are selling contracts for difference (CFDs), a high-risk type of product that few consumers fully understand



ASIC's MoneySmart website was launched in March and since then has generated more than 100,000 hits per month. ASIC staff have actively promoted the site, especially among regional communities. Pictured is ASIC officer – and 20-year veteran – Rohan Kulatunga, at a 'Know Your Rights' expo in Darwin this year.

- ♦ contributing to financial literacy and educational resources for teachers, as part of the Government's planned national school curriculum, and piloting a financial literacy program aimed at Indigenous Australians in schools in Queensland, the Northern Territory and Western Australia
- ♦ as a result of the global financial crisis (GFC), issuing or consulting on disclosure guides with respect to mortgage, property, infrastructure and hedge funds
- ♦ planning to publish guidance on agribusiness managed investment schemes (MISs), with the aim of improving the quality of information and disclosure for investors
- ♦ successful criminal prosecutions regarding Chartwell Enterprises (in liquidation), Trio Capital (in liquidation) and Fincorp (in liquidation). (The successful prosecution regarding Fincorp is under appeal.)

## Fair and efficient financial markets

Major outcomes in 2010–11 included:

- ♦ assuming responsibility for day-to-day, real-time market supervision of the ASX and five other markets, including establishing surveillance and providing guidance to ensure market discipline, and to address instances of misconduct where they occur
- ♦ developing new market integrity rules that accommodate competition in exchanges – following the Government's decision to license Chi-X Australia – and also recognise the impact of technology, including high-frequency trading and the application of algorithmic trading.

A major area of ASIC's work is in ensuring high standards of conduct among public companies, directors and company officers, and among MISs. In particular, companies are the basis of the vast majority of Australia's commercial enterprise. Initiatives aimed at public companies included:

- ♦ releasing guidance that aims to improve the way public companies (and MISs) conduct related party transactions which, by definition, often involve the potential for conflicts of interest
- ♦ releasing proposals that will see an overhaul of prospectuses – including those for initial public offerings and for firms that propose to list – to make them easier to use for retail investors and other parties.

In major civil litigation:

- ♦ the Federal Court found in ASIC's favour in directors' duties cases against seven directors and one officer of Centro Properties Group
- ♦ the Full Court of the Federal Court upheld an appeal by ASIC, finding that Fortescue Metals Group's conduct in certain company announcements in 2004 and 2005 was misleading and deceptive under s1041H of the *Corporations Act 2001* (Corporations Act), and that the chief executive, Andrew Forrest, breached his directors' duties in his role in the announcements.<sup>1</sup>

In criminal prosecutions, sentences were imposed in six insider trading or market manipulation cases.

As part of its engagement and education program with directors, company officers and professionals – including lawyers, liquidators, accountants and auditors – ASIC hosted:

- ♦ more than 850 people in capital city forums in May 2011 in order to improve the level of education on company disclosure obligations and ASIC's guidance
- ♦ its annual Summer School in Sydney, in February 2011, focusing on the new regulatory landscape, with 314 delegates attending.

ASIC has responsibilities to ensure that accountants and auditors meet their obligations in order to promote confidence in company reports. In 2010–11, ASIC reviewed:

- ♦ 500 financial reports – of listed entities and some larger, unlisted entities – as part of surveillances. ASIC reported publicly on areas for potential improvement for boards, preparers of financial reports and auditors
- ♦ 131 audit engagements and reported publicly on potential improvements in audit practices, including in audit evidence, professional scepticism and quality control reviews.

ASIC has responsibilities in monitoring standards among registered liquidators, ensuring improvements in liquidators' practices, and taking action against registered liquidators where it believes it is required. Deterrence outcomes in 2010–11 included:

- ♦ laying fraud and other charges against registered liquidator Stuart Ariff (in late September 2011, Mr Ariff was found guilty by a jury in the NSW District Court on all 19 criminal charges)

<sup>1</sup> In September 2011 the High Court granted leave to Fortescue Metals Group and Mr Forrest to appeal the Full Federal Court's decision.

- ♦ following proceedings commenced by ASIC, the resignation of a liquidator from 104 appointments and his agreement to not accept any new liquidator appointments
- ♦ supporting a successful application to the Federal Court for orders removing an administrator to the responsible entity of a large MIS because of various concerns, including about whether the administrator had sufficient resources to conduct large and complex administrations.

In September 2010, a Senate committee inquiry into the role of liquidators and administrators reported its findings. The committee said it believed ASIC was slow in responding to complaints about liquidators and administrators, and that ASIC did not have sufficient resources to monitor insolvency practices.

The committee recommended transferring ASIC's oversight of corporate insolvency to the Insolvency and Trustee Service Australia (ITSA). The Government has declined to take up that recommendation. However, in June the Government published a consultation paper outlining wide-ranging reforms of the framework for personal and corporate insolvency. Consultation on those proposals is continuing.

## Efficient registration and licensing

Major outcomes in 2010–11 included:

- ♦ licensing more than 6,000 people or businesses under the national consumer credit regime, with the vast majority of the process conducted online
- ♦ approving 868 Australian financial services (AFS) licence applications for margin lending facilities financial product authorisations (for existing AFS licence holders)
- ♦ processing 15,634 reports of alleged misconduct among businesses and licensees. This was a 17% increase on the previous year; 28% of misconduct reports were escalated for compliance, investigation or surveillance
- ♦ returning approximately \$3.4 million in unclaimed money to 1,198 claimants as part of an active program of reuniting people with unclaimed money
- ♦ finalising 24% more vested property cases, to reach 1,270 completed cases in 2010–11. ASIC administers properties that belong to deregistered companies and – in a proactive approach – ASIC is aiming to settle more such property cases, including attracting parties to make applications to purchase properties where that is appropriate.

## Chairman's report continued

Further initiatives that ASIC has underway – in registration and licensing – include:

- ♦ launching a service in 2011–12 that allows online searches of ASIC's registers, with quicker delivery of information to clients and the capacity to accept credit card payments for associated fees
- ♦ beginning the transition, in 2012, to a single National Business Names register, which will bring together registers that are currently spread across the states and territories, under ASIC's responsibility.

### **Recognising the contribution of ASIC staff**

I would like to acknowledge the contribution of the staff of ASIC. Every day, across Australia, they remain committed to the task of improving the business and economic environment in Australia, and taking action against people and firms that fail to comply with the law.

Often they do these jobs in circumstances that are personally and professionally challenging. The results reported here – which show a year of major achievements and smoothly implemented change – are a testament to the commitment of the people who work at ASIC.

Finally, over more than ten years, Rob Savage served on ASIC's Audit Committee, including serving as chairman of the committee. Rob stood down from the committee this year; ASIC is indebted to Rob for his dedication. I am grateful that Byram Johnston has taken on the role of chairman.



**Greg Medcraft**  
Chairman

**“The results reported here – which show a year of major achievements and smoothly implemented change – are a testament to the commitment of the people who work at ASIC.”**

# Commission members at 30 June 2011

## Greg Medcraft – Chairman BComm

Mr Medcraft was appointed Chairman, effective 13 May 2011. He was appointed a Commissioner in 2009. Prior to joining ASIC, Mr Medcraft was chief executive at the Australian Securitisation Forum. He spent nearly 30 years in investment banking at Société Générale (SG) in Australia and internationally. Mr Medcraft has also served as Mayor of Woollahra and as Mayor of Box Hill. He has been a director and deputy chairman of KU Children's Services Pty Ltd and director of the American Australian Association.



from the University of Chicago. He commenced his career at the Reserve Bank of Australia, then spent seven years at the International Monetary Fund in the US. He was senior economic adviser to the Leader and Deputy Leader of the Opposition in the late 1980s and early 1990s. He was Secretary of the Department of Treasury and Finance, South Australia, then principal adviser to the then Treasurer, the Hon Peter Costello MP. He was made an Officer of the Order of Australia (AO) for services to economic and financial policy reform.

## Belinda Gibson – Deputy Chairman BEc, LLB (Hons), LLM (Hons)

Ms Gibson was appointed Deputy Chairman on 6 May 2010, having been appointed a Commissioner in 2007. Prior to her appointment, Ms Gibson was a Partner at Mallesons Stephen Jaques where she specialised in transactional advice, and in corporate and securities law. Ms Gibson was partner-in-charge in Sydney for Mallesons from 2000 to 2003. She was a director of Air Services Australia from 2001 to 2004, and a charitable body, the Sir Robert Menzies Memorial Foundation, from 1990 to 2007.



## Michael Dwyer MBA, FCA

Mr Dwyer was appointed a Commissioner in 2009. He has extensive experience as a chartered accountant and an insolvency practitioner, including a term as national president of the Insolvency Practitioners' Association of Australia. He also held positions as the national chairman of the business recovery group at Howarth Australia Ltd and as partner-in-charge of corporate recovery practice at KPMG in Adelaide.



## Dr Peter J. Boxall AO BEc (Hons), MEc, PhD

Dr Boxall was appointed a Commissioner in 2009. Previously, he was Secretary of the Department of Resources, Energy and Tourism, following six years as Secretary of the Department of Employment and Workplace Relations, and five years as Secretary of Finance and Administration with the Australian Government. He is an economist with a doctorate



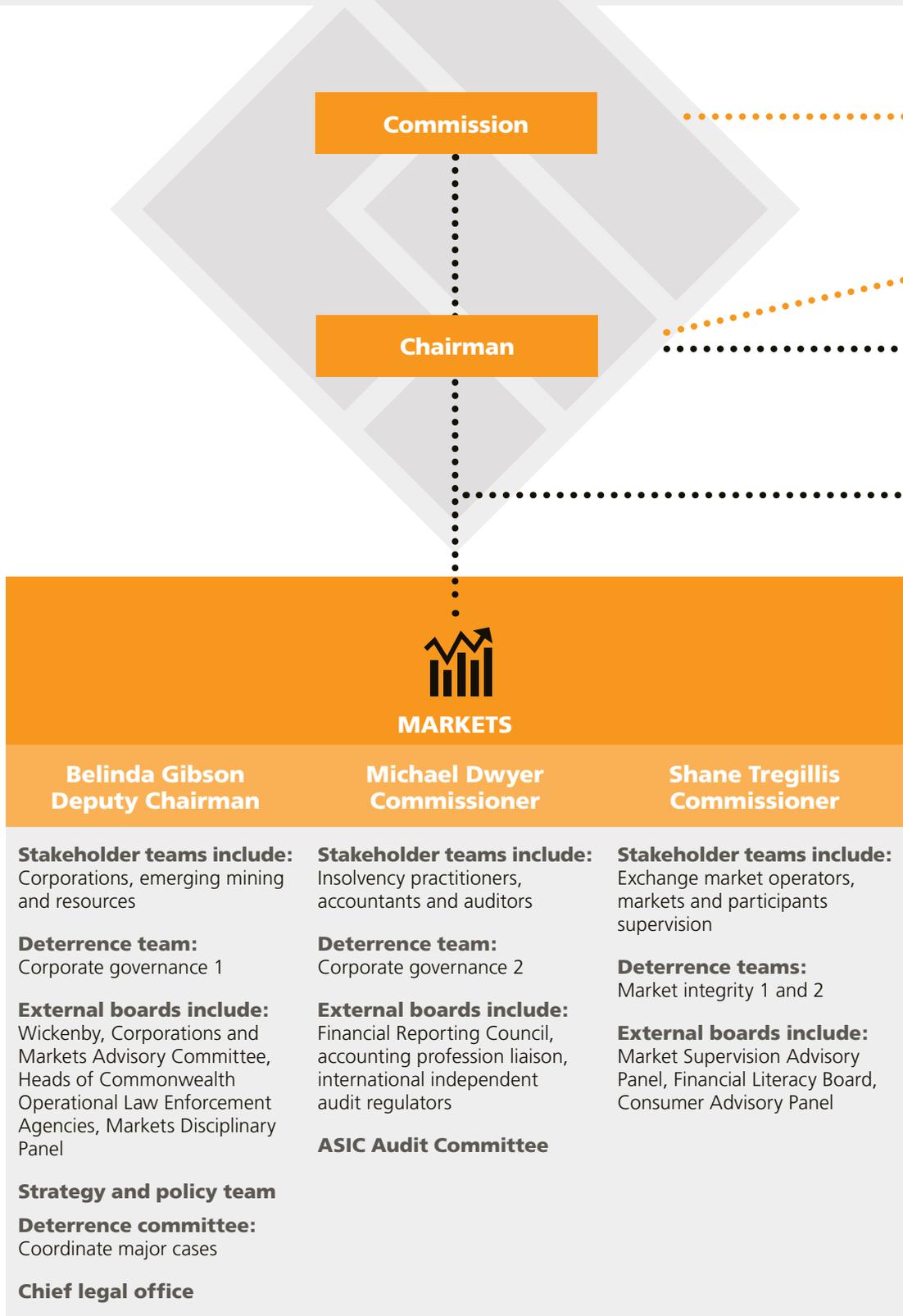
## Shane Tregillis<sup>1</sup> BComm, LLB, MComm

Mr Tregillis was appointed a Commissioner in 2010. Prior to his appointment, Mr Tregillis was deputy managing director of the Monetary Authority of Singapore, where he was responsible for capital market and business conduct regulation. He was also chair of the Financial Education Steering Committee. Earlier, Mr Tregillis held senior executive positions at ASIC, with a range of regulatory and management responsibilities covering major market, clearing and settlement reforms, and implementation of the managed investments regime.



<sup>1</sup> Resigned effective August 2011 to join the Financial Ombudsman Service as Chief Ombudsman.

# Corporate structure AT 30 JUNE 2011



**EXTERNAL ADVISORY PANEL**

**AUDIT COMMITTEE**

**Regional commissioners**

**Chief legal officer**

**Corporate affairs**

**People and development**



**INVESTORS AND FINANCIAL CONSUMERS**

**Greg Medcraft**  
Chairman

**Peter Boxall**  
Commissioner

**Stakeholder teams include:** Investment banks, investment managers and superannuation, consumers and retail investors

**Deterrence team:**  
Financial services 2

**External boards include:** Financial Literacy Board, Consumer Advisory Panel, Advisory Panel on Financial Advice and Professional Standards

**Stakeholder team:** Deposit takers and insurers and credit services (combined)

**Deterrence team:**  
Financial services 1

**Regulatory Policy Group**



**REAL ECONOMY**

**Peter Boxall**  
Commissioner

**Real Economy team:** Registry and licensing, stakeholder services (misconduct and breach reporting, Client Contact Centre), compliance and deterrence

**Shared services:** Chief information officer, chief financial officer, corporate services, specialist services, risk and security, Technology Governance Board and Property Board

**External boards include:** Business Advisory Committee (for Real Economy)

# Regulated populations and key responsibilities

## MARKETS

### Corporations (including emerging mining & resources companies)

*1.84 million registered companies, of which 2,200 are listed entities (including registered schemes & foreign companies)*

ASIC staff: 58

- ◆ Improving market integrity by influencing fair & transparent behaviour by companies in fundraising, mergers & acquisitions, & other key transactions, focusing on large & complex transactions by listed entities
- ◆ Promoting confident & informed market participation by ensuring appropriate disclosure for investors

### Exchange market operators

*17 authorised financial markets;  
5 licensed clearing & settlement facilities*

ASIC staff: 28

- ◆ Promoting fair, orderly and transparent financial markets & fair & effective clearing & settlement facilities, by supervising and annually assessing market operators for compliance with statutory obligations
- ◆ Advising the Minister on applications for market licences, market licence exemptions and operating rules

### Insolvency practitioners

*670 registered liquidators; 9,500 companies entering external administration per annum*

ASIC staff: 28

- ◆ Ensuring that practitioners comply with the law & meet their obligations
- ◆ Administering the Assetless Administration Fund

### Accountants & auditors

*5,120 registered company auditors*

ASIC staff: 33

- ◆ Ensuring that accountants & auditors comply with the law & meet their obligations to promote confidence in the use of financial reports

### Market participants

*105 market participants; 800 indirect participants; supervision of 6 markets*

ASIC staff: 54 (includes market supervision)

- ◆ Ensuring that market participants & indirect participants comply with the law & meet their obligations as AFS licensees & under the market integrity rules (for participants)
- ◆ Supervising equities & derivatives traded markets & in-depth analysis of suspected market misconduct, to identify market manipulation, insider trading & algorithmic trading that disrupts market integrity

## Deterrence

### Market integrity & corporate governance

ASIC staff: 194<sup>1</sup>

- ◆ Investigating suspected misconduct & taking enforcement action to achieve criminal convictions (via Commonwealth Director of Public Prosecutions [CDPP]), civil penalties or administrative sanctions.
- ◆ Corporate governance: investigating misconduct by company officers, advisers, liquidators & auditors
- ◆ Market integrity: focus on alleged insider trading, market manipulation, continuous disclosure, making of false and/or misleading statements, contraventions of market integrity rules



## INVESTORS & FINANCIAL CONSUMERS

### Deposit-takers, consumer credit & insurers

*180 authorised deposit-takers; 6,081 credit providers (Australian credit licensees); 24,000 credit representatives; \$68 billion in insurance premiums*

ASIC staff: 64 (includes credit reform)

- ◆ Ensuring deposit-takers, credit providers, intermediaries & trustee companies are complying with the law & meeting their obligations to consumers & retail investors
- ◆ Implementing national consumer credit reforms

### Investment managers & superannuation

*More than \$1.0 trillion funds under management; 230 super fund trustees; 585 responsible entities; 4,500 registered MISs; 560 foreign financial service providers; 680 custodial service providers*

ASIC staff: 44

- ◆ Ensuring that responsible entities, superannuation trustees & custodians comply with the law & meet their obligations
- ◆ Regulation and registration of collective investment vehicles (MISs), including managed funds, listed & unlisted property trusts, mortgage funds, infrastructure schemes & agribusiness MISs
- ◆ Managing implications of frozen funds
- ◆ Regulating exempted foreign financial service providers and foreign collective investment schemes and operators

## Deterrence

### Financial services (includes consumer credit)

ASIC staff: 128<sup>1</sup>

- ◆ Financial services: investigating suspected misconduct & taking enforcement action to achieve criminal convictions (via CDPP) or civil penalties, administrative sanctions. Focus on financial & credit products
- ◆

## REGISTRY & LICENSING

### Consumers & retail investors

*Approximately 18 million financial services consumers; approximately 750 adviser groups;<sup>2</sup> 11.6 million superannuation investors<sup>3</sup>*

ASIC staff: 62 (includes credit reform)

- ◆ Leading financial literacy strategy, supporting the Financial Literacy Board
- ◆ Providing consumer & retail investor advice, information & education
- ◆ Advising on & developing industry standards for advisers & planners
- ◆ Credit outreach program
- ◆ Maintaining the ePayments Code (formerly the EFT Code)
- ◆ Advising on & developing standards for internal/external dispute resolution schemes

### Investment banks

*25 investment banks; 500–600 hedge funds; 1,160 OTC derivative providers; 25 credit rating agencies & research houses*

ASIC staff: 26

- ◆ Ensuring that investment banks, hedge funds, private equity providers, OTC derivative providers, credit rating agencies & research houses comply with the law
- ◆ Monitoring disclosure for complex products

### Registry & licensing

*1.0 million public contacts per annum; 15,640 reports of misconduct or statutory breaches. Licensing and registration for AFS and credit licensees, auditors, liquidators, MISs, companies*

ASIC staff: 430 (includes registry, licensing, misconduct & statutory breach assessments & referrals, Client Contact Centre, property law, unclaimed money)

- ◆ Providing registry services for companies, MISs, AFS & credit licensees, liquidators & auditors, personal property securities
- ◆ Providing public & non-public access to registry information
- ◆ Providing Client Contact Centre for public, consumers, regulated populations
- ◆ Assessing reports of misconduct & statutory breaches
- ◆ Administering property of deregistered companies, resolving cases
- ◆ Administering unclaimed money
- ◆ Establishing the National Business Names register

### Deterrence & compliance

**Registration & licensing (includes consumer credit)**

ASIC staff: 33<sup>1</sup>

- ◆ Investigating alleged misconduct & failure to meet statutory requirements in licensing & registration by licensees, companies, other entities, directors & company officers

<sup>1</sup> Plus 140 staff providing deterrence support services, legal counsel.

<sup>2</sup> Rainmaker Information, 'The Australian Financial Planning Report', 2009.

<sup>3</sup> ABS, 2009.

*Data is indicative. See relevant sections of annual report for 2010–11 data. All staff are FTE and represent staff dedicated to respective populations. Excludes strategy, shared services, people & development, and statutory bodies.*

# Regional activities



## Australian Capital Territory

- ♦ Canberra – monthly hosting of Commonwealth Government agencies and others involved in work for ASIC’s financial literacy community of practice
- ♦ Canberra, October 2010 and July 2011 – regional liaison committee meetings
- ♦ Canberra, June 2011 – ‘Investing Between the Flags’ seminars held in conjunction with the Financial Information Service for people interested in learning the basics of safer investing



## New South Wales

- ♦ Sydney, July 2010 – official opening of ASIC’s Market Street office, attended by the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP
- ♦ Sydney, July 2010 – ASIC market supervision roadshow discussing ASIC’s approach to market supervision, new operational structure and future developments
- ♦ Sydney, November 2010 – liaison meeting for insolvency practitioners, and liaison meeting for investment banks and market intermediaries
- ♦ Sydney, February 2011 – ASIC Summer School, attended by 314 delegates; 20th anniversary of ASIC
- ♦ Sydney, March 2011 – liaison meeting for investment banks and market intermediaries
- ♦ Sydney, May 2011 – ASIC at the 2011 annual stockbrokers’ conference, highlighting significant market changes that are likely to affect industry participants



## Northern Territory

- ♦ Darwin – On-going financial literacy program for Australian Defence Force personnel, with seminars held throughout the year
- ♦ Darwin, August 2010 – ASIC Commissioners meet with Indigenous stakeholders at a dinner event in Darwin. Keynote address delivered by Kim Hill, CEO of the Northern Land Council
- ♦ Darwin, August 2010 – ASIC and the Office of the Registrar of Indigenous Corporations (ORIC) sign a memorandum of understanding to consolidate and strengthen working relationship
- ♦ Darwin, October 2010 – ASIC and CPA Australia host financial well-being seminar and forum
- ♦ Alice Springs, Darwin, Gunbalanya and Tennant Creek, February to June 2011 – school-based trialling of Milba Djunga (‘Smart Money’), an online financial literacy program to help Indigenous students learn about money and business
- ♦ Darwin, June 2011 – ASIC hosts meeting between NT Government and major banks to discuss access to finance on Aboriginal lands

## Across Australia

- ◆ National Credit Outreach Program introduces ASIC as the national consumer credit regulator, reaches more than 600 financial counsellors and consumer credit intermediaries, plus other key parties, at events held in all states and territories.
- ◆ Northern Territory, Queensland, South Australia, Western Australia – radio advertising campaign raises awareness of obligations on book-up providers under the new national credit law from mid-2010.



### Queensland

- ◆ Brisbane, July 2010 – market supervision roadshow discussing ASIC's approach to market supervision, new operational structure and future developments
- ◆ Brisbane, October 2010 – commencement speech by regional commissioner; Women in Technology Board readiness program
- ◆ Brisbane, November 2010 – liaison meeting for insolvency practitioners; liaison meeting for accountants, auditors and regional liaison committee
- ◆ January 2011 – ASIC announces assistance for businesses and individuals in flood-affected communities along the Fitzroy, Burnett, Condamine, Ballone and Mary Rivers, in Toowoomba, Brisbane and the Lockyer Valley. Similar assistance offered to people in Tully, Mission Beach, Innisfail and Cardwell hit by Cyclone Yasi
- ◆ Brisbane, March 2011 – regional liaison committee meeting
- ◆ Brisbane, May 2011 – liaison meeting for accountants and auditors
- ◆ Brisbane, June 2011 – corporate finance liaison meeting; stakeholder presentation on new ASIC online searching facility



### South Australia

- ◆ Victor Harbor, July 2010 – presentation, Association of Independent Retirees
- ◆ Adelaide, July 2010 – South Australia Connect
- ◆ September 2010 – workshop, Chartered Secretaries Association
- ◆ Campelltown, March 2011 – presentation, Rotary Club
- ◆ Adelaide, March 2011 – World Consumer Day, joint agency information booth
- ◆ Flinders University, March 2011 – presentation at Law School
- ◆ Adelaide University, May 2011 – presentation to Masters students
- ◆ Murray Bridge, May 2011 – presentation, Probus Club



### Tasmania

- ◆ Hobart – ongoing hosting of bi-monthly insolvency discussion group involving local insolvency practitioners and lawyers
- ◆ Hobart, September 2010 and May 2011 – regional liaison committee meetings
- ◆ Hobart, December 2010 and March 2011 – hosted a consumer credit presentation for the Hobart Community Legal Service, and Consumer Affairs and Fair Trading Tasmania
- ◆ Hobart and Launceston, February 2011 – meetings with community organisations to provide updates on the national credit law and presentations to those working in the linguistically diverse community sector. Also, meeting with community organisations working with older people
- ◆ Launceston, May 2011 – Regional Commissioner Tasmania and Commissioner Michael Dwyer presented a small business briefing, northern Tasmania

- ◆ Indigenous Outreach Program – 11 trips in urban, rural and remote New South Wales, Tasmania, Western Australia, South Australia and Northern Territory, meeting stakeholders, providing information and advice, gathering information, taking complaints, including on alleged misleading and deceptive conduct, and raising awareness of national credit compliance.
- ◆ ‘Disclosure and Beyond’ – forums in Sydney, Brisbane, Melbourne, Perth in May 2011, aimed at directors, company secretaries, senior company directors and advisers. Included information on continuous disclosure, prospectuses, related party transactions. More than 850 people attended.



## Victoria

- ◆ Melbourne, September 2010 – regional liaison committee meeting
- ◆ Melbourne, October 2010 – Leo Cussen Institute, in-house counsel conference, ASIC update
- ◆ Melbourne, November 2010 – Provic annual general meeting
- ◆ Melbourne, November 2010 – regional liaison committee meeting
- ◆ Melbourne, March 2011 – regional liaison committee meeting
- ◆ Melbourne, June 2011 – presentation for the State Revenue Office



## Western Australia

- ◆ Perth, October 2010 – regional liaison and financial services consultative committee meetings
- ◆ Perth, November 2010 – credit liaison, insolvency liaison, corporate financial liaison, and accountants and auditors liaison committee meetings, presentations to Law Society of WA and at Unfair Contract Terms seminar (hosted jointly with Department of Commerce and ACCC)
- ◆ Perth, March 2011 – regional liaison, credit liaison and corporate financial liaison committee meetings
- ◆ Perth, May 2011 – accountants and auditors liaison committee meeting, presentation to Chartered Secretaries Australia
- ◆ Perth, June 2011 – corporate financial liaison committee meeting, presentation to Australasian Dealers Association

## Regional Commissioners



**Delia Rickard**  
Australian Capital Territory



**Greg Yanco**  
New South Wales



**Duncan Poulson**  
Northern Territory



**Dr Pamela Hanrahan**  
Queensland



**Mark Bielecki**  
South Australia



**Julie Read**  
Tasmania



**Warren Day**  
Victoria



**Bruce Dodd**  
Western Australia

# Major outcomes: Financial market integrity and protection of investors and consumers



## Priority 1: Assist and protect retail investors and consumers in the financial economy

- ◆ Concluded various criminal prosecutions in cases, including in relation to the following companies: Chartwell Enterprises (in liquidation), Fincorp (in liquidation), Opes Prime Stockbroking (in liquidation), Trio Capital (in liquidation) and Westpoint (in liquidation). Criminal prosecution continues regarding Opes Prime and Sonray (in liquidation). (The prosecution regarding Fincorp is under appeal.)
- ◆ Began civil proceedings over the collapse of Storm Financial (in liquidation) (receiver and manager appointed).
- ◆ Reported potential improvements for superannuation managers in providing product disclosure for consumers.
- ◆ Consulted on proposed training and assessment of financial advisers.
- ◆ Laid the groundwork for improvements in disclosure to consumers in high-risk products, notably CFDs.
- ◆ Launched a financial literacy strategy and a new consumer information website, MoneySmart.
- ◆ Took action against websites purporting to offer financial advice and took action to prevent 'low ball' share offers that use data from company registers.
- ◆ Licensed more than 6,000 consumer credit people or businesses, and completed the transition of the consumer credit industry to new national standards.



## Priority 2: Build confidence in the integrity of Australia's capital markets

- ◆ Assumed real-time market supervision responsibilities for the ASX.
- ◆ Made a successful transition to a competitive environment for securities trading, publishing comprehensive new market integrity rules. Chi-X Australia was licensed to operate a new securities exchange.
- ◆ Published guidance on related party transactions and expert reports in order to improve the quality of information for investors.
- ◆ Completed consultation on the overhaul of prospectuses in order to raise standards of disclosure for investors.
- ◆ Published findings from a review of 500 financial reports of listed entities, and set out potential areas for improvement in reporting for boards, auditors and other parties.
- ◆ One registered liquidator charged with and committed to stand trial for fraud. One registered liquidator voluntarily resigned his appointments and ASIC obtained orders by consent appointing new liquidators or deed administrators to 80 companies that he formerly administered.
- ◆ Reviewed 96 transactions to assess insolvency practitioner conduct.
- ◆ Six people sentenced to terms of imprisonment on insider trading and market manipulation charges.
- ◆ Federal Court decisions in ASIC's favour in two directors' duties cases.



### Priority 3: Facilitate international capital flows and international cooperation

- ◆ Contributed to IOSCO reports on emerging regulatory issues, including principles to help regulators respond to the expanding use of dark liquidity, principles to guide intermediaries and regulators in responding to direct electronic access to markets, and guidance on the role of securities regulators in mitigating systemic risk.
- ◆ Contributed to the IOSCO consultation on regulatory issues raised by the impact of technology on market integrity and efficiency, including high-frequency trading, in response to a mandate set down by the Group of Twenty (G20) Finance Ministers and Central Bank Governors at their Seoul summit in 2010.
- ◆ Advanced work to enable Australian companies to use Australian credit ratings when issuing debt in the European Union.
- ◆ Contributed to the inter-agency project to reform over-the-counter (OTC) derivatives, in Australia, as part of a G20 initiative.
- ◆ Continued to chair the international Joint Forum of financial supervisors.
- ◆ Took a leading role on the new IOSCO standing committee that will focus on systemic risk.



### Priority 4: Manage the domestic and international implications of the GFC

- ◆ Laid the groundwork for new guidance on agribusiness MISs – following consultation in 2010 – in order to improve the quality of information and disclosure for investors.
- ◆ Contributed to IOSCO initiatives to encourage consistent implementation of guidance developed by IOSCO in response to the GFC.
- ◆ As a result of the GFC, issuing or consulting on disclosure guides with respect to mortgage, property, infrastructure and hedge funds.

# Major outcomes: Financial market integrity and protection of investors and consumers continued

## Major substantive cases 2010–11

Below are major cases where there has been a substantive outcome or where ASIC has secured compensation. These cases mark major findings at law, new law that has been implemented, actions that have provided protection for consumers and investors, actions that have provided compensation, or where custodial sentences have been handed down. See pages 34–41 for details of other deterrence actions and cases that remain underway.



### Actions on behalf of investors

- ♦ **Chartwell Enterprises** (in liquidation): The former director Graeme Hoy was sentenced to 13 years and nine months imprisonment following the collapse of Chartwell Enterprises (in liquidation). He pleaded guilty to 44 deception charges regarding almost \$22 million, and three charges under the Corporations Act. The former company secretary Ian Rau was sentenced to two years and seven months imprisonment on eight charges.
- ♦ **Fincorp Properties** (in liquidation): The former chairman and chief executive Eric Krecichwost of Fincorp (in liquidation) was sentenced to three years and six months imprisonment after being found guilty on three criminal charges concerning dishonest use of his position to benefit from payments totalling approximately \$2.8 million. Mr Krecichwost is appealing against the conviction and sentence.
- ♦ **Firepower**: The Federal Court made orders declaring that Axis International Management, Owston Nominees No. 2 (in liquidation) (receiver and manager appointed) and director of Axis, Quentin Ward, contravened s727(1) regarding several offers made to investors for the sale of Firepower BVI shares.
- ♦ **Hassle Free Shares**: The Federal Court granted five-year injunctions preventing Hassle Free Share Sales Pty Ltd and the firm's director, Suzanne Lee Forster, from making unsolicited offers to NIB shareholders to purchase their shares off market. The offers investigated by ASIC were being made at approximately 60% discount to the prevailing market rate. The injunctions follow an amendment to the Corporations Act that prevents a firm's share register being used to make certain types of unsolicited offers – a practice that ASIC seeks to stop.
- ♦ **Christopher Koch**: Mr Koch was sentenced to 13 years and two months imprisonment. He was convicted on charges relating to an investment scheme he promoted between 1996 and 1999. Mr Koch has appealed against the conviction and sentence.
- ♦ **Trio Capital (also known as Astarra Capital)** (in liquidation): The former director Shawn Richard pleaded guilty to two charges of dishonest conduct in the course of carrying on financial services and admitted a third charge of making misleading statements in relation to a financial product. He also entered into an enforceable undertaking banning him for life from providing financial services in Australia.
- ♦ **Westpoint** (in liquidation): The former chief financial officer Graeme Rundle was found guilty of two criminal offences of making false statements to obtain a financial advantage. ASIC also settled compensation proceedings against KPMG, the former auditor of certain Westpoint companies, and certain individuals who were, or were alleged to be, directors of Westpoint companies. ASIC also succeeded in reaching a settlement for clients who invested in certain Westpoint products on the advice of Barzen Pty Ltd (formerly Dukes Financial Services) and Joseph Dukes. Another financial advice firm, Power Financial Planning, was convicted of carrying on a business without a licence and fined \$33,000, and its director, Stephen McArdle, was sentenced to 12 months imprisonment. The Court also ordered that \$10.3 million be paid by Power Financial Planning and Mr McArdle as compensation to investors. The total amount recovered as a result of ASIC's Westpoint compensation litigation is up to \$92.95 million.



### People or companies banned from providing financial services or consumer credit

The number of banned licensees rose by 56% to 64, compared with 2009–10. The thematic types of conduct resulting in these outcomes included:

- ◆ instances of authorised representatives dishonestly taking advantage of their client relationships by conduct such as unauthorised discretionary trading, falsification of trading results, falsification of documents and misappropriation of client funds
- ◆ licensed financial advisers failing to take their clients' personal circumstances into account in recommending products, failing to have a reasonable basis for the financial advice, failing to provide statements of advice, and inducing clients to invest on the basis of misleading representations
- ◆ cancellation of licences due to a failure to maintain membership of external dispute resolution schemes
- ◆ engaging in credit activities while being neither registered with nor licensed by ASIC under its new credit licensing regime.



## Market integrity

Six people were sentenced to terms of imprisonment on insider trading or market manipulation charges. They were:

- ◆ Jeffrey Bateson was sentenced to two years imprisonment, to be served as an intensive correction order, and fined \$70,000 (one charge)
- ◆ Newton Chan was sentenced to 20 months imprisonment, and ordered to serve four months, before being released on a recognisance order (nine charges)
- ◆ Andrew Dalzell was sentenced to two years imprisonment, to be served as an intensive correction order (one charge)
- ◆ Oswyn de Silva was sentenced to two years and six months imprisonment with a minimum term of 18 months (single charge covering 12 sets of transactions)
- ◆ John Hartman was sentenced to four years and six months imprisonment, with a minimum term of three years (25 charges) (he also forfeited \$1.57 million to the Commonwealth under the *Proceeds of Crime Act 2002*)<sup>1</sup>
- ◆ Tamara Newing was sentenced to 21 months, and released immediately on a recognisance order (10 charges).



## Directors' duties

- ◆ **Centro Properties Group:** The Federal Court found that seven directors of Centro Properties Group (CNP) and Centro Retail Group (CER) breached their duties when they approved financial reports that failed to disclose significant matters. The Court found that in the case of CNP, the report failed to disclose some \$1.5 billion of short-term liabilities by classifying them as non-current liabilities, and failed to disclose guarantees of short-term liabilities of an associated company of about US\$1.75 billion that had been given after the balance date. In the case of CER, the Court found that the reports failed to disclose some \$598 million of short-term liabilities that had been classified as non-current. The Court also found that the chief financial officer failed to fulfil his duties of due care and diligence.
- ◆ **Fortescue Metals Group:** The Full Court of the Federal Court upheld an appeal regarding Fortescue Metals and the chief executive Andrew Forrest. The Court found that Fortescue Metals' actions were misleading or deceptive – under s1041H of the Corporations Act – when the company made certain announcements in 2004 and 2005. The Court found that, in failing to correct the announcements, Fortescue Metals thus breached s674(2). The Court found Mr Forrest breached his duties as a director in his role in the announcements.<sup>2</sup>
- ◆ **James Hardie:** The NSW Court of Appeal upheld an appeal by seven former non-executive directors and two former officers of James Hardie Industries Limited. The directors and officers appealed a Supreme Court finding that they had breached their duties when the company made statements about its asbestos compensation fund. The Court of Appeal also partly upheld an appeal by the officers in relation to other contraventions regarding the establishment of the compensation fund.<sup>3</sup>

<sup>1</sup> Mr Hartman is appealing the sentence.

<sup>2</sup> In September 2011 the High Court granted leave to Fortescue Metals Group and Mr Forrest to appeal the Full Federal Court's decision.

<sup>3</sup> ASIC has been granted leave to appeal to the High Court insofar as the decision concerns the non-executive directors and the company secretary/general counsel.

# Major outcomes: Real Economy



## Priority 5: Lift operational effectiveness and service levels for all ASIC stakeholders

- ◆ Completed national credit licensing – licensing 6,081 providers. Extensive guidance provided for businesses in transition to the new national consumer credit regime.
- ◆ Continued steady increase in the proportion of online filing in order to make business easier – 73% of forms filed online.
- ◆ Registered more than 163,000 new companies – 3.6% more new registrations than last year.
- ◆ Returned approximately \$3.4 million in unclaimed money to 1,198 people as part of an active program.
- ◆ Assessed 17% more reports of alleged misconduct or breaches in financial services or company conduct, with reports for the year totalling 15,634.
- ◆ Completed and published the results of a comprehensive stakeholder survey testing views on ASIC's performance.



## Priority 6: Improve services and reduce costs with new technologies and processes

- ◆ Laid the groundwork for the National Business Names register, which will provide a new single national business names source, reducing transaction costs for businesses.
- ◆ Prepared for the launch of a service providing online searches of registers, with quicker delivery of information and the capacity to accept fees using a credit card.
- ◆ Deployed a new Ringtail evidence management system, which brings considerable advantages in managing cases with high document loads.
- ◆ Progressed a technology transformation project that supports further online services provided by ASIC.



Commissioner Peter Boxall addressing the 2011 Summer School.



Adelaide staff at this year's Biggest Morning Tea fundraising event. Pictured (L-R) are Stephanie Forde, Sarah Flavel and Selina Folland.



Melbourne staffers celebrate ASIC's 20th anniversary. Pictured (L-R) are Mirna Kairouz, Lauren Coate, Katie Stansen, Grace Gagliano, Sandy Stogiannou, Lisa Sapardanis and Jenna Koochew.

# Outcomes: Financial summary and expenditure

## Appropriations and revenue

ASIC received \$324 million in appropriation revenue, compared with \$370 million in 2009–10, and it received \$24 million in other revenue, compared with \$11 million in 2009–10.

The reduction in appropriation revenue from Government in 2010–11 is the result of the revised cash funding arrangements that were introduced for Commonwealth agencies by the Government from 1 July 2010.

Under the new arrangements, funding for depreciation and amortisation ceased and a new appropriation referred to as a departmental capital budget (DCB) was introduced from 1 July 2010.

However, the DCB is reflected as an equity contribution, not income, giving rise to a reduction in income over that received in 2009–10.

This change in funding and the accounting treatment is discussed in more detail in Note 3 of ASIC's Financial Statements.

## Revenue for the Commonwealth

ASIC collected \$622 million for the Commonwealth in fees and charges, up 7% in 2010–11, largely due to the fee indexation increase (based on the CPI) for fees and charges levied under the Corporations Act, fees and charges levied under the National Credit Act from 1 July 2010, and also new fees collected by ASIC since 1 August 2010 from market operators.

## ASIC expenses

ASIC expenses were \$385 million in 2010–11, which is slightly lower than last year.

ASIC's operating expenses, together with fees and charges raised for the Commonwealth, are summarised in the following table.

### ASIC's use of taxpayers' money for the outcomes approved by Parliament

	2010–11	2009–10	2008–09
<b>Operating expenses</b>			
Total	\$385m	\$387m	\$295m
Annual change on previous year	-1%	+31%	+8%
Fees and charges raised for the Commonwealth	\$622m	\$582m	\$552m
Annual change on previous year	+7%	+5%	+1%

## Outcomes and expenditure

Parliament funds ASIC to achieve the following outcomes:

- ♦ improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks
- ♦ streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services.

ASIC outcomes and expenditure by year are summarised in the following table.

### ASIC outcomes and expenditure by year

Outcome	2010–11	2009–10	2008–09
Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks	\$297m	\$302m	\$240m
Streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services	\$88m	\$85m	\$54m

Internal service costs are apportioned to these outcomes (see page 79).

## Additional funding for future years for specific initiatives

In the Portfolio Budget Statements for 2011–12, ASIC received additional funding of:

- ♦ \$28.849 million for the continuation of GFC funding
- ♦ \$23.057 million for competition in equities and securities markets across the next four years
- ♦ \$13.2 million for the implementation and ongoing costs of the Stronger Super initiatives across the next four years.

See ASIC's financial statements on page 88.



*Women in ASIC is a comprehensive support program designed to improve the experience of all women within ASIC, enabling them to better work towards their career goals while maintaining balance in their lives. The program forms a key part of ASIC's ongoing commitment to promoting and supporting diversity within the workplace. Women in ASIC includes seminars that raise awareness about gender politics in the workplace. Pictured at a Women in ASIC event this year are (L–R) ASIC in the Community manager Luke Branagan, former Smith Family chief executive Elaine Henry, ASIC Commission counsel Louise Macaulay, then ASIC Chairman Tony D'Aloisio and Carole Renouf, National Breast Cancer Foundation chief executive.*

# Outcomes: Financial market integrity and protection of investors and consumers



## Engagement

### Bringing together major stakeholders at Summer School

ASIC's annual Summer School is one of the means by which ASIC engages its regulated populations. It also provides a forum for maintaining the level of understanding of regulation in Australian financial services and corporations.

This year's Summer School – entitled *The new regulatory landscape* – was held in Sydney in February, and attracted 314 delegates, 46 external speakers and panellists, and 77 ASIC leaders and delegates. The event also marked ASIC's 20th anniversary and that of its predecessor, the Australian Securities Commission.

### Measuring stakeholder perceptions

ASIC conducts stakeholder surveys of its regulated populations and other groups to obtain a broad measure of perceptions of ASIC's performance.

Two recent surveys have been conducted, one in 2008 and the other in 2010. There were 1,551 respondents to the 2010 survey. The reports on both surveys have been published on ASIC's website.

The 2010 survey found that, generally, respondents believed ASIC had performed well during the GFC and were positive about the outcomes of ASIC's regulatory work.



**Priority 5 – Lift operational effectiveness and service levels for all stakeholders**



**Priority 5 – Lift operational effectiveness and service levels for all stakeholders**



In March ASIC celebrated its 20th anniversary with a series of events at its offices around Australia. Pictured at the Melbourne celebration are ASIC workers (L-R) Scott Rea, Karen Fostiropoulos, John Sculli and Glen Cochrane.



## Guidance

### Facilitating the restructuring and release of frozen funds

During the first phase of the GFC, frozen funds reached a high in November 2009, when ASIC estimated that 87 schemes with \$25.36 billion of funds under management were frozen.

At 30 June 2011, frozen funds totalled \$17.2 billion and comprised:

- ◆ **mortgage funds** – \$10.3 billion of funds under management
- ◆ **property funds** – \$3.6 billion of funds under management
- ◆ **hedge funds** – one hedge fund reported to be frozen with \$0.056 billion of funds under management
- ◆ **cash-enhanced funds** – 10 funds with \$3.2 billion of funds under management.

Hardship relief – where it is granted – is a means of allowing investors to withdraw sums from frozen funds. Between late 2008 and mid-2011, 7,674 applications representing \$261.4 million were received by schemes, and 5,693 applications representing \$127.4 million have been paid (0.67% of frozen funds paid in hardship relief).

ASIC has encouraged fund managers to make regular withdrawal offers to members. Many mortgage funds are making scheduled, capped withdrawal offers – for example, 5% on a quarterly basis or 2% on a monthly basis. Some are making all cash available to members on a pro-rata basis. Those adopting the latter approach have returned capital to members more quickly.

ASIC has granted conditional relief to responsible entities to allow 'rolling' withdrawal offers. Under a rolling withdrawal, a responsible entity makes an offer for a calendar year to all members; a responsible entity nominates the dates upon which the offer will be paid (for example, at the end of each quarter); and a member may lodge a withdrawal request at any time, but can only participate in a future withdrawal.

The relief is subject to the responsible entity meeting a number of conditions, including communications to members.

For the restructuring of frozen funds, the results for the year for non-contributory aggressive mortgage schemes were:

- ◆ one scheme was wound up
- ◆ one scheme voluntarily divested its assets so it could be wound up
- ◆ three schemes were restructured with member approval
- ◆ two schemes improved the quality of their disclosure
- ◆ two schemes replaced their responsible entities
- ◆ one responsible entity had its AFS licence cancelled.



### Priority 4 – Manage the domestic and international implications of the GFC

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Addressing agribusiness managed investment schemes

ASIC estimates that \$4.08 billion in investors' funds were affected by collapsed agribusiness MISs during and immediately after the early phase of the GFC. Approximately 138 individual schemes were involved. The actual level of losses experienced by investors in these schemes cannot be estimated because, in many cases, the returns to investors from proposed restructures or sale of assets is yet to occur.

The collapses highlighted the need to improve the quality of information that investors receive on such agribusiness MISs. In particular, ASIC aims to improve the quality of risk disclosure by responsible entities.

Consultation Paper 133 *Agribusiness managed investment schemes: Improving disclosure for retail investors* was released in April 2010. As a result of that consultation, ASIC plans to release regulatory guidance that would apply to responsible entities.

## Developing new guidance for companies

Three major initiatives relating to companies this year were:

- ♦ **prospectuses:** following an extensive review, ASIC is consulting on proposed guidance to make prospectuses easier for retail investors to understand and to help them make informed investment decisions
- ♦ **related party transactions:** in March, ASIC released new regulatory guidance on related party transactions to reflect changes in the law. The new guidance is aimed at bringing a substantial improvement in the way public companies and registered MISs conduct related party transactions
- ♦ **expert reports:** in March, ASIC released new guidance aimed at ensuring that reports prepared by experts – for change-of-control transactions, related party and other transactions – are useful for investors.

## Establishing a regulatory framework for competition in exchange markets

In March 2010, the Government announced it would allow competition between securities exchange operators in Australia. ASIC developed a market competition and structure program to establish the relevant regulatory and supervisory frameworks to implement this policy.

Following extensive consultation, in April 2011 ASIC published market integrity rules and regulatory guidance to prepare for the introduction of competition in equity exchange markets. The rules give effect to the Government's policy to support competition between securities exchanges in Australia. Overall, these changes will promote exchange innovation, lower transaction costs for market participants, leverage Australia's pool of superannuation savings, and improve liquidity and access to capital for companies.



**Priority 4**  
– Manage the domestic and international implications of the GFC



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets

## Improving superannuation product disclosure

Following a review of superannuation Product Disclosure Statements (PDSs), ASIC published Report 214 *Review of superannuation PDSs*, to advise issuers on how they could improve disclosure to enable consumers to make informed investment decisions.

The report also discussed the shorter PDS regime, which is being phased in over 2011–12. To facilitate a smooth transition, ASIC set up a dedicated email address for queries, is updating existing regulatory guidance and other documents, and is responding to applications for relief about the new provisions.

In a separate project, ASIC reviewed the business models of three of the largest ‘trustees for hire’ in the Australian superannuation market, helping them improve disclosure, compliance and governance.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

## Clarifying disclosure for OTC derivatives and hedge funds

In 2010–11, ASIC released Regulatory Guide 212 *Client money relating to dealing in OTC derivatives*. ASIC also issued Consultation Paper 147 *Hedge funds: Improving disclosure for retail investors*, which outlined proposals to improve disclosure requirements for retail investors who invest in hedge funds.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

## Reforming OTC derivatives, G20 initiatives

ASIC is a member of the Council of Financial Regulators – the coordinating body for Australia’s main financial regulators – which is developing Australia’s response to the G20 leaders’ commitments on OTC derivatives. OTC derivatives are privately negotiated financial instruments that derive their value from something else (such as an interest or exchange rate).

The G20 leaders have stated that all standardised OTC derivatives should be traded on exchanges or platforms, where appropriate, and cleared through central counterparties by the end of 2012. Further, all OTC derivatives should be reported to trade repositories. The Financial Stability Board is overseeing the implementation of these commitments.

In June 2011, the Council of Financial Regulators released a discussion and comment paper on implementing clearing of derivatives through central counterparties.



**Priority 3**  
– Facilitate international capital flows and international cooperation

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Proposing revisions to the ePayments Code

A draft of a revised ePayments Code (the industry code of conduct relating to funds transfer and payment services) was published in May 2011. The revised code is aimed at a much wider range of payment services, and covers important new topics such as mistaken internet banking payments. The final version of the code was published in September 2011.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

## Improving compliance reporting for credit rating agencies

In June 2011, ASIC released Consultation Paper 160 *Credit rating agencies: IOSCO Code Annual Compliance Report*. Credit rating agencies (CRAs) have specially tailored conditions on their AFS licences that require them to lodge an annual IOSCO compliance report with ASIC. In the consultation, ASIC is seeking views on the form and content of those reports.



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets

## Achieving better disclosure of substantial holdings

During the year, ASIC released guidance aimed at achieving better disclosure of substantial holdings in listed entities arising from securities lending and prime broking activities. This is set out in Regulatory Guide 222 *Substantial holding disclosure: Securities lending and prime broking* and relief contained in Class Order [CO 11/272] *Substantial holding disclosure: Securities lending and prime broking*.



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets

## International Joint Forum initiatives

Under ASIC's leadership, the international Joint Forum progressed projects on securitisation (intended to build on IOSCO guidance to support revival of securitisation markets), research into capital and liquidity support measures used by financial conglomerates during periods of stress, and work on developing principles to guide the supervision of financial conglomerates.

Each of these projects will provide the Joint Forum's parent committees with cross-sectoral insights to support key regulatory initiatives in each sector and improve understanding of sectoral approaches and perspectives.



**Priority 3**  
– Facilitate international capital flows and international cooperation

## Consistent global implementation of IOSCO guidance

During 2009 and 2010, IOSCO developed guidance on issues highlighted by the GFC, including the regulation of short selling, CRAs, hedge funds, securitisation and credit default swaps.

The Financial Stability Board and the G20 have emphasised the importance of consistent implementation of these and other initiatives in minimising the risk of regulatory arbitrage.

ASIC has participated in the following IOSCO projects intended to drive consistent implementation of this guidance:

- ♦ revisions to the *IOSCO Methodology for assessing implementation of the IOSCO objectives and principles of securities regulation* to reflect IOSCO's work in response to the GFC. This document provides guidance to IOSCO members on how to implement IOSCO objectives and principles, and is used as the basis for International Monetary Fund assessments of national securities regulation
- ♦ reports monitoring implementation of IOSCO recommendations on securitisation and hedge funds regulation in response to the GFC. ASIC also participated in a Joint Forum project on asset securitisation, which highlighted the importance of implementing IOSCO guidance in supporting sustained revival of these markets.

## Licensing consumer credit providers

On 1 July 2010, ASIC began regulating consumer credit under the National Credit Act. The National Credit Act establishes a nationwide regime for licensing consumer credit businesses and sets industry standards that are applied by ASIC. The National Credit Act required ASIC to license consumer credit businesses nationally in a two-stage process. Since July 2010, ASIC has issued 6,081 Australian credit licences and authorised 24,005 credit representatives. ASIC also published extensive guidance for credit businesses.

Surveillance and deterrence activities under the credit legislation are underway. As part of those activities, ASIC reviewed more than 5,000 advertisements to ensure the businesses were registered, authorised or licensed to engage in credit activities. Of those, 297 businesses were identified for follow-up. Credit infringement notices were issued to businesses that were advertising credit activities when they were not registered, authorised or licensed to engage in such activities.



**Priority 4**  
– Manage the domestic and international implications of the GFC



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Facilitating the FoFA reforms

Under the umbrella of its FoFA reforms, the Government is setting out to improve the quality of advice that consumers receive, and to improve access to that advice. In line with this, in August 2011 the Assistant Treasurer, the Hon Bill Shorten MP, released for consultation the first tranche of draft legislation that would enact the reforms.

To support these reforms, in April 2011 ASIC put forward a new approach to adviser training and assessment for consultation. The approach is aimed at improving outcomes for consumers by raising the standard of training among advisers and ensuring standards are uniform across the sector.

In a separate program, one of ASIC's focus areas for surveillance was the financial advice sector. Using information obtained from the 20 largest AFS licensees, ASIC developed risk indicators to identify the priority regulatory and policy issues in the financial advice sector. ASIC reviewed 743 pieces of financial advice and caused a further 1,102 pieces of advice to be reviewed by licensees or independent experts.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

## Fostering better understanding of CFDs

ASIC has been focusing on products and services where it can be demonstrated that retail consumers lack an in-depth understanding of risk. Among these are CFDs. A study by ASIC of the CFD market found many retail investors were confused about how these products worked and did not understand the significant trading risks associated with them. This led ASIC to propose disclosure benchmarks for CFD issuers to help retail investors understand and assess these products, including disclosure of issuers' policies on investors' qualification for CFD trading. ASIC also continued its surveillance of CFD and margin foreign exchange issuers, identifying five issuers with financial resourcing issues and eight with weaknesses in their handling of client money.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy



*Wrap with Love is a voluntary organisation which started in 1992. Since then, the organisation has given 255,322 wraps to needy people throughout the world. ASIC staff have contributed 139 wraps since 2007. Pictured are (L-R) Angela Gregg, Judith Mulvena, Sandra Young, Kamilla Soos and Margaret Dean, with wraps made by ASIC staff in 2010.*



## Surveillance

### Transferring market supervision to ASIC from the ASX

From August 2010, ASIC took over the day-to-day supervision of trading on Australia's domestic licensed financial markets (the APX, ASX, ASX 24, BSX, IMB and NSXA). This effectively required ASIC to establish surveillance and guidance to ensure market discipline and that parties observe trading rules, and to address instances of misconduct where they occur.

Since ASIC took responsibility, it has taken pre-emptive action on 36 occasions, including raising concerns about potentially disruptive execution strategies and algorithmic trading.

Outcomes of these actions include:

- ♦ participants putting in place new filters and processes to ensure specific order types are reviewed by designated representatives before being released to the market
- ♦ participants adjusting their algorithmic trading strategies
- ♦ participants deciding not to execute particular transactions or to deploy a particular strategy
- ♦ referring 52 instances of potential market abuse and breaches of market integrity rules to deterrence teams for investigation.

### Monitoring financial reporting and auditing

During the year, ASIC reviewed 500 financial reports of listed entities and some larger unlisted entities. Based on the reviews, ASIC suggested areas for boards, preparers of financial reports and auditors to focus on in future reporting.

In a separate program, ASIC continued to inspect firms that audit entities of significant public interest. ASIC's public report on 21 firm inspections (covering 131 audit engagements) found room for improvement in the areas of audit evidence, professional scepticism and engagement quality control reviews.



**Priority 2**  
– **Build confidence in the integrity of Australia's capital markets**



**Priority 2**  
– **Build confidence in the integrity of Australia's capital markets**

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Improving standards in insolvency practices

ASIC focused on key compliance areas in its reviews of insolvency practices, namely:

- ♦ independence
- ♦ remuneration disclosure, approval and reasonableness
- ♦ quality of investigations and reporting to creditors, and to ASIC
- ♦ asset realisation procedures and outcomes
- ♦ adequacy of practice systems.

Under its proactive insolvency practice review program, ASIC conducted 20 reviews involving detailed examination of 215 external administrations.

In a separate program, ASIC undertook 96 transaction reviews. These reviews examine transactions undertaken by registered liquidators based upon matters notified to ASIC by the public, or from other sources, regarding registered liquidator conduct.

Outcomes of both programs include:

- ♦ successful legal action to address conflict of interest issues and inadequate capacity to perform duties
- ♦ identifying concerns that may require deterrence actions involving applying to a court or to the Companies Auditors and Liquidators Disciplinary Board (CALDB) to cancel or suspend a liquidator's registration
- ♦ liquidators taking positive steps to address ASIC's concerns generally.

ASIC also conducted proactive monitoring programs to test whether insolvency practitioners complied with their obligations to provide independence and indemnity disclosures to creditors. During the year, ASIC reviewed 107 external administrations involving 163 registered liquidators (approximately 25% of the population). Outcomes include:

- ♦ insolvency practitioners issuing replacement declarations in 62 matters
- ♦ an improved standard of declaration.

In a separate project, ASIC assessed whether registered liquidators complied with their obligations to maintain adequate professional indemnity and fidelity insurance. Outcomes include:

- ♦ registered liquidators seeking improvements to the scope and extent of their insurance cover to comply with the law
- ♦ increased awareness by registered liquidators (and their insurance brokers) of the Corporations Act's requirements and ASIC's Regulatory Guide 194 *Insurance requirements for registered liquidators*.

## Surveillance of investment banks, hedge funds and private equity funds

ASIC conducted risk-based surveillance of investment banks and hedge funds to identify issues that might pose significant regulatory risks. For investment banks, this involved monitoring their practices in relation to compliance, corporate governance, new product approval processes, conflicts of interest and confidential information. ASIC's surveillance of hedge funds focused on verifying the assets held by a selection of funds.



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets

## Reviews of responsible entities

ASIC also conducted reviews of responsible entities in the managed funds sector, including ten responsible entities for hire (which are responsible entities that provide responsible entity services to unrelated product issuers and asset managers), resulting in many responsible entities making improvements to their compliance arrangements.



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets



## Education

### Supporting financial literacy in the community

One of ASIC's statutory obligations is to promote confident and informed participation by consumers and investors in the financial system. This obligation is an increasing proportion of ASIC's public role. ASIC's main activities in this area for 2010–11 are described below.

The National Financial Literacy Strategy was launched in March 2011 by the Assistant Treasurer, the Hon Bill Shorten MP, and Parliamentary Secretary, the Hon David Bradbury MP. As a multi-agency collaboration, which is coordinated by ASIC, the strategy aims to improve the financial wellbeing of Australians through education, independent information, tools and support.

As part of the National Financial Literacy Strategy, ASIC launched the MoneySmart website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) in March 2011. It replaced the FIDO and Understanding Money websites.

MoneySmart provides consumers with easy-to-understand personalised financial guidance on a range of topics, from borrowing and credit to investment and retirement planning. It features new interactive tools such as a budget planner and superannuation calculator, a map search for financial counselling services, case studies, and calculators that can be used on mobile phones.

The website attracted more than 335,000 unique visitors between March and June, and more than 25,000 people have downloaded the calculator applications.

As part of the Government's proposed national school curriculum, ASIC redeveloped the [www.teaching.financialliteracy.gov.au](http://www.teaching.financialliteracy.gov.au) website to provide teachers with quality resources to teach financial literacy. The website features a professional learning module to help educators build their financial literacy teaching skills.

ASIC also launched the Milba Djunga (Smart Money) website ([www.milbadjunga.net.au](http://www.milbadjunga.net.au)). Developed in partnership with the Queensland Department of Education, the website has resources to help educators teach consumer and financial literacy to Aboriginal and Torres Straits Islander students. The two online units for primary and secondary school students are being trialled by 14 schools in the Top End.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Improving directors' understanding of their duties to prevent insolvent trading

To help directors better understand their duties in preventing insolvent trading and guide them on seeking professional advice to address solvency concerns, ASIC issued Regulatory Guide 217 *Duty to prevent insolvent trading: Guide for directors* and Report 213 *National insolvent trading program report*.



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets



## Deterrence

### Recovering funds, pursuing illegal behaviour and other deterrence actions – major activities

The following are examples of major ASIC actions that led to an outcome or the imposition of a sentence in 2010–11.

#### Chartwell Enterprises

Following an ASIC investigation into the collapse of Chartwell Enterprises Pty Ltd (in liquidation), its director Graeme Hoy was sentenced to 13 years and nine months imprisonment, with a non-parole period of nine years. He pleaded guilty to 44 deception charges regarding almost \$22 million, and to three charges under the Corporations Act.

The former company secretary Ian Rau was sentenced to two years and seven months imprisonment (to be released on recognisance after serving 18 months) after pleading guilty to one charge of carrying on a financial services business without an AFS licence; four charges of engaging in dishonest conduct in relation to carrying on a financial services business; and one charge each of making a false document, using a false document and obtaining property worth \$40,000 by deception.

#### Fincorp

The former chairman and chief executive of Fincorp (in liquidation), Eric Krecichwost, was sentenced to three years and six months imprisonment after being found guilty on three charges of dishonestly using his position to benefit from payments totalling approximately \$2.8 million. Mr Krecichwost is appealing against the sentence and conviction. Criminal proceedings for less serious offences brought against two less senior company officers were unsuccessful, with one resulting in acquittal and the other being discontinued. Fincorp collapsed in 2007 with losses to investors of approximately \$100 million.

#### Firepower Holdings Group

Axis International Management Pty Ltd (Axis), Owston Nominees No. 2 Pty Ltd (Owston) and director of Axis, Quentin Ward, were found to have contravened s727(1) of the Corporations Act by offering shares in Firepower BVI (incorporated in the British Virgin Islands) without a valid disclosure document. The Federal Court found that declarations and publicity orders were an appropriate form of relief. The Court subsequently made disqualification orders against Mr Ward and Timothy Johnston, chairman and director of Firepower BVI. The Court found in favour of another defendant, Seaswan Holdings Pty Ltd.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

## Recovering funds, pursuing illegal behaviour and other deterrence actions – major activities continued

### Kilara Financial Services

ASIC investigated Kilara Financial Services after concerns were raised that the company was not considering the existing superannuation situation of clients when advising them to switch funds. There were also concerns that Kilara was systematically providing defective Statement of Advice documents. ASIC accepted an enforceable undertaking from Kilara, which sets out how it intends to rectify these issues and ensure affected clients are offered advice on dispute resolution.

### Don Nguyen

ASIC banned Don Nguyen, a former authorised representative of Commonwealth Financial Planning Limited (CFP), from providing financial services for seven years after an investigation found he failed to comply with a number of financial services laws. The banning followed an earlier agreement from CFP, a wholly owned subsidiary of Commonwealth Bank of Australia, to implement a program to compensate clients who may have suffered loss as a result of receiving inappropriate financial advice from Mr Nguyen. Mr Nguyen has appealed to the Administrative Appeals Tribunal for a review of ASIC's decision.

### Opes Prime Stockbroking

A director of Opes Prime Stockbroking (in liquidation) Laurie Emini was sentenced to 12 months imprisonment after pleading guilty to two charges of dishonestly using his position as a director, in relation to transfers of client securities between companies he controlled, and one charge of reckless exercise of his directors' powers, by entering into a financial arrangement between Opes Prime and ANZ which prejudiced Opes Prime's investors by in excess of \$200 million. Director Anthony Blumberg was sentenced to six months imprisonment after pleading guilty to dishonestly entering into the arrangement with ANZ. Director Julian Smith will be tried in April 2012.

### Professional Investment Services

ASIC accepted an enforceable undertaking from Professional Investment Services Pty Ltd under which the company will engage an independent expert to review and make recommendations on its compliance with specific areas addressed in the undertaking.

### Sonray Capital Markets

Following action by ASIC, Sonray (in liquidation) chief executive Scott Murray pleaded guilty to ten criminal charges, including six charges of false accounting, two charges of theft totalling \$2.25 million, one charge of obtaining a financial advantage by deception, and one charge of misleading an auditor concerning a capital injection of \$5.2 million.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Recovering funds, pursuing illegal behaviour and other deterrence actions – major activities continued

### SunEnergy

In March 2011, ASIC obtained declarations and final orders in the Federal Court against SunEnergy Asia Pacific Pty Ltd (in liquidation), ACN 124 647 909 Ltd (in liquidation) (previously Sun Energy Ltd), SunEnergy Inc. (a company incorporated in the United States) and John Ernest Price. ASIC took action in relation to fundraising by the SunEnergy companies and Mr Price (the defendants) between May 2007 and October 2010.

The defendants promised investors a quick return on investment when one or more of the SunEnergy companies listed on the ASX. However, no SunEnergy companies were listed. ASIC had earlier obtained interim orders freezing the bank accounts of SunEnergy Asia Pacific and Mr Price, and interim injunctions against the defendants restraining them from offering financial products to Australian investors.

The Court declared the conduct of the companies and Mr Price to be misleading or deceptive, or likely to mislead or deceive.

### Trio Capital/Astarra

ASIC took action against Shawn Richard for engaging in dishonest conduct in his role as investment manager of Astarra Strategic Fund (ASF) (in liquidation). He was charged with two criminal offences of dishonesty, to which he pleaded guilty, and a third offence of making false and misleading statements, which he formally admitted. He was sentenced to imprisonment for a maximum period of three years and nine months. ASIC also accepted an enforceable undertaking from Mr Richard to the effect that he would not provide financial services in Australia again.

### UBS Wealth Management Australia

ASIC accepted an enforceable undertaking from UBS Wealth Management Australia to modify key aspects of its compliance culture and frameworks, and fix past compliance failures when providing financial advice to retail clients. The company has agreed to engage an independent expert to review and make recommendations on its compliance with specific areas addressed in the undertaking.

### Westpoint/Power Financial Planning

In August 2010, Power Financial Planning Pty Ltd, which advised on Westpoint (in liquidation) products, pleaded guilty to one charge of carrying on a financial services business without an AFS licence. The Adelaide Magistrate's Court fined the company the maximum penalty of \$33,000.

In November 2010, the Court also found Stephen McArdle, the former director of Power Financial Planning, guilty of aiding and abetting the company to carry on a financial services business without an AFS licence. Mr McArdle was sentenced to 12 months imprisonment to be released on recognisance after serving six months.

The Court also ordered that \$10.3 million be paid by Power Financial Planning and Mr McArdle as compensation to investors.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

## Recovering funds, pursuing illegal behaviour and other deterrence actions – major activities continued

In June 2011, former Westpoint chief financial controller Graeme Rundle was found guilty of two counts of breaching s178BB of the *Crimes Act 1900* (NSW). The charges concerned statements made to a financial institution in relation to obtaining a \$71 million construction finance facility. Mr Rundle was sentenced to 18 months imprisonment, with the sentence to be suspended upon him entering into an 18-month good behaviour bond.

On 1 February 2011, ASIC settled the Federal Court actions it had been conducting on behalf of nine Westpoint companies against KPMG, the former auditor of certain Westpoint companies, and four individuals who were appointed as, or are alleged to have been, directors of those companies.

The settlement resulted in the recovery of up to \$67.45 million for Westpoint investors, bringing the total amount recovered as a result of ASIC's compensation litigation up to \$92.95 million. ASIC's earlier actions against State Trustees Limited and a number of financial planners produced settlements in excess of \$25.5 million. Another \$56 million is expected to be recovered through the liquidation process. Returns from Westpoint companies not in liquidation are expected to reach \$22.5 million. In all, investors can expect to see a return of around \$160 million to \$170 million of the \$388 million in losses.

Some cases that remain before the courts at 30 June 2011 are listed below:

### **Camelot Derivatives**

ASIC commenced civil proceedings against Camelot Derivatives Pty Ltd (in liquidation) (Camelot) and its sole director Neil King for contravening provisions of the Corporations Act and the ASIC Act. ASIC obtained interim asset preservation orders against Mr King and other interim orders restraining Camelot and Mr King from making representations and providing advice.

### **Storm Financial**

ASIC commenced legal proceedings in relation to the affairs of Storm Financial Ltd (in liquidation) (receiver and manager appointed). ASIC is seeking compensation from Bank of Queensland Ltd, Senrac Pty Ltd (the owner and franchisee of the bank's North Ward branch) and Macquarie Bank Ltd (MBL), in ASIC's name and on behalf of two former Storm investors. The proceedings relate to alleged breach of contract, contravention of the statutory prohibitions against unconscionable conduct, and liability as linked credit providers of Storm under s73 of the *Trade Practices Act 1974*.

ASIC also commenced proceedings against Storm, Commonwealth Bank of Australia, Bank of Queensland and MBL, based on Storm's alleged operation of an unregistered MIS in which the banks were allegedly involved.

In addition, ASIC has filed civil penalty proceedings against Emmanuel and Julie Cassimatis, directors of Storm, for allegedly contravening their directors' duties under the Corporations Act.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Recovering funds, pursuing illegal behaviour and other deterrence actions – major activities continued

### Kovelan Bangaru

Kovelan Bangaru was sentenced to eight years and six months imprisonment after being found guilty of 13 charges of fraud. He was accused of obtaining more than \$19.8 million after providing false financial statements to support loan applications from companies of which he was a director.

### Paul Pattison

After ASIC commenced proceedings against registered liquidator Paul Pattison, he voluntarily resigned as liquidator or deed administrator of 104 companies, and agreed to stop accepting any new liquidator appointments. ASIC obtained orders by consent to appoint replacement liquidators where required.

### Safety in the Market

ASIC obtained permanent injunctions and orders, by consent, against The Hubb Organisation Pty Ltd, operators of Safety in the Market, to prevent it making misleading or deceptive representations about its trading methodology in promotions and advertising. ASIC's investigation revealed Safety in the Market did not have evidence that its 'Smarter Starter Pack' teaches, or provides a proven methodology for, profitable trading in financial products.

Cases that remain before the courts at 30 June 2011 include:

### HR Cook Investments and Stuart Ariff

Stuart Ariff was committed to stand trial after being charged with 13 counts concerning his alleged intent to defraud HR Cook Investments Pty Ltd (in liquidation) of \$1.18 million while a liquidator of the company. He was also charged with six counts of allegedly making false statements in documents lodged with ASIC. (In late September 2011, Mr Ariff was found guilty by a jury in the NSW District Court on all 19 criminal charges brought by ASIC.)

### Wintech Group

Following an investigation by ASIC, Kim Wong was arrested in January 2011 and charged on 129 offences relating to approximately \$1.2 million of investor funds that went missing while he was managing director of Wintech Group Ltd (subject to Deed of Company Arrangement). Mr Wong has been charged with a range of offences, including 86 charges of falsifying Wintech's books, ten charges of providing false information to the ASX and ASIC, and 31 charges of theft.

Former Wintech director Hoong Kee Tang was arrested and charged in June 2011 with four charges of market manipulation. ASIC alleged Mr Tang's trading of Wintech shares on the ASX created the false impression that the securities were actively traded. He was also charged with making or authorising false or misleading statements in documents submitted to ASIC in August 2008 and April 2009.

The cases against Mr Wong and Mr Tang are yet to be heard.

In November 2010, ASIC banned Lim Theam Chye from providing financial services for five years, following an investigation into his role in arranging a crossing transaction on the ASX in the shares of Wintech. There were grounds to believe Mr Lim had failed to comply with financial services laws and reason to believe he would not comply with financial services laws in the future.



**Priority 2**  
– Build  
confidence in  
the integrity  
of Australia's  
capital markets

## Acting against misleading websites

ASIC took action against AC Trading Co Pty Ltd, Macro Dealing Advisory Pty Ltd, Guardian Wealth and Hedge Securities and Investments Pty Ltd, whose websites purported to offer legitimate online financial services. One firm had its AFS licence cancelled, another was ordered to wind up operations and all four were subject to ASIC consumer warnings.



**Priority 2**  
– Build  
confidence in  
the integrity  
of Australia's  
capital markets

## Acting against insider trading and market manipulation

During the year, criminal actions relating to insider trading and market manipulation were completed. Outcomes include:

- ♦ **John Hartman:** jailed for four years and six months, with a non-parole period of three years, and forfeited \$1.57 million to the Commonwealth for insider trading (traded in CFDs while in possession of information about Orion Asset Management Ltd's trading intentions). Mr Hartman is appealing the severity of his sentence.
- ♦ **Tamara Newing:** sentenced to 21 months imprisonment but released immediately on a recognisance order after pleading guilty to 10 charges of market manipulation (conducted transactions were likely to have created or maintained an artificial price for trading in Genetic Technologies Ltd shares).
- ♦ **Oswyn de Silva:** jailed for two years and six months for insider trading (traded in equities and CFDs while in possession of information about Macquarie Bank's trading intentions). Mr De Silva is required to serve 18 months before being released on recognisance.
- ♦ **Newton Chan:** sentenced to 20 months imprisonment following an investigation by ASIC into the manipulation of the share price of Bill Express Ltd (in liquidation). He was ordered to serve four months immediately, before being released on a recognisance order.
- ♦ **Andrew Dalzell:** jailed for two years for insider trading (acquired 40,000 shares of a company for which he was a contracted adviser); to be served as an intensive correction order.
- ♦ **Jeffrey Bateson:** jailed for two years and fined \$70,000 for insider trading (acquired 550,000 WHL Energy shares while in possession of price-sensitive information); to be served as an intensive correction order.

In matters still before the courts at 30 June 2011:

- ♦ Daniel Joffe, a former associate analyst with Moody's Investor Services, and Nathan Stromer were committed to stand trial for alleged insider trading.
- ♦ The former director of Genetic Technologies, Dr Mervyn Jacobson, has been committed for trial, in the Supreme Court of Victoria, on two charges of conspiracy under s11.5(1) of the Criminal Code and s1041A of the Corporations Act and multiple substantive charges of market manipulation under s1041A of the Corporations Act.
- ♦ Dr Stuart Fysh, a former executive vice president and managing director of BG Group, was charged with four offences of insider trading.
- ♦ Justin O'Brien, a former manager employed by Computershare Investor Services Pty Ltd, was charged with four offences of insider trading to which he subsequently pleaded guilty and is awaiting sentence.



**Priority 2**  
– Build  
confidence in  
the integrity  
of Australia's  
capital markets

# Outcomes: Financial market integrity and protection of investors and consumers continued

## Overseeing directors' duties and company conduct

ASIC regulates the conduct of directors and senior company officers as required under the Corporations Act. Below are major actions completed in 2010–11 where there was an outcome or court finding.

### Centro Properties Group

ASIC's civil penalty proceedings against seven former and current directors and one former executive of the Centro Properties Group were successful, after the Federal Court found in ASIC's favour. The Court's decision provides directors with guidance on the level of understanding they should have of basic accounting conventions and the level of care they should exercise when reviewing their company's financial statements.

### Fortescue Metals and Andrew Forrest

In February 2011, ASIC successfully appealed against the Federal Court's decision to dismiss ASIC's civil penalty proceedings against Fortescue Metals Group and Mr Forrest. The Full Court of the Federal Court found on appeal that:

- ♦ Fortescue Metals contravened s1041H of the Corporations Act in that the company's ASX announcements and other statements in respect of framework agreements were misleading and deceptive. These agreements were entered into with Chinese companies and related to the development of a mine, railway and port for the mining and export of iron ore from the Pilbara.
- ♦ Fortescue Metals contravened s674(2) of the Corporations Act when it failed to correct the misleading statements it had made to the market.
- ♦ Mr Forrest breached his duties as a director in contravention of s180(1) of the Corporations Act and breached s674(2A) of the Corporations Act for his involvement in Fortescue Metal's contraventions of the Corporations Act.

In September 2011 the High Court granted Fortescue Metals and Mr Forrest special leave to appeal the Full Court's decision.

### James Hardie

In April 2009, following an ASIC investigation, the former non-executive directors and former executives of James Hardie Industries Ltd (JHIL – the former Australian listed entity) and James Hardie Industries NV (JHINV – the Netherlands Holding Company), were found to have breached the Corporations Act in connection with the establishment of a fund for asbestos compensation and statements made about the adequacy of that funding.

All defendants – with the exception of JHIL and Peter Macdonald (former director and chief executive officer of JHIL and JHINV) – appealed the decision.

In December 2010, the NSW Court of Appeal dismissed the JHINV appeal, dismissed in part and upheld in part the executive officers' appeal, and upheld the non-executive directors' appeal.

In May 2011, ASIC was granted special leave by the High Court to appeal the decision of the NSW Court of Appeal.



**Priority 2**  
– Build  
confidence in  
the integrity  
of Australia's  
capital markets

## Overseeing directors' duties and company conduct continued

### Sigma Pharmaceuticals

Following an ASIC investigation, Sigma Pharmaceuticals restated its 31 January 2010 accounts in March 2011.

### ABC Learning Centres

Edmund (Eddy) Groves, former chief executive officer global, and Martin Kemp, former chief executive officer Australia and New Zealand operations, were charged with breaches of their directors' duties as a result of ASIC's investigation into the collapse of ABC Learning Centres (in liquidation) (receiver and manager appointed). The charges relate to payments totalling \$3.1 million approved by Mr Groves and made to Mr Kemp for the purported sale of childcare centres to ABC Learning Centres by Mr Kemp. This matter remains before the courts.

## Taking deterrence action over liquidators' practices

In action by ASIC against registered liquidators:

- ◆ Stuart Ariff was committed to stand trial after being charged with 13 counts concerning his alleged intent to defraud HR Cook Investments Pty Ltd of \$1.18 million while a liquidator of the company. He was also charged with six counts of allegedly making false statements in documents lodged with ASIC. (In late September 2011, Mr Ariff was found guilty by a jury in the NSW District Court on all 19 criminal charges brought by ASIC.)
- ◆ After ASIC commenced proceedings against registered liquidator Paul Pattison, he voluntarily resigned as liquidator or deed administrator of 104 companies, and agreed not to accept any new liquidator appointments. ASIC obtained orders by consent to appoint replacement liquidators where required.
- ◆ The Federal Court removed an administrator, Avitus Thomas Fernandez, who had been appointed to Willmott Forests Ltd (in liquidation) (receiver and manager appointed), the responsible entity of large agricultural MISs. ASIC supported an application to the Court by the secured creditors of Willmott Forests. ASIC was concerned the administrator did not have adequate professional indemnity insurance, appropriate MIS industry experience, and had insufficient resources, including human resources, to conduct such large and complex administrations.



**Priority 2**  
– Build  
confidence in  
the integrity  
of Australia's  
capital markets



**Priority 2**  
– Build  
confidence in  
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# Outcomes: Financial market integrity and protection of investors and consumers continued



## Policy advice (including international cooperation on policy)

### Advising on Chi-X's market licence application

In May 2011 – reflecting an announcement it made in March 2010 – the Government granted a licence to Chi-X Australia to operate a securities exchange. Following ASIC's advice, the new licence was granted subject to Chi-X meeting strict conditions in relation to resourcing, including robust testing of its technology.



**Priority 2**  
– Build confidence in the integrity of Australia's capital markets

### Uncovering the social impact of misconduct

ASIC's Consumer Advisory Panel commissioned Susan Bell Research to study the social impact of misconduct in the financial services industry, particularly when investors suffer losses and are unable to gain full compensation. The research helped inform submissions to the Government's review into whether a statutory compensation scheme should be introduced.



**Priority 1**  
– Assist and protect retail investors and consumers in the financial economy

### Contributing to IOSCO

IOSCO is the standard-setter for international securities regulation and a forum for encouraging cooperation and global consistency in securities regulation. IOSCO has 190 members – including ASIC – that are responsible for regulating more than 95% of the world's securities markets.

IOSCO's role is to assist regulators in developing, implementing and promoting adherence to internationally recognised and consistent standards of regulation, oversight and enforcement, to protect investors, maintain fair, efficient and transparent markets, and reduce systemic risk. This year, ASIC made major contributions to the following IOSCO initiatives:

- ◆ *Final report: Principles for dark liquidity:* These principles were designed to help regulators deal with the issues posed to their oversight of markets by the expanding use of dark liquidity and the development of dark pools, particularly with respect to transparency.
- ◆ *Final report: Principles for direct access to markets:* These principles guide intermediaries, markets and regulators in relation to preconditions for direct electronic access, information flow, and adequate systems and controls.
- ◆ *Consultation report: Regulatory issues raised by the impact of technological changes on market integrity and efficiency:* This report was in response to a mandate from the G20 leaders at their Seoul summit and included discussion of regulatory challenges posed by high-frequency trading and algorithmic trading.
- ◆ *CPSS–IOSCO consultative report: Principles for financial market infrastructures:* This consultation report sets out improved international standards for payment, and clearing and settlement systems.
- ◆ A survey of hedge funds activity in Australia (coordinated with other IOSCO members) identified and assessed the systemic risk posed globally by hedge funds.



**Priority 3**  
– Facilitate international capital flows and international cooperation

### Leading role on IOSCO committee on systemic risk

IOSCO has established a new standing committee specifically to focus on addressing systemic risk and setting the perimeter for securities regulation. The committee's mandate includes developing methodology for systemic risk research, and assisting in impact assessments. It will contribute expert input to the independent research department in IOSCO's general secretariat, including a proposed annual global securities regulation risk outlook. In February 2011, IOSCO published a discussion paper on *Mitigating systemic risk: A role for securities regulators*, which was drafted by a working group that included ASIC.



**Priority 3**  
– Facilitate international capital flows and international cooperation

### Facilitating collective investment schemes

ASIC is supporting Treasury in work to develop an Asia region funds passport for collective investment schemes (CISs) being conducted under the auspices of the Asia-Pacific Economic Cooperation forum (APEC). The passport would provide a framework that would facilitate the cross-border offering of CISs. ASIC contributed substantially to the technical papers – on the design of the passport – that have been provided to overseas regulatory bodies for discussion at a series of APEC policy and technical workshops.



**Priority 3**  
– Facilitate international capital flows and international cooperation

### Assessing European Union equivalence for credit rating agencies

ASIC is assisting the European Securities and Markets Authority (ESMA) to assess Australia's regulatory regime for CRAs. The aim of this joint work is to determine whether Australian debt issuers – including companies – can use their Australian ratings in the European Union. A successful outcome in this work would make it easier for Australian companies to raise funds in Europe.



**Priority 3**  
– Facilitate international capital flows and international cooperation

### Assistance to international regulators with investigations and policy

ASIC continues to assist foreign regulators by obtaining information and evidence in Australia for their investigations and regulatory work, with a 7% increase to 507 (2010–11 compared to 2009–10) in the number of requests received from foreign regulators, and a 39% decrease to 297 requests (2010–11 compared to 2009–10) in the number of requests made by ASIC to foreign regulators.

ASIC continued work with the Indonesian capital markets supervisory agency, Bapepam-LK, to build and strengthen the agency's regulatory capability. Support was provided during the year to the development of Bapepam-LK's audit surveillance programs, with Bapepam-LK staff seconded to work with ASIC.



**Priority 3**  
– Facilitate international capital flows and international cooperation

# Outcomes: Real Economy



## Priority 5: Lift operational effectiveness and service levels for all ASIC stakeholders

### Registering companies and licensing

The total number of companies registered with ASIC and the total number of new registrations rose steadily during the year. Outcomes (compared with previous year) include:

- ♦ the total number of registered companies increased by 4% to 1,839,772
- ♦ new company registrations (successful registrations) increased by 3.6% to 163,276
- ♦ the total number of AFS licences increased by 0.2% to 4,833
- ♦ the number of Australian credit licences issued was 6,081 (this was the first year in which these licences were issued).

The number of searches of ASIC's public registers rose 13.1% to 68.5 million in 2010–11 compared with 2009–10.

### Performance against Service Charter

ASIC's Service Charter sets the standards that regulated populations as well as consumers and retail investors can expect when dealing with ASIC. It reflects ASIC's performance in responding to inquiries (online, in person and via the Client Contact Centre), and ASIC's ability to meet the requirements of regulated populations. Outcomes for the year – compared with 2009–10 – are reported in the table below.

#### ASIC Service Charter performance

Service Charter	Target	2010–11	2009–10
General telephone queries	We aim to answer telephone queries on the spot	91% of calls answered on the spot (578,084 of 632,379 calls) 9% (54,295 calls) referred to specialist staff	92% of calls answered on the spot (597,382 of 646,770 calls) 8% (49,388 calls) referred to specialist staff
General email queries	We aim to reply to email queries within two business days	96% replied to within two business days (45,168 of 47,264 email queries)	98% replied to within two business days (62,518 of 63,827 email queries)
General correspondence about our public database and registers, including fee waivers	We aim to provide a full response to 90% of general correspondence within 28 days	95% replied to within 28 days (36,338 of 38,331 pieces of correspondence)	93% replied to within 28 days (43,093 of 46,390 pieces of correspondence)

Service Charter	Target	2010–11	2009–10
Registering a company	We aim to complete company registrations within one business day	<p>98% of all registrations completed within one business day (167,962 of 170,763 incorporations)<sup>1</sup></p> <p>98% of paper registrations completed within one business day (19,501 of 19,987 forms)</p> <p>98% of electronic registrations completed within one business day (148,461 of 150,776 forms)</p>	<p>99% of all registrations completed within one business day (162,832 of 165,130 incorporations)</p> <p>98% of paper registrations completed within one business day (21,281 of 21,813 forms)</p> <p>99% of electronic registrations completed within one business day (141,562 of 143,317 forms)</p>
Updating company information and status	We aim to enter critical changes to company information in the corporate register within two business days	<p>98% of all updates entered within two business days (1,082,846 of 1,107,095 changes)</p> <p>91% of paper updates entered within two business days (180,247 of 198,653 paper forms)</p> <p>99% of electronic updates entered within two business days (902,599 of 908,442 electronic forms)</p>	<p>97% entered within two business days (1,101,309 of 1,133,617 changes)</p> <p>88% of paper updates entered within two business days (200,156 of 227,217 paper forms)</p> <p>99% of electronic updates entered within two business days (901,531 of 906,400 electronic forms)</p>
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	91% of auditor applications decided within 28 days (71 individual applications and 19 authorised audit companies)	100% of auditor applications decided within 28 days (84 individual applications and 23 authorised audit companies)
Registering as a liquidator	We aim to decide whether to register a liquidator or official liquidator within 28 days (target: 90%) <sup>2</sup>	<p>91% of liquidator applications decided within 28 days (31 of 34 applications)</p> <p>100% for official liquidators (33 of 33 applications)</p>	<p>83% of liquidator applications decided within 28 days (25 of 30 applications)</p> <p>90% for official liquidators (27 of 30 applications)</p>

## Outcomes: Real Economy continued



### Priority 5: Lift operational effectiveness and service levels for all ASIC stakeholders

Service Charter	Target	2010–11	2009–10
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 28 days (target: 70%) <sup>2</sup>	83% of licence applications decided within 28 days (355 of 427 applications)  88% of licence variations decided in 28 days (1,368 of 1,557 applications)	77% of licence applications decided within 28 days (348 of 454 applications)  83% of licence variations decided within 28 days (807 of 968 applications)
Registering an MIS	By law, ASIC must register an MIS within 14 days of receiving a complete application	100% registered in 14 days (239 of 240 applications)	100% registered in 14 days (244 of 245 applications)
Applying for or varying a credit licence	ASIC aims to decide whether to grant or vary a credit licence within 28 days (target: 70%) <sup>3</sup>	70.5% of all licence applications decided within 28 days  94% of licence variations decided in 28 days	NA (first year was 2010–11)
Applying for relief	If parties lodge an application for relief from the Corporations Act that does not raise new policy issues, ASIC aims to give an in-principle decision within 21 days of receiving all necessary information and fees (target: 70%)	75% of in-principle decisions made within 21 days (1,958 of 2,623 applications)	74% of in-principle decisions made within 21 days (2,520 of 3,407 applications)
Reports of 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 (target: 70%) <sup>4</sup>	78% of responses within 28 days (12,207 of 15,634 reports)	70% of responses within 28 days (9,321 of 13,372 reports)

<sup>1</sup> Includes all applications received, regardless of whether applications approved or a company registered.

<sup>2</sup> Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review.

<sup>3</sup> Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review. This was a transitional licensing process in 2010–11 as the national consumer credit regime took full effect.

<sup>4</sup> Reports beyond the 28-day target are generally complex ones or ones requiring considerable additional work.

## Issuing licences

In the three areas where it had new responsibilities in 2010–11, ASIC:

- ♦ decided 70.5% of applications for new credit licences within 28 days
- ♦ approved 868 AFS licence applications for margin lending facilities financial product authorisations (for existing AFS licence holders)
- ♦ approved 13 applications for variations to AFS licences in regard to the provision of traditional trustee company services.

## Assessing misconduct reports

One of ASIC's main roles is receiving and responding to reports of alleged misconduct and statutory breaches in the business areas and populations it regulates. This year, ASIC received 15,634 misconduct reports, a 17% increase on the previous year.

Approximately 20% of reports are outside ASIC's jurisdiction or do not disclose an offence. A further 21% are resolved and 28% are referred to a specialist team within ASIC for further surveillance or investigation.

Each report is registered in a national database and acknowledged, which ASIC aims to do within one business day of receipt. At this point, each report undergoes a preliminary review by an analyst, who tests for significance and priority. The reports are then classified by subject matter and allocated to an action officer for assessment.

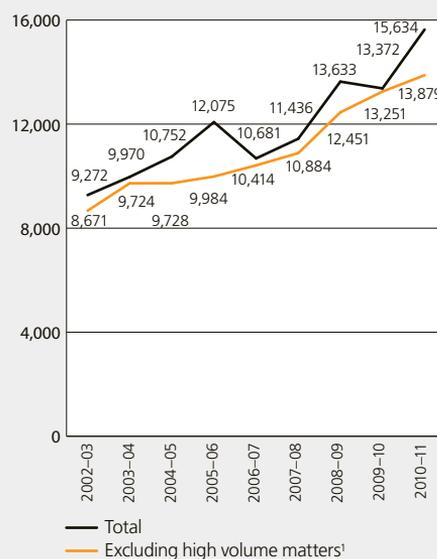
In 2010–11, ASIC finalised 78% of report assessments in 28 days. Further, 28% of misconduct reports were escalated for compliance, investigation or surveillance, an increase from 21% in 2009–10.

The following table summarises ASIC's responses to misconduct reports, and the chart shows the trend in the number of finalised misconduct reports since 2002–03.

## Misconduct reports

	2010–11	2009–10
Reports assessment finalised	15,634	13,372
Referred for compliance, investigation or surveillance	28%	21%
Resolved	21%	21%
No jurisdiction	14%	13%
No breach/offence	6%	8%
Analysed, assessed and recorded	31%	37%
<b>Total</b>	<b>100%</b>	<b>100%</b>

## Reports of misconduct finalised by year



<sup>1</sup> High volume matters are those where ASIC has received 100 or more reports of misconduct about the same entity and about the same issue.

## Outcomes: Real Economy continued



### Priority 5: Lift operational effectiveness and service levels for all ASIC stakeholders

The following table shows a breakdown of the main categories of misconduct reports that ASIC receives.

#### Reports by category

Report categorisation by sphere and main issue	2010–11 (%)	2009–10 (%)
Corporations/corporate governance, including failure to provide books and records or a report as to affairs to an insolvency practitioner; insolvency matters; insolvency practitioner misconduct, directors' duties, contractual issues; late lodgement/failure to lodge financial reports	40	52
Financial services/retail investors, including providing financial services without an AFS licence; financial advisers; credit; MISs; superannuation; misleading or deceptive conduct/unconscionable conduct; operating an unregistered MIS	48	29
Market integrity, including insider trading; continuous disclosure; misleading statements; market manipulation	4	5
Registry integrity, including incorrect address recorded on ASIC's register; lodging false documents with ASIC	5	12
Other issues	3	2
<b>Total</b>	<b>100</b>	<b>100</b>

#### Statutory reports from liquidators, administrators and receivers

Liquidators, administrators and receivers (external administrators) are required to report to ASIC if they suspect company officers have been guilty of an offence or, in the case of liquidators, if the return to unsecured creditors may be less than 50 cents in the dollar.

As part of its response to the GFC, ASIC committed to increasing action on reports alleging misconduct from insolvency practitioners. This year, 33% of supplementary reports were referred for compliance, investigation or surveillance, or to assist an existing investigation or surveillance (compared with 33% in 2009–10 and 24% in 2008–09). The table opposite shows the total statutory reports received, initial reports and supplementary reports.

## Statutory reports

	2010–11	2009–10
<b>Total reports received</b>	9,230	9,074
Reports assessed alleging misconduct or suspicious activity	6,823	6,509
<b>Initial reports<sup>1</sup></b>		
Reports assessed alleging suspicious activity	6,080	5,748
Supplementary reports requested	10%	11%
Analysed, assessed and recorded	90%	89%
<b>Total</b>	<b>100%</b>	<b>100%</b>
<b>Supplementary reports<sup>2</sup></b>		
Supplementary reports assessed alleging misconduct	743	761
Referred for compliance, investigation or surveillance	24%	23%
Referred to assist existing investigation or surveillance	9%	10%
Analysed, assessed and recorded	67%	66%
Identified no offences	0%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>

<sup>1</sup> Initial reports are electronic reports lodged under Schedule B of Regulatory Guide 16 *External administrators: Reporting and lodging*. Generally, ASIC will determine whether to request a supplementary report on the basis of an initial report.

<sup>2</sup> Supplementary reports are typically detailed, free-format reports, which detail the results of the external administrator's inquiries and the evidence to support the alleged offences. Generally, ASIC can determine whether to commence a formal investigation on the basis of a supplementary report.

## Outcomes: Real Economy continued



### Priority 5: Lift operational effectiveness and service levels for all ASIC stakeholders

#### Reuniting people with unclaimed money

ASIC maintains 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. ASIC's register is publicly available for searching and claims can be made to ASIC's unclaimed money unit.

In 2010–11, ASIC received about \$90.8 million in unclaimed money. This is less than the approximately \$102 million received in 2009–10, mainly due to a \$15 million fall in receipts of

unclaimed money from companies. Approximately \$62 million was paid out in claims in 2010–11, compared with the \$56 million paid in the previous year.

ASIC continued to actively reunite owners of unclaimed money with their funds by finding and writing to 21,371 potential owners. The result was approximately \$3.4 million returned to 1,198 successful claimants.

The following tables show the total claims by type of unclaimed money and the number of claims (and value) where unclaimed money was reunited with its owner.

#### Claims by type

	2010–11 (\$)	2009–10 (\$)
Company	25,083,884	26,078,776
Banking	34,000,579	26,121,529
Life insurance	3,113,605	\$3,815,099
Deregistered company trust money	60,077	NA
<b>Total</b>	<b>62,258,144</b>	<b>56,015,404</b>

#### Number of claims and amounts reunited with owners (Company unclaimed money)

Source	2010–11		2009–10	
	No. of claims	\$ value	No. of claims	\$ value
Money recovery agency	1,468	5,559,326.48	2,078	7,829,994.67
ASIC reuniting	1,198	3,372,101.14	2,440	9,279,416.32
Other	2,035	16,152,456.16	2,029	8,969,365.41
<b>Total</b>	<b>4,701</b>	<b>25,083,883.78</b>	<b>6,547</b>	<b>26,078,776.40</b>

## Managing property vested in ASIC

ASIC administers the property of deregistered companies. Such property remains vested in ASIC – or in ASIC on behalf of the Commonwealth in relation to trust property – until such time as it is lawfully dealt with (for example, it is purchased by another party or transferred to another party), or evidence is provided that the property no longer vests in ASIC for some other reason (for example, the company has been reinstated).

ASIC has begun taking a proactive approach to administering vested property, including attracting parties to make applications to ASIC to purchase it where that is appropriate.

Applications made to ASIC for it to deal with vested property are handled by the Property Law Group. ASIC accounts for any proceeds on realisation of the property in accordance with its statutory duties.

There has been a steady increase in matters dealt with by the Property Law Group, generally as a result of ASIC's more proactive approach to engaging and assisting parties to effectively deal with such property. The number of matters in 2010–11 rose 24% to 1,294. The number of matters finalised rose 24% to 1,270. The following table shows vested properties of deregistered companies by number of cases.

### Vested properties of deregistered companies (by number of cases)

	2010–11	2009–10
Total new matters	1,294	1,042
Total finalised matters	1,270	1,025
Total property disposals	897	585
Property disposals made up of:		
– Transferred	196	88
– Sold	5	8
– No longer vested <sup>1</sup>	590	397
– Other <sup>2</sup>	106	92

<sup>1</sup> 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.

<sup>2</sup> Includes discharged, released, surrendered, withdrawn or lapsed.

## Outcomes: Real Economy continued



### Priority 5: Lift operational effectiveness and service levels for all ASIC stakeholders

In related action, ASIC is working with relevant Commonwealth and state and territory government departments to transfer vested properties owned by Aboriginal housing companies that are now deregistered. The aim is to transfer those properties to entities that will continue the work of providing for the Aboriginal community.

Outcomes include:

- ♦ transfer of nine properties to the NSW Aboriginal Housing Office for the continued provision of Aboriginal housing
- ♦ transfer of a property in Mitchell, Queensland, to a new non-profit company operated to benefit members of the Aboriginal community

- ♦ transfer of an aged care facility to a new Indigenous service provider
- ♦ applications pending for a further eight transfers of property, formerly owned by two deregistered companies.

ASIC has also provided assistance to the Office of the Registrar of Indigenous Corporations (ORIC). Under a new memorandum of understanding, ASIC provided ORIC with examples of indemnities used to deal with vested property, and ASIC's GST private ruling relating to items vested in a statutory authority.



Soon after being appointed chairman in May, Greg Medcraft visited ASIC offices around Australia to meet staff and discuss ASIC's strategic framework. In July, the Chairman spent a day at ASIC's regional Victorian call centre at Traralgon. Each year, ASIC receives on average around 650,000 calls and up to 10,000 emails. The Chairman is pictured here with Traralgon call centre worker Tenielle Mizzi listening to incoming calls.



## Priority 6: Improve services and reduce costs by using new technologies and processes

ASIC continues to use information and communications technology to make its operations more cost-effective, efficient and convenient for consumers, businesses and industry groups.

### Doing more business online

One of ASIC's priorities is to steadily increase the quantity of business conducted online. This reflects ASIC's view that online transactions are easier and cheaper for businesses. In 2010–11, 72.7% of the 2.13 million forms lodged with ASIC were submitted online. This was up from 69.9% in 2009–10.

Additionally, in a process ASIC set up in 2010–11, the new consumer credit licensing applications were run as a fully online service. Approximately 89% of applicants for consumer credit licences rated their experiences as good or excellent.

In the past year, ASIC, along with other agencies, began accepting financial statements and reports using Standard Business Reporting (SBR) enabled software.

### Transforming ASIC's technology infrastructure

To support ASIC's online initiatives, a technology transformation program is underway. In 2010–11, ASIC implemented new financial support systems to manage all externally collected revenue, provide credit card payment facilities for customers, and oversee budget appropriations and accounting expenses. This has enabled a new service – which will be launched in 2011–12 – to allow users to search ASIC's registers and pay for those services online.

In November 2010, ASIC deployed Ringtail, a new evidence management system to support all new deterrence investigations. Ringtail is a world-class system providing ASIC lawyers, investigators and forensic analysts with the ability to review, search across, categorise and mark up large volumes of hard copy, scanned and native electronic documents.

### Implementing the National Business Names register

From mid-2012 ASIC will operate the national registry for Australian business names. This initiative is aimed at streamlining transactions for businesses and will mean they need to be registered in only one place in Australia, instead of in each state or territory. In 2010–11, work was underway on the infrastructure to support the National Business Names register.



In May ASIC's Adelaide office became involved in Australia's Biggest Morning Tea to raise money for cancer research. The event, coordinated by ASIC in the Community, raised \$731 for the Cancer Council. Pictured is ASIC worker – and lucky-door prize winner – Panayiota Courtis.

# ASIC staff: Highlights

## Supporting people in the workplace

- ♦ Implemented phase two of the mental health education program, designed to raise awareness of mental health, symptoms that colleagues might notice, and how to support colleagues.
- ♦ Provided assistance to staff – for personal and work-related problems – through the employee assistance program. Annual utilisation rate of 6.44% (including family members), compared with 5.54% the previous year.
- ♦ Supported ‘10,000 Steps Challenge’ – a program aimed at increasing daily physical exercise among Australians – with 11 teams undertaking a virtual walk from Byron Bay to Carnarvon. Total of 45 million steps completed by the teams as part of the challenge.
- ♦ Provided 670 free influenza vaccinations, equal to 35% of staff.

## Completing negotiations for new enterprise agreement

- ♦ Concluded negotiations for a new three-year enterprise agreement. The new agreement replaces two enterprise agreements, covering ASIC 1–4 staff and executive level staff. The new agreement covers the terms and conditions for all staff below the Senior Executive Service (SES) level. Staff will receive 9% in salary increases over the life of the three-year agreement, beginning with 3% from July 2011, and then 3% in July 2012 and July 2013. The single agreement builds on ASIC employment conditions and will support performance and flexibility in balancing work and other commitments.

## Developing leadership and skills

- ♦ Continued a tailored senior leadership development program in conjunction with Macquarie Graduate School of Management. The program comprises five modules, which collectively aim to build the skills, capabilities and qualities necessary to lead business units. In 2010–11, the majority of Senior Executive Leaders (SELs) completed the program. The program is being redesigned in 2011–12.
- ♦ Extended ASIC’s ‘Learning Pathways’ program, which supports lawyers, accountants, auditors and investigators in their professional development. The lawyers’ network mentor program now includes about 100 formal mentoring arrangements where staff at Executive Level 2 (Exec 2) work with staff at ASIC 3 and 4 levels as professional mentors.
- ♦ Introduced an online system to allow staff and managers to manage their training requests through a self-service portal.

## Implementing programs to support women working at ASIC

- ♦ Began rolling out a special diversity program, ‘Women in ASIC’, which aims to increase the retention of senior women within ASIC, particularly women who are working part-time, by developing and implementing a comprehensive support scheme and overall strategy. As part of this initiative, ASIC introduced ‘Keeping You Connected’ events for women at senior levels who want to stay in touch with the workplace while they are on maternity leave. In addition, ‘Women in the Workplace’ is a new program aimed at helping women who want to improve work/life balance, or increase their personal effectiveness and self-confidence.

## Managing health and safety

- ◆ There were 20 workers compensation claims lodged in 2010–11, with 13 claims accepted, six claims rejected and one pending. There was no significant injury-type trend for these claims. There were 15 claims lodged in the previous year, with nine accepted.
- ◆ Five serious personal injury notices were sent to Comcare under s68 of the *Occupational Health and Safety Act 1991*. No such claims were sent in the previous year. There were no investigations conducted under s29, s46 or s47 in 2010–11.

### Performance payments 2010–11 by classification<sup>1</sup>

Employee level	No. of recipients	Aggregate	Payment range		Average
			Min.	Max.	
ASIC 4	169	\$477,792	\$385	\$14,031	\$2,827
Exec 1	408	\$2,046,615	\$551	\$16,767	\$5,016
Exec 2	482	\$3,849,054	\$660	\$30,255	\$7,986
SES	54	\$878,610	\$4,741	\$38,187	\$16,271
<b>Total</b>	<b>1,113</b>	<b>\$7,252,071</b>	<b>\$385</b>	<b>\$38,187</b>	<b>\$6,516</b>

<sup>1</sup> Includes payments for the 2009–10 performance year, paid in 2010–11, plus pro rata payments for the 2010–11 performance year for staff who left ASIC in 2010–11.

### Industrial arrangements for ASIC staff at 30 June 2011

Classification	ASIC Act s120(3) contract	AWA <sup>1</sup>	EA <sup>2</sup>	EA <sup>3</sup>	Total
ASIC 1–3 (APS 1–5)	NA	NA	578	NA	578
ASIC 4 (APS 6)	NA	NA	370	NA	370
Exec 1	NA	NA	NA	450	450
Exec 2	NA	NA	NA	486	486
SES and equivalent	28	21	NA	2	51
<b>Total</b>	<b>28</b>	<b>21</b>	<b>948</b>	<b>938</b>	<b>1,935</b>

<sup>1</sup> Australian Workplace Agreement.

<sup>2</sup> ASIC 1–4 enterprise agreement, 2009–11.

<sup>3</sup> Executive level enterprise agreement, 2009–11.

## ASIC staff: Highlights continued

### Salary ranges per annum, 2010–11<sup>1</sup>

Class	Minimum per annum	Maximum per annum
ASIC 1	\$38,811	\$42,895
ASIC 2	\$45,135	\$53,999
ASIC 3	\$57,532	\$65,948
ASIC 4	\$68,842	\$77,934
Exec 1	\$90,217	\$104,355
Exec 2	\$101,962	\$143,209
SES	\$131,000	\$280,000

<sup>1</sup> Reflects salaries for ongoing employees.

### ASIC employees (includes SCT<sup>1</sup> and CALDB<sup>2</sup> staff) by classification and location, average number over 12 months, FTE basis

Classification	Vic.		NSW		Qld		WA	
	2011	2010	2011	2010	2011	2010	2011	2010
Chair			1	1				
Deputy Chairman			1	1				
Member	2	1	2	2				
SES	11	14	29	34	2	2	2	2
Exec 2	142	149	221	230	39	42	27	32
Exec 1	115	109	180	185	41	42	39	38
ASIC 4	122	135	139	129	43	42	22	25
ASIC 3	145	124	74	73	39	32	15	13
ASIC 2	195	197	29	28	16	16	12	16
ASIC 1	38	33						
Contractors <sup>3</sup>	1	8	26	55	4	3		1
<b>Total</b>	<b>771</b>	<b>770</b>	<b>702</b>	<b>738</b>	<b>184</b>	<b>179</b>	<b>117</b>	<b>127</b>

<sup>1</sup> Superannuation Complaints Tribunal.

<sup>2</sup> Companies, Auditors and Liquidators Disciplinary Board.

<sup>3</sup> Includes non-payroll contractors, secondments and agency staff.

Note: Data rounded – some totals and subtotals may vary.



Senior executive leader Delia Rickard has been with ASIC since 1999 and now leads the Consumers, Advisers and Retail Investors group, which this year launched ASIC's ground-breaking consumer finance website MoneySmart. In January 2011, Delia was awarded the Public Service Medal for her work in the development of consumer protection for financial services.

	SA		ACT		Tas.		NT		Total	
	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
									1	1
									1	1
									4	3
	2	1	1	1	1	1			48	55
	13	13	4	4	6	6			452	476
	18	17	5	3	4	5	2	2	403	400
	19	18	5	7	2	2			352	358
	17	13	3	3	3	2	2	2	297	262
	8	10	3	5	2	2			266	274
									38	33
				1					31	68
	77	72	21	24	18	18	4	4	1,893	1,931

## ASIC staff: Highlights continued

### Commissioners by gender and year, average number over 12 months, FTE basis

	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011	2010	2011	2010	2011	2010	2011	2010	
Chairman									
Deputy Chairman									
Member									
Appointee total									

### Employees under ASIC Act (includes SCT<sup>1</sup> and CALDB<sup>2</sup>) by gender and year, average number over 12 months, FTE basis

	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011	2010	2011	2010	2011	2010	2011	2010	
Exec 1			1	1					
SES	2	2							
Contractors <sup>3</sup>									
ASIC Act total	2	2	1	1					

<sup>1</sup> Superannuation Complaints Tribunal.

<sup>2</sup> Companies, Auditors and Liquidators Disciplinary Board.

<sup>3</sup> Includes all non-payroll IT contractors, secondments and agency staff.

### Employees under *Public Service Act 1999* (includes SCT<sup>1</sup> and CALDB<sup>2</sup>) by gender and year, average number over 12 months, FTE basis

	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011	2010	2011	2010	2011	2010	2011	2010	
ASIC 1	7	6	3	2	4	4			
ASIC 2	119	115	45	43	63	60	4	3	
ASIC 3	156	137	96	79	17	21		1	
ASIC 4	161	175	127	122	31	28	4	1	
Exec 1	144	149	203	196	33	23	2	3	
Exec 2	126	140	234	252	51	42	10	8	
SES	4	8	11	13	1	2			
Public Service Act total	717	730	719	707	200	180	20	16	
TOTAL	719	732	720	708	200	180	20	16	

<sup>1</sup> Superannuation Complaints Tribunal.

<sup>2</sup> Companies, Auditors and Liquidators Disciplinary Board.

Note: Data rounded – some totals and subtotals may vary.

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		2011	2010
	2011	2010	2011	2010	2011	2010	2011	2010		
			1	1					1	1
	1	1							1	1
			4	3					4	3
	1	1	5	4					6	5

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		2011	2010
	2011	2010	2011	2010	2011	2010	2011	2010		
									1	1
	9	8	21	20		1			32	31
	8	28	19	40	1		3		31	68
	17	36	40	60	1	1	3		64	100

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		2011	2010
	2011	2010	2011	2010	2011	2010	2011	2010		
	10	12	4	3	10	6	1		38	33
	26	32	4	12	3	7	1	2	266	274
	20	20	8	6	1	1			297	262
	15	18	10	9	4	4		1	352	358
	7	13	11	11		3	3	2	403	399
	9	11	17	18	2	4	3		452	476
									16	24
	87	106	54	59	20	25	8	5	1,824	1,826
	105	143	99	123	21	26	11	5	1,893	1,931

# ASIC in the community: Highlights



## Increasing workplace giving

- ◆ Employees donated \$85,786 to 27 not-for-profit organisations directly from their salary or pay, an increase of 37% on the previous year.
- ◆ Employees raised a further \$41,427 for other events and initiatives, including \$10,232 for the Queensland and Victorian flood appeals, \$10,490 in the 'Movember' men's health initiative, \$6,281 in the 'Pink Ribbon' appeal for research into breast cancer, and \$3,409 in the 'Australia's Biggest Morning Tea' appeal.



## Supporting volunteering and pro bono work

- ◆ Employees in the Brisbane office volunteered to work for St Vincent de Paul, Lifeline and Caxton Legal Centre following the floods in Queensland.
- ◆ Sydney employees volunteered for the Exodus Foundation, assisting the literacy program and working in the Loaves and Fishes restaurant. In the Latrobe Valley, employees from Traralgon worked with Meals on Wheels.
- ◆ Sydney, Brisbane and Perth staff volunteered for the Salvation Army, Jesuit Refugee Services and Ronald McDonald House. Perth, Adelaide and Melbourne staff worked on the Australian Red Cross healthy breakfasts for kids in need program.
- ◆ Staff provided 58 knitted wraps as part of the 'Wraps With Love' initiative, which aims to provide warm clothing for people in disaster-struck countries and regions.
- ◆ ASIC solicitors provided pro bono legal services to the National Children's and Youth Law Centre 'Lawstuff' program, which aims to improve the conditions and opportunities for children and young people throughout Australia.



## Hosting inspirational speakers

- ◆ Staff had the opportunity to hear from inspirational Australians who provided insights into work by not-for-profit and non-government organisations, and charities.
- ◆ Speakers this year included Professor Jonathan Carapetis, director of the Menzies School of Health Research in Darwin; John Olsen, National Heart Foundation board member; Ellie McCann, NSW Agency Manager, NSW Organ and Tissue Donation Service; Elaine Henry OAM, chief executive, Smith Family; Carole Renouf, chief executive, Garvan Research Foundation; John Dee, international environmentalist; and Deborah De Williams, ultra marathon runner who ran around Australia as part of Pink Ribbon fundraising.



## Addressing energy saving

- ◆ Saved approximately \$165,000 in energy costs through the use of virtual server platforms. Virtual desktops – which already use less energy than PCs – will save an additional \$39,000 per annum by automatically powering off when a person disconnects.
- ◆ Installed a new secure printing system for staff in Sydney, reducing paper, toner and energy consumption. Secure printing will be rolled out to other sites in 2011–12.
- ◆ Provided on-site recycling receptacles, parking for bicycles, and sensor lighting controls on ASIC's business sites.
- ◆ Reduced total floor space in Melbourne and Brisbane sites, leading to reduced energy spending in those cities.



## Launching reconciliation action plan

- ◆ The chief executive of Reconciliation Australia, Leah Armstrong, launched ASIC's reconciliation action plan in April 2011, with the then Chairman, Tony D'Aloisio.
- ◆ ASIC is committed to developing respectful relationships with Aboriginal and Torres Strait Islander peoples. By building knowledge and understanding of Indigenous issues and cultures, ASIC can ensure education and outreach programs are effectively targeted and culturally appropriate. Two cultural awareness pilot sessions were delivered.
- ◆ ASIC's inaugural NAIDOC event was addressed by Wurundjeri elder Joy Wandin Murphy AO and Paul Briggs OAM, a Yorta Yorta man who has led economic, sports and health initiatives in the Aboriginal community.

Employees donated \$85,786 to 27 not-for-profit organisations directly from their salary or pay, an increase of 37% on the previous year.

### Footnote – disclosure under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*

- ◆ Section 516A of the EPBC Act requires ASIC to report matters relevant to environmentally sustainable development (ESD). ASIC reports that:
  - the only activities relevant to ESD principles concern procurement of goods and services
  - ASIC's administration of legislation is not related to ESD principles
  - none of the outcomes specified for ASIC in an Appropriation Act have ESD implications
  - ASIC reviews and increases the effectiveness of its environmental impact measures through internal evaluation regimes, environmental auditing, benchmarks or targets.

# Economic overview and outlook Alex Erskine – Chief Economist



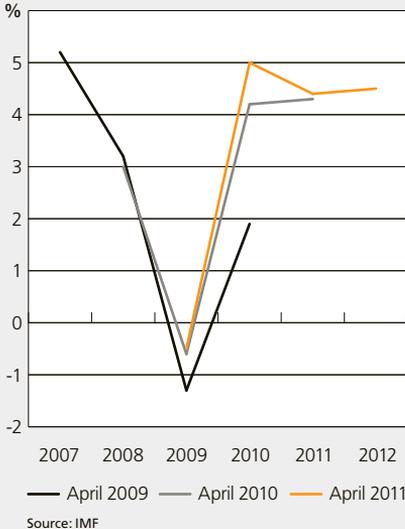
## Concerns over global recovery ▶

The global economic recovery continued, but concerns over its durability increased in the final quarter of 2010–11.

Expectations for sustained growth in advanced countries have been unsettled by natural disaster in Japan, signs of weakening in the labour and housing markets in the US, and increased sovereign risks in Europe.

Emerging economies, which have been increasingly important for global growth, also faced headwinds. For example, rising inflation in China led to policy tightening, and authorities in Brazil sought to limit capital inflows.

**IMF outlook for global real GDP growth**



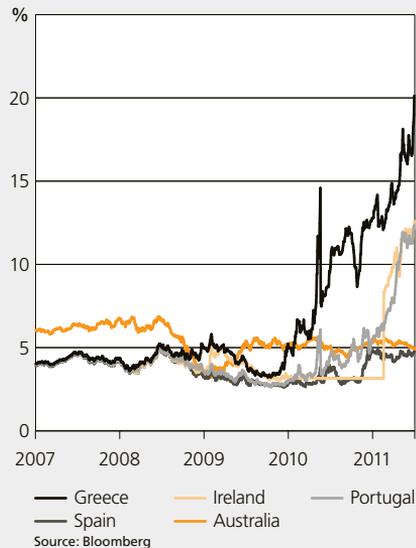
## European sovereign debt crisis ▶

The 2010–11 financial year marked a significant evolution in the ongoing European sovereign debt crisis, with stark policy alternatives emerging for many of the smaller and more indebted European countries.

Yields rose on government bonds, especially from Greece, Portugal and Ireland, as did spreads on credit default swaps. Fiscal policies were tightened even in the face of high and rising unemployment.

Rising yields and uncertainty unsettled many other financial markets, although Australian sovereign bond yields were broadly unchanged over the course of the year.

**Five-year government bond yields**





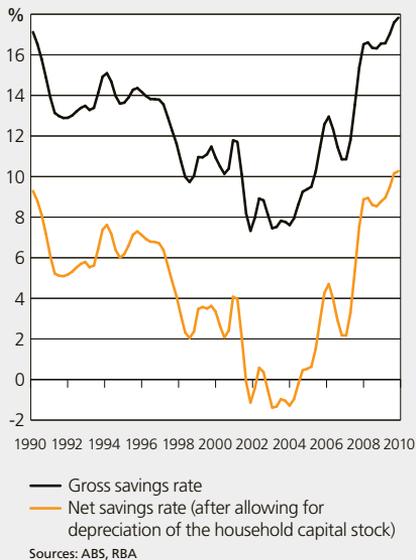
# Australia

## Increased caution

In Australia, strong resources demand from China and other developing economies has raised the prices of many commodities. This has led to significantly expanded fixed capital spending to develop mineral and energy capacity. The rise in Australia's terms of trade has helped the exchange rate to appreciate, which has had a dampening demand growth on non-resource sectors, creating a 'two-speed economy'.

While capital spending in the mining and energy sectors strengthened, many other business sectors have remained cautious. Spending by small and medium enterprises and consumers has also been subdued, continuing to deleverage. The household savings ratio rose further, a marked change from negative levels before the global financial crisis, with increases in deposits and subdued demand for new lending.

### Australian household savings ratio

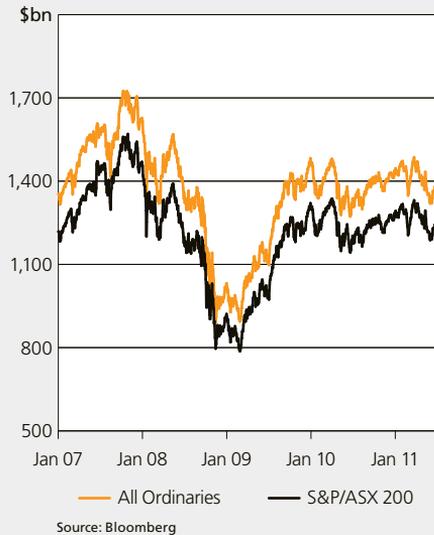


## Australian financial markets

Market conditions improved moderately in 2010–11 but, reflecting the cautious stance of many issuers, market participants and investors, some indicators remained below pre-financial crisis levels. The market capitalisation of Australian equities at 30 June 2011 reached \$1.348 billion, 7.6% higher than a year earlier.

During 2010–11, Australian stock market prices, as measured by the S&P/ASX 200 index, rose by 7.1%, broadly similar to markets in Japan and Europe, but much less than in Asia (excluding Japan) and in the US. The appreciating Australia dollar further lifted gains by foreign investors. However, both the equity market and the Australian dollar have weakened through the quarter following the end of the financial year.

### Australian equity market capitalisation



# Economic overview and outlook Alex Erskine – Chief Economist

continued



## Markets

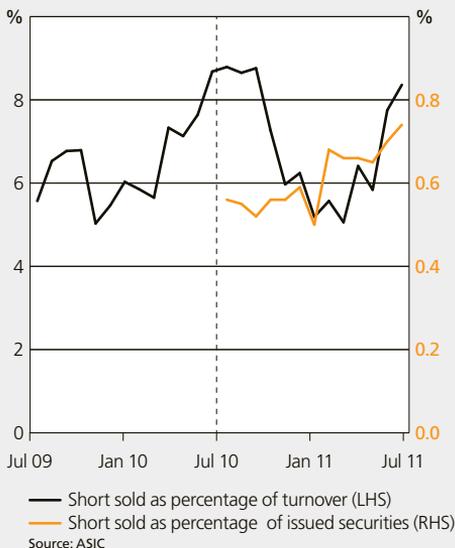
### Short selling

The new data series on short selling collected since the global financial crisis shows activity is increasing.

The average monthly short selling of Australian equities ranged from 5% to 9% of turnover on the exchange in 2010–11, increasing in periods of poorer sentiment. Over the financial year, the net level of short sales increased from less than 0.06% to around 0.08% of shares on issue.

Non-official surveys of securities lenders suggest the institutional market is predominantly 'long' Australian shares. According to DataExplorers, since early 2009 the institutions that lend shares have increased their holdings by more than the increase in shares on loan. On this basis, the 'long-short' ratio for Australian equities has hovered around 11, higher than the ratio of around 9.5 estimated for all global equities.

#### Australian short sales



### Trading and product innovations

Some significant changes in trading on the stock exchange are occurring as the date for the commencement of formal competition between market operators approaches. Analysis suggests high-frequency trading is increasing, with the number of trades rising and the average value per trade declining.

In addition, among other innovations, exchange traded funds (ETFs) have grown in popularity during 2010–11.

In Australia, 18 new ETFs were launched (two of which were synthetic), bringing the total number of ETFs listed on the ASX to 55. The assets represented by ETFs have grown from \$4.2 billion at 30 June 2010 to \$5.35 billion at 30 June 2011. ETFs listed in Australia that track global indices have experienced faster asset growth (up 97% in 2010–11) compared with the growth in assets of ETFs that track domestic indices (up 14%).

#### ETFs listed on Australian exchanges





# Capital raising

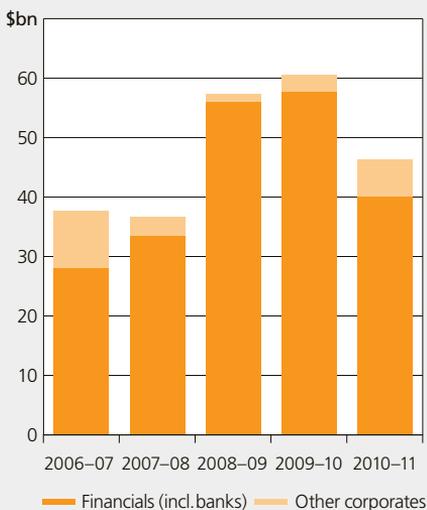
## Bond issuance

Total issuance declined as sales by financial corporations pulled back.

Australian corporations in the non-financial sector raised approximately \$6.2 billion through bond issues, twice the amount issued in the previous year. Around 85% were issued in Australia. Financial sector corporations (mainly banks) reduced issuance by approximately a third from 2009–10 to 2010–11, from \$57.7 billion to \$40.1 billion, with 91% issued in Australia.

Refinancing of bank debt and corporate bonds is expected to exceed \$550 billion through to the end of 2015. Refinancing in the financial sector is forecast to peak at approximately \$111.2 billion in 2012, of which the 'big four' Australian banks account for the majority.

### Bond issuance by Australian corporates



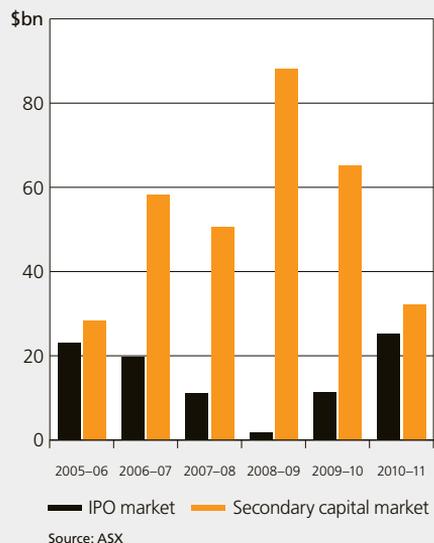
## Equity issuance

One of the effects of the global financial crisis was a sharp contraction in the initial public offering (IPO) market in 2007–08 and 2008–09.

IPO activity picked up in 2010–11, but secondary issues by listed companies remained subdued. The primary market raised approximately \$25 billion, well above the trough of less than \$2 billion recorded in 2008–09.

The two largest IPOs completed in 2010–11 were the Queensland Government's float of QR National (\$4.6 billion) and Westfield Retail Trust (\$835.4 million). Significant secondary raisings completed during 2010–11 included the \$2.3 billion priority issue by Origin Energy Ltd, and the \$2.2 billion priority and placement by West Australian Newspapers Holdings Ltd (now Seven West Media Ltd).

### IPO and secondary equity raisings



# Economic overview and outlook Alex Erskine – Chief Economist

continued



## Securitisation, derivatives and credit

### Securitisation and derivatives market

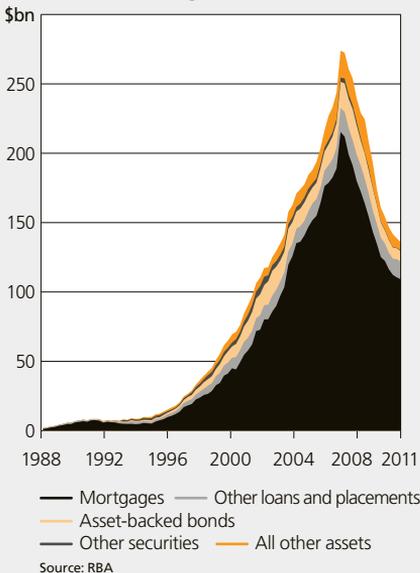
Securitisation activity in Australia is gradually recovering after its global financial crisis lows.

In Australia, most activity involves residential mortgage-backed securities (RMBSs). Issuance slowed significantly from late 2007 and assets outstanding have declined sharply, although the speed of the decline has decreased.

In December 2010, the Government's competitive and sustainable banking system package committed \$4 billion to support the primary market for prime RMBSs.

In 2010, Bank for International Settlements data for the global OTC derivatives market showed a continued decline in turnover since the peak of approximately \$61 trillion recorded in 2008, closing the year at around \$55 trillion. In terms of notional market value, the Australian OTC market (\$350 billion) represents only a small fraction of the global OTC market value (around \$30 trillion).

#### Securitisation by asset class in Australia



### Corporate credit quality

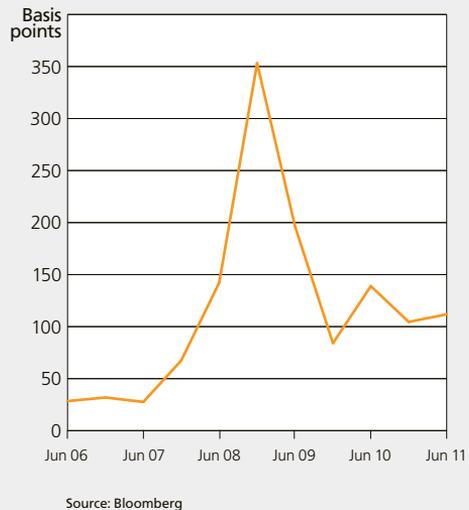
Market perceptions of credit quality for Australian corporates have not deteriorated through the year despite rising concerns in Europe.

The iTraxx Australia CDS index – one indicator of market views on credit risk for Australian corporations – was broadly stable during the second half of 2010–11, well below the peak recorded in December 2008. However, it is still higher than the levels before the global financial crisis.

Credit default swaps (CDS) spreads on Australian companies are quite low relative to many international companies and sovereigns.

Around 9,829 companies entered external administration in 2010–11, up 5.9% on the previous financial year. This growth is close to the average annual increase seen in the past decade.

#### iTraxx Australia CDS index



# Appendices

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# The role of Commissioners

The Commission is responsible for ASIC's strategic direction and its priorities. The Commission meets regularly, usually monthly, to:

- ♦ make decisions on matters, within ASIC's regulatory functions and powers, that have strategic significance
- ♦ oversee the management and operations of ASIC as a Commonwealth agency.

The Commission appoints and evaluates the performance of senior executive leaders, and approves budgets and business plans for each team.

Individual Commissioners also have executive responsibility for particular stakeholder and deterrence teams. See pages 8–9 for ASIC's internal structure.

The Commission held 15 meetings in 2010–11.

## Commission meetings

Member	Eligible to attend	Attended
Tony D'Aloisio <sup>1</sup>	12	12
Belinda Gibson	14	14
Peter Boxall	15	15
Michael Dwyer	14	13
Greg Medcraft	15	14
Shane Tregillis	15	14

<sup>1</sup> Term complete, 12 May 2011.

The Governor-General, on the nomination of the Treasurer, appoints Commissioners. The Treasurer may nominate as Commissioners only people who are qualified by knowledge of, or experience in, business 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 reasons set out in s111 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act). The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

The ASIC Act requires Commission members to disclose to the Minister direct or indirect pecuniary interests in corporations carrying on business in Australia, businesses in Australia, or interests regulated by ASIC, or arrangements or agreements for future business relationships.

Michael Kingston, the chief legal officer, is the primary source of legal advice to the Commission, providing legal counsel to the Chairman 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 senior executive leaders, regional commissioners, and staff 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.

ASIC operates under the *Financial Management and Accountability Act 1997*, which governs, primarily, its use of Commonwealth resources and expenditure of public money.

# ASIC's role as a regulator

## The Australian Securities and Investments Commission Act 2001 (ASIC Act) 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 increasing 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 a minimum of procedural requirements
- ♦ receive, process and store – efficiently and quickly – information that it is given
- ♦ make information about companies and other bodies available to the public as soon as practicable
- ♦ take whatever action it can take, and is necessary, to enforce and give effect to the law.

## ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection under the:

- ♦ ASIC Act
- ♦ Corporations Act
- ♦ *First Home Saver Accounts Act 2008*
- ♦ *Insurance Contracts Act 1984*
- ♦ *Life Insurance Act 1995*
- ♦ *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- ♦ *National Consumer Credit Protection Act 2009* (National Credit Act)
- ♦ *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*
- ♦ *Retirement Savings Accounts Act 1997*
- ♦ *Superannuation (Resolution of Complaints) Act 1993*
- ♦ *Superannuation Industry (Supervision) Act 1993*.

## Other regulators

ASIC is a member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies. Other members are the Australian Prudential Regulation Authority (APRA), Treasury and the Reserve Bank of Australia (RBA). ASIC maintains an operational and policy relationship with the Australian Competition and Consumer Commission (ACCC). ASIC is also a member of IOSCO.

During 2010–11, the Chairman of ASIC, Tony D'Aloisio, continued to chair the international Joint Forum of financial supervisors drawn from 13 countries. The Joint Forum undertakes analytical and standard-setting projects on cross-sectoral issues for the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors and IOSCO.

## Responsible Ministers

At 30 June 2011, the Ministers responsible for ASIC are the Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP, and the Assistant Treasurer and Minister for Financial Services and Superannuation, the Hon Bill Shorten MP. The Hon David Bradbury MP is the Parliamentary Secretary to the Treasurer.

## Parliamentary oversight

The Parliamentary Joint Committee on Corporations and Financial Services provides parliamentary oversight of ASIC. ASIC also appears before the Senate Standing Committee on Economics. ASIC appears before other parliamentary committees and inquiries as required.

## Relationship with states and territories

ASIC is a member of the Legislative and Governance Forum for Corporations, which provides oversight for Council of Australian Governments (COAG) ministers on legislation, inter-governmental agreements and treaties.

# Audit Committee and audit, assurance and compliance services

The Audit Committee operates independently of management and plays a key role in assisting the Chairman to discharge his or her responsibilities relating to the efficient, effective and ethical use of Commonwealth resources. The committee does this by providing independent oversight of, and reporting to the Chairman, governance and internal control frameworks, financial reporting and compliance with relevant legislation.

The committee reviewed ASIC's 2010–11 financial statements and provided advice to the Chairman and Commissioners on the preparation and review of financial statements before the Chairman signed the statements. The committee met four times during the year, supplemented by two special meetings to review ASIC's draft financial statements and the annual *Financial Management and Accountability Act 1997* compliance certificate.

## Audit Committee meetings

Members	No. of meetings	
	Eligible to attend	Attended
<b>Rob Savage</b> Appointed as independent member March 2000. Appointed Chairman January 2005; retired 29 January 2011.	2 main meetings 2 special meetings	2 2
<b>Byram Johnston</b> Appointed as independent member January 2005. Reappointed January 2010; appointed Chairman 30 January 2011.	4 main meetings 2 special meetings	4 2
<b>Geoffrey Applebee</b> Appointed independent member February 2010. Appointed Deputy Chairman 15 December 2010.	4 main meetings 2 special meetings	4 2
<b>David Prothero</b> Appointed independent member March 2011.	2 main meetings	1
<b>Michael Dwyer</b> ASIC Commissioner. Appointed committee member December 2009.	4 main meetings 2 special meetings	4 2
<b>Maree Blake</b> ASIC Queensland regional commissioner. Appointed committee member 1 September 2008. Resigned from committee September 2010.	1 main meeting 1 special meeting	0 1
<b>Dr Pamela Hanrahan</b> ASIC Queensland regional commissioner. Appointed committee member November 2010.	3 main meetings	3

The previous chairman of the Audit Committee, Robert Savage, was succeeded by Byram Johnston at the expiration of Mr Savage's term. David Prothero was also appointed as an independent member. All three independent members are chartered accountants and company directors with significant financial, business and community experience. The internal appointees are Michael Dwyer, representing the Commission, and Queensland regional commissioner Dr Pamela Hanrahan (replacing Maree Blake).

A senior executive specialist, audit, assurance and compliance, was appointed in April 2011 to lead the internal audit function and report to the committee. The internal audit function is provided by ASIC's audit, assurance and compliance business unit, supported by Deloitte Touche Tohmatsu in a co-sourced arrangement. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend committee meetings.

**Byram Johnston**  
**Chairman**  
Audit Committee  
July 2011

# External committees and panels

## Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board works to improve financial literacy in Australia. Members are:

- ♦ Paul Clitheroe AM, ipac securities (chairman)
- ♦ Group Captain Robert Brown, Australian Defence Force Financial Services Consumer Council
- ♦ Hamish Douglass, Magellan Financial Group Limited
- ♦ Craig Dunn, AMP
- ♦ Linda Elkins, Colonial First State
- ♦ Fiona Guthrie, Australian Financial Counselling and Credit Reform Association (AFCCRA)
- ♦ Elaine Henry OAM, company director
- ♦ Peter Kell, Australian Competition and Consumer Commission
- ♦ Anthony Mackay, Centre for Strategic Education
- ♦ Ian Silk, AustralianSuper
- ♦ Michael Smith OBE, ANZ Banking Group
- ♦ Robert Thomas, Gardner Smith (Holdings) Pty Limited.

## Real Economy Business Advisory Committee

The Business Advisory Committee provides ASIC with strategic advice and feedback on the initiatives and operations of its Real Economy team, and the impact on business, particularly small companies, of proposed changes in those operations.

The committee includes a broad range of members drawn from the business community, industry and professional organisations. Members are:

- ♦ Dr Peter Boxall AO, Commissioner, ASIC (chairman)
- ♦ Paula Allen, member, Institute of Chartered Accountants Australia
- ♦ Christine Christian, Dun & Bradstreet

- ♦ Judith Fox, Chartered Secretaries Australia Sydney
- ♦ Simon Flowers, CPA Australia
- ♦ Steve Karro, BGL Corporate Solutions
- ♦ Andrew Madry, Australian Institute of Company Directors
- ♦ Geoffrey Nicoll, Law Council of Australia
- ♦ Tom Ravlic, Institute of Public Accountants
- ♦ Peter Strong, Council of Small Business Organisations of Australia
- ♦ Claire Wivell Plater, Gold Seal Risk Management Services
- ♦ Myron Zlotnick, Reckon Espreon.

Robert Zitek, Corporate Express IT Solutions, and Craig Stevens, Company Compliance & Advisory Service Australia, retired from the committee in October 2010.

## Consumer Advisory Panel

The Consumer Advisory Panel advises ASIC on current consumer protection issues and gives feedback on ASIC policies and activities. Members are:

- ♦ Jenni Mack, CHOICE (independent chairman)
- ♦ Karen Cox, Consumer Credit Legal Centre (CCLC) NSW Inc
- ♦ Jenni Eason, Australian Investors' Association (AIA)
- ♦ Vas Kolesnikoff, Australian Shareholders' Association (ASA)
- ♦ Jon O'Mally, Indigenous Consumer Assistance Network (ICAN)
- ♦ David McMillan, Legal Aid NSW
- ♦ Pam Mutton, Australian Financial Counselling and Credit Reform Association (AFCCRA)
- ♦ Michael O'Neill, National Seniors Australia (NSA)
- ♦ Wendy Schilg, National Information Centre on Retirement Investments (NICRI)
- ♦ Ian Yates, Council on the Ageing (COTA) Seniors Voice.

Stuart Wilson, ASA, stood down during the year and was replaced by Vas Kolesnikoff.

## External committees and panels continued

### External Advisory Panel

The External Advisory Panel comprises senior-level representatives from the financial services industry. The panel assists ASIC to gain a deeper understanding of developments and systemic risks within the industry. Members are from a range of sectors, ensuring ASIC is provided with advice and views on a broad range of issues. Members sit in a personal capacity; they do not represent organisations. Members are:

- ◆ John Stuckey (chairman)
- ◆ Alec Brennan
- ◆ Peter Hemming
- ◆ Peter Hunt AM
- ◆ Belinda Hutchinson AM
- ◆ Mark Johnson AO
- ◆ Catriona Lowe
- ◆ Charles Macek
- ◆ Allan Moss AO
- ◆ Bill Moss AM
- ◆ Mervyn Peacock
- ◆ Professor Ian Ramsay
- ◆ Jenny Seabrook
- ◆ Les Taylor AM
- ◆ John Thorn
- ◆ Garry Weaven.

### Markets Disciplinary Panel

The Markets Disciplinary Panel is the main forum for disciplinary action when market integrity rules are breached. The panel is a peer review body, consisting of part-time members with relevant market or professional experience. The current members of the panel have senior roles in broking firms and investment banks.

ASIC established the panel to make decisions about whether to issue infringement notices or accept enforceable undertakings for alleged breaches of market integrity rules. ASIC decides which matters are referred to the panel. Members are:

- ◆ Lisa Gay, Goldman Sachs (chairman)
- ◆ Richard Brasher, RBS Equities
- ◆ Ian Chambers, Morgan Stanley Australia
- ◆ Leigh Conder, Commonwealth Bank
- ◆ Geoffrey Louw, Bell Potter Securities (Bell Financial Group)
- ◆ Simon Gray, Shaw Stockbroking
- ◆ Michael Manford, Patersons Securities
- ◆ Russell McKimm, Patersons Securities.



*In March former Chartwell Enterprises (in liquidation) director Graeme Hoy was sentenced to 13 years and nine months imprisonment following an ASIC investigation into the collapse of the Geelong-based company. Mr Hoy pleaded guilty to 44 deception charges regarding almost \$22 million, and three charges under the Corporations Act. The Age newspaper's colour magazine published a feature article about ASIC's probe, which included the photo above of the ASIC team who worked on the investigation. Pictured (L-R) are George Apostolos (senior forensic accountant), Warren Day (Regional Commissioner – Victoria), Greg Adams (senior investigator) and Joe Zubcic (senior manager). Photo: James Geer.*

## Market Supervision Advisory Panel

The Market Supervision Advisory Panel was appointed to advise ASIC on its approach to its responsibilities in day-to-day supervision of the ASX. Members are from the financial services industry with experience in the legal, compliance, retail and institutional aspects of broking. Members are:

- ◆ Belinda Gibson, Deputy Chairman, ASIC (chairman)
- ◆ Stewart Adams, Morgan Stanley Smith Barney Australia
- ◆ David Dixon, Colonial First State Global Asset Management
- ◆ Ross Freeman, Minter Ellison
- ◆ Alix Gallo, Treasury
- ◆ Lisa Gay, Goldman Sachs
- ◆ April Mountfort, Macquarie Securities
- ◆ Grahame Pratt, RBS Equities
- ◆ Scott Webster, UBS AG Australia
- ◆ Brad Usasz, Wilson HTM Investment Group.

ASIC representatives include Mark Adams, senior executive leader; Greg Yanco, senior executive leader; Calissa Aldridge; Aidan O'Shaughnessy; and Tania Mayrhofer.

Ross Freeman, Lisa Gay and Grahame Pratt stood down from the panel after 30 June 2011. Dean Surkitt, Bell Potter Securities (Bell Financial Group), and Luke Randell, Citibank, have joined the panel.

Former Commissioner Shane Tregillis was also a member of this panel.



Canberra staff gather to celebrate ASIC's 20th anniversary.

# Outcomes: Portfolio Budget Statements

ASIC's outcomes for 2010–11 are reported below against the Government's Portfolio Budget Statements (PBS) where applicable to ASIC.

## Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks

### Program 1.1: Research, policy, compliance, education and information initiatives

**Program 1.1 Objective:** Program 1.1 contributes to Outcome 1 by improving industry behaviour where market integrity and consumer confidence are most at risk, and by helping consumers and retail investors make well-informed decisions in the financial economy.

Program 1.1 deliverables	Key performance indicators	2010–11 achievements
<b>Improving industry behaviour</b>		
<p>Financial economy programs for each major group of market participants designed to:</p> <ul style="list-style-type: none"> <li>♦ monitor market developments and identify and prioritise factors and behaviours most likely to result in threats to market integrity and the fair treatment of consumers</li> <li>♦ devise and implement information, guidance and regulatory initiatives most likely to reduce the threat of misconduct or mistreatment of consumers and retail investors</li> <li>♦ target misconduct or mistreatment through tailored deterrence activity.</li> </ul>	<p>Improved confidence in market integrity.</p> <p>Improvements in quality and availability of financial advice.</p> <p>Improvements in conduct of market participants and corporates.</p>	<p>ASIC worked to improve behaviour across the financial industry through a range of compliance activities, as illustrated by the following:</p> <ul style="list-style-type: none"> <li>♦ licensed 6,081 consumer credit providers under the National Credit Act; reviewed more than 5,000 advertisements to ensure firms were registered to engage in credit activities, as part of surveillance into consumer credit</li> <li>♦ developed risk indicators to prioritise regulatory and policy issues in the financial advice sector</li> <li>♦ reviewed 743 pieces of financial advice and caused a further 1,102 pieces of advice to be reviewed by licensees or independent experts</li> <li>♦ reviewed 500 financial reports of listed entities and some larger unlisted entities</li> <li>♦ inspected firms that audit entities of significant public interest</li> <li>♦ conducted risk-based surveillance of investment banks and hedge funds to identify issues that pose significant regulatory risks</li> <li>♦ reviewed the business models of three major trustees in superannuation, leading to improved compliance and disclosure.</li> </ul> <p>ASIC issued guidance on:</p> <ul style="list-style-type: none"> <li>♦ related party transactions and expert reports, with the aim of improving quality information for investors</li> <li>♦ disclosure of substantial holdings in listed entities arising from securities lending and prime broking activities</li> <li>♦ directors' duties in preventing insolvent trading.</li> </ul> <p>ASIC worked to improve confidence in the integrity of markets through a successful transition to a competitive environment for exchange market services. ASIC assumed responsibility for day-to-day, real-time market supervision and published new market integrity rules.</p>

Program 1.1 deliverables	Key performance indicators	2010–11 achievements
<b>Helping retail investors and consumers</b>		
<p>Retail investor and consumer programs designed to:</p> <ul style="list-style-type: none"> <li>♦ give consumers and retail investors access to clear, useful information about financial economy products and services</li> <li>♦ make financial advice more accessible and reliable</li> <li>♦ enhance community-wide financial literacy</li> <li>♦ enable consumers and retail investors to better assess the benefits and risks of decisions about financial products and services.</li> </ul>	<p>Improvements in retail investor and consumer perception of information received about products and services.</p> <p>Improvements in overall financial literacy levels.</p>	<p>ASIC worked to promote confident and informed participation by consumers in the financial system. This included:</p> <ul style="list-style-type: none"> <li>♦ launching the National Financial Literacy Strategy, which included the new MoneySmart website</li> <li>♦ contributing to financial literacy resources for teachers as part of the planned new national curriculum</li> <li>♦ piloting a new financial literacy program aimed at Indigenous Australians, including launching the Milba Djunga (Smart Money) website.</li> </ul> <p>ASIC worked to improve consumers' understanding of investments and complex products, and to ensure compliance by financial services businesses through reports, consultation papers and regulatory guides on CFDs, infrastructure funds, hedge funds, superannuation product disclosure, unlisted mortgage schemes and retail derivatives.</p>

### Program 1.2: Enforcement/deterrence

**Program 1.2 Objective:** Program 1.2 contributes to Outcome 1 by enforcing the law to maximise the deterrent effect and improve behaviour by entities subject to the laws that ASIC administers.

Program 1.2 deliverables	Key performance indicators	2010–11 achievements
<p>Deterrence programs designed to:</p> <ul style="list-style-type: none"> <li>♦ investigate suspicious conduct and take appropriate and timely criminal, civil or administrative action, especially where market integrity and consumers and retail investors are most at risk</li> <li>♦ create community confidence that the law is being effectively enforced</li> <li>♦ communicate clearly about ASIC's enforcement approach and outcomes to improve industry understanding and drive behavioural change in key risk areas</li> <li>♦ encourage industry participation in enhanced standards of behaviour (alleviating the need for additional regulation).</li> </ul>	<p>Clear alignment between ASIC enforcement actions and key risk areas.</p> <p>Improved stakeholder perceptions of how ASIC deals with people who don't comply with the law.</p>	<p>Achievements include:</p> <ul style="list-style-type: none"> <li>♦ 26 criminal proceedings completed</li> <li>♦ 34 civil proceedings completed</li> <li>♦ 14 enforceable undertakings</li> <li>♦ 24 negotiated outcomes.</li> </ul> <p><i>Corporate governance</i> Civil proceedings in directors' duties cases: Centro Properties Group and Fortescue Metals Group.</p> <p><i>Market integrity</i> Six people were sentenced on insider trading or market manipulation charges.</p> <p><i>Protecting consumers and investors</i> Concluded criminal prosecutions, including Chartwell Enterprises (in liquidation), Fincorp (in liquidation), Trio Capital (in liquidation) and Westpoint (in liquidation).</p>

## Outcomes: Portfolio Budget Statements continued

Program 1.2 deliverables	Key performance indicators	2010–11 achievements
ASIC finances preliminary investigations and reports by liquidators into the failure of companies with little or no assets, where it appears that enforcement action may result from the investigation and report. A particular focus of the Assetless Administration Fund is to curb fraudulent phoenix activity.		<p><i>Insolvency</i></p> <p>One registered liquidator committed to stand trial on fraud charges. One registered liquidator voluntarily resigned his appointments, and ASIC obtained orders by consent appointing new liquidators or deed administrators to 80 companies which he formerly administered.</p> <p>Visited 20 insolvency firms, carrying out 215 detailed external administration reviews.</p> <p>Conducted reviews of matters notified by the public or other sources regarding insolvency practitioner conduct in specific external administrations. ASIC undertook 96 transaction reviews.</p> <p>Reviewed 107 external administrations involving 163 registered liquidators (approximately 25% of the population).</p>

### Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services

#### Program 2.1: Legal infrastructure for companies and financial service providers

**Program 2.1 Objective:** Program 2.1 contributes to Outcome 2 by improving ASIC's registry and stakeholder services, by developing initiatives for business and consumer stakeholders to:

- ♦ simplify their interactions with ASIC
- ♦ reduce the cost of those interactions.

Program 2.1 deliverables	Key performance indicators	2010–11 achievements
<b>Modernising registry services</b>		
<p>Programs designed to:</p> <ul style="list-style-type: none"> <li>♦ provide stakeholders with modern, efficient, accurate and cost-effective corporate register and licensing systems</li> <li>♦ improve public access to information about registered and licensed entities.</li> </ul>	Improved effectiveness and efficiency of registry and licensing services.	<p>Licensed 6,081 consumer credit providers.</p> <p>The credit licensing process was almost fully online and provides a model of lower-cost systems that ASIC can deploy for businesses.</p> <p>Extensive regulatory guidance was provided for consumer credit businesses.</p> <p>In 2010–11, 72.7% of the \$2.13 million forms lodged with ASIC were submitted online. This was up from 69.9% in 2009–10.</p> <p>Successfully laid the groundwork for the National Business Names register, which will provide a new single national business names source, reducing transaction costs for business.</p> <p>Progressed a technology transformation project to support further online services.</p>

Program 2.1 deliverables	Key performance indicators	2010–11 achievements
<b>Improving stakeholder services</b>		
Programs designed to: <ul style="list-style-type: none"> <li>♦ improve service delivery to better meet stakeholder needs</li> <li>♦ take prompt and appropriate regulatory action on reports of misconduct</li> <li>♦ provide accurate information and assistance to the public</li> <li>♦ provide accurate and useful information to industry stakeholders about the regulatory system and ASIC's administration of it.</li> </ul>	Improved stakeholder satisfaction with ASIC's corporate register and other stakeholder services.	Achievements included: <ul style="list-style-type: none"> <li>♦ 98% of company registrations completed within one business day</li> <li>♦ 98% of key documents lodged within 48 hours of receipt</li> <li>♦ 96% of emails responded to within 2 business days</li> <li>♦ 1,198 people reunited with a total of \$3.4 million of unclaimed money</li> <li>♦ 78% of reports about misconduct by a company or individual finalised within 28 days (12,207 of 15,634 reports)</li> </ul>
<b>Facilitating business</b>		
Initiatives designed to: <ul style="list-style-type: none"> <li>♦ reduce costs and red tape for business by making it easier to transact with ASIC</li> <li>♦ improve consultation with regulated entities and other stakeholders</li> <li>♦ administer the law to enhance commercial certainty and reduce business costs</li> <li>♦ facilitate inward and outward investment in Australian capital markets.</li> </ul>	ASIC's regulatory system not seen as a major barrier to inward and outward capital flows.	To facilitate business, ASIC considers exemptions (waivers) from certain provisions in the law, as shown by the provision of in-principle decisions for 1,958 out of 2,623 applications for relief within 21 days.  Major contributions to the international policy work of IOSCO; also chairing the international Joint Forum of financial supervisors.  2011 Summer School – entitled <i>The new regulatory landscape</i> – attended by 314 delegates and 46 external speakers and panellists.  Reported publicly the results of a comprehensive stakeholder survey to obtain a broad measure of perceptions of ASIC's performance.

## Program 2.2: Banking Act 1959 and Life Insurance Act 1995 unclaimed money and special accounts

**Program 2.2:** ASIC is responsible for the administration of unclaimed money from banking and deposit-taking institutions, and life insurance institutions.

Program 2.2 deliverables	Key performance indicators	2010–11 achievements
Provide an accurate register of unclaimed money and special accounts administered by ASIC.	Ensure refunds of unclaimed money are paid to successful claimants promptly.  Ensure payments of money from special accounts are paid out promptly in accordance with the specified purposes or appropriate legislation.	Received \$90.8 million in unclaimed money. Approximately \$62 million paid out in claims.  Continued program of actively reuniting owners of company unclaimed money with their funds. Returned approximately \$3.4 million to 1,198 claimants.

# Outcomes: Portfolio Budget Statements continued

## Agency resource statement 2010–11

		Actual available appropriation for 2010–11 (\$'000s)	Cash payments made 2010–11 (\$'000s) <sup>1</sup>	Balance remaining 2010–11 (\$'000s)
<b>Ordinary annual services<sup>2</sup></b>				
<b>Departmental</b>				
Departmental appropriation <sup>3</sup>		434,911	384,083	50,828
<b>Administered expenses</b>				
Outcome 1 – Assetless Administration Fund		3,450	2,279	NA
<b>Total ordinary annual services</b>	<b>A</b>	<b>438,361</b>	<b>386,362</b>	<b>50,828</b>
<b>Other services</b>				
<b>Departmental non-operating</b>				
Equity injections <sup>4</sup>		34,141	22,318	11,823
<b>Total other services</b>	<b>B</b>	<b>34,141</b>	<b>22,318</b>	<b>11,823</b>
<b>Total annual appropriations (A+B)</b>		<b>472,502</b>	<b>408,680</b>	<b>62,651</b>
<b>Special appropriations limited by criteria/amount</b>				
<i>Banking Act 1959</i>		NA	34,001	NA
<i>Life Insurance Act 1995</i>		NA	3,114	NA
<b>Total special appropriations</b>	<b>C</b>	<b>NA</b>	<b>37,115</b>	<b>NA</b>
<b>Total appropriations excluding special accounts (A+B+C)</b>		<b>472,502</b>	<b>445,795</b>	<b>62,651</b>
<b>Special account<sup>5</sup></b>				
Opening balance		6,508	NA	NA
Appropriation receipts		30,000	NA	NA
Payments made		NA	32,014	NA
<b>Total special account</b>		<b>NA</b>	<b>NA</b>	<b>4,494</b>
		472,502	445,795	NA
Less appropriation drawn from annual appropriations above and credited to special accounts		(30,000)	–	NA
<b>Total net resourcing for ASIC</b>		<b>442,502</b>	<b>445,795</b>	<b>NA</b>

<sup>1</sup> Does not include goods and services tax (GST).

<sup>2</sup> Appropriation Bill (No. 1) 2010–11, Appropriation Bill (No. 3) 2010–11, prior year departmental appropriation and s31 relevant agency receipts. Excludes supplementary funding to be received in 2011–12 for work undertaken in 2010–11.

<sup>3</sup> Includes \$22.8 million for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

<sup>4</sup> Appropriation Bill (No. 2) 2010–11.

<sup>5</sup> Does not include Special Public Money.

## Expenses by outcome

	Budget <sup>1</sup> 2010–11 (1) (\$'000s)	Actual expenses 2010–11 (2) (\$'000s)	Variance: column (1) minus column (2) (\$'000s)
<b>Outcome 1:</b> Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks			
<b>A</b> Administered expenses funded by administered appropriations	3,450	2,349	1,101
<b>B</b> Departmental expenses funded by departmental appropriations and own-source revenue	293,785	296,798	(3,013)
<b>Total for Outcome 1 (A+B)</b>	<b>297,235</b>	<b>299,147</b>	<b>(1,912)</b>
Average FTE <sup>2</sup>	1,421	1,458	(37)
<b>Outcome 2:</b> Streamlined and cost effective interaction and access to information for business and the public through registry, licensing and business facilitation services			
<b>A</b> Administered expenses funded by administered appropriations	68,372	70,194	(1,822)
<b>B</b> Departmental expenses funded by departmental appropriations and own-source revenue	107,547	88,653	18,894
<b>Total for Outcome 2 (A+B)</b>	<b>175,919</b>	<b>158,847</b>	<b>17,072</b>
Average FTE <sup>2</sup>	526	435	91

<sup>1</sup> Based on the 2010–11 forecast as set out in ASIC's 2011–12 Portfolio Budget Statements.

<sup>2</sup> 2011–12 Portfolio Budget Statements quoted the average staffing level, which is different from full-time equivalent (FTE). The average staffing level includes employees working on capital projects, while the FTE excludes employees working on capital projects.



ASIC Hobart executives celebrate ASIC's 20th anniversary. Pictured (L-R) are Jan Ludford, Alison Sully and Dianne Ratcliffe.

# Six-year summary of key stakeholder data

## Summary of key stakeholder data, 2005–11

Business data	2010–11	2009–10	2008–09	2007–08	2006–07	2005–06
Companies (total)	1,839,772	1,768,526	1,700,891	1,645,805	1,572,954	1,480,684
New companies registered	163,276 <sup>1</sup>	157,667	137,410	149,403	156,424	121,298
Australian financial services (AFS) licensees	4,883	4,874	4,803	4,768	4,625	4,415
Authorised financial markets	17	16	16	17	17	15
Licensed clearing and settlement facilities	5	5	5	5	5	5
Registered company auditors	5,114	5,207	5,345	5,495	5,658	5,848
Registered liquidators	669	664	660	674	689	747
Registered managed investment schemes (MISs)	4,270	4,339	4,651	5,108	4,680	4,310
Credit licences	6,081	n/a	n/a	n/a	n/a	n/a
Fundraising documents lodged	957	880	776	1,011	960	808
Product disclosure 'in use' notices	4,593	4,698	6,390	9,708	10,066	12,480
Takeovers	72	73	47	113	65	60
Criminals jailed	16	12	19	23	21	17
Fundraising where ASIC required additional disclosure	\$3.4bn	\$6bn	\$4bn	\$3bn	\$17bn	\$10bn
Recoveries, costs, compensation, fines or assets frozen	\$113m	\$302m	\$28m	\$146m	\$140m	\$215m
% successful litigation	90%	91%	90%	94%	97%	94%
Litigation concluded	202	156	186	280	430	386
Reports of crime or misconduct	15,634	13,372	13,633	11,436	10,682	12,075
Total searches of ASIC databases	68.5m	61m	60m	51m	55m	45m
% company data lodged on time	95%	95%	95%	95%	95%	94%
Fees and charges collected for the Commonwealth	\$622m	\$582m	\$552m	\$545m	\$519m	\$543m
Staff (average FTEs)	1,893	1,932	1,698	1,669	1,610	1,471

<sup>1</sup> Successful and completed applications.

# Reports required under statute and other requirements

## **Australian Securities and Investments Commission Act 2001**

As required by s136(2)(e), ASIC reports that in 2010–11 it did not exercise its powers under Part 15 of the *Retirement Savings Account Act 1997* or under Part 29 of the *Superannuation Industry (Supervision) Act 1993*. No relevant applications were received.

As required under s136(2)(g), ASIC reports that during the year it conducted inspections of four Australian audit firms jointly with the United States Public Company Accounting Oversight Board (PCAOB) pursuant to a statement of protocol between the two organisations. In connection with these joint inspections, ASIC shares certain information with the PCAOB under s11(14) of the ASIC Act. The inspections focus on audit quality, and include reviews of firms' quality control systems relating to audit, auditor independence systems and working papers for selected audit engagements.

## **Commonwealth fraud control guidelines**

In 2010–11, ASIC prepared a fraud risk assessment and updated its fraud control policy and plan for 2010–12. ASIC has appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes in place to minimise the effects of fraud and to comply with the Commonwealth fraud control guidelines.

## **Compensation for detriment caused by defective administration scheme**

No payments were made under this scheme in 2010–11.

## **External scrutiny of agency**

Two major matters are reportable:

- ♦ A Senate committee inquiry into the role of liquidators and administrators reported its findings. The committee said it believed ASIC was slow in responding to complaints about liquidators and administrators, and that ASIC did not have sufficient resources to monitor insolvency practices. The committee recommended transferring ASIC's oversight of corporate insolvency to Insolvency and Trustee Service Australia. The Government has declined to take up that recommendation. However, in June the Government published a consultation paper outlining wide-ranging reforms of the framework for personal and corporate insolvency. Consultations on those proposals are continuing.
- ♦ The NSW Court of Appeal in the James Hardie case (reported as *Morley & Ors v Australian Securities and Investments Commission* [2010] NSWCA 331) found that ASIC's obligation of fairness in running civil litigation included an obligation to call all material witnesses. This was the first occasion on which a court had held that such an obligation existed. ASIC has been granted special leave to appeal the decision by the High Court of Australia. Pending the conclusion of that appeal, ASIC has reviewed its conduct of relevant litigation and now considers whether any witnesses, additional to those required to prove ASIC's case, should be called in fulfilment of this obligation.

# Reports required under statute and other requirements continued

## **Freedom of Information Act 1982**

Members of the public have a 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, stating the documents requested. Requests should be sent to:

Senior Manager  
Administrative Law Team  
GPO Box 9827  
Sydney NSW 2001

For further information on how to apply, visit [www.asic.gov.au](http://www.asic.gov.au).

Categories of documents in ASIC's possession include the following:

In relation to 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.

Other categories 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 staff 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 database information (ASCOT).

ASIC advises that members of the public may inspect and purchase *ASIC Digest*, which contains, among other things, regulatory documents, information brochures, media releases, advisories, summaries of most ASIC instruments, class orders and pro forma for various types of standard relief. *ASIC Digest* is available by subscription from Thomson Reuters, phone 1300 304 197.

Documents available to the public through ASIC's website, ASCOT or *ASIC Digest* and library material maintained for reference purposes are not available under the FOI Act.

From 1 May 2011, agencies subject to the FOI Act are required to publish information for the public as part of the information publication scheme (IPS). 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. An agency plan showing what information is published in accordance with the IPS requirements is accessible from agency websites.

## **Grants programs**

The Assetless Administration Fund (AAF) is a grant scheme that funds liquidators of companies that have few or no assets to investigate potential breaches of the law. The funding allocation of \$3.4 million for 2010–11 was fully utilised. Significant matters funded included Great Southern (in liquidation) (receiver and manager appointed), Trio Capital (in liquidation) and Allco Finance Group (in liquidation) (receiver and manager appointed). Funded liquidator reports assisted in approximately 70% of director bannings in 2010–11.

# Consultancies and expenditure on advertising

## Commonwealth Electoral Act 1918

Section 311A of the *Commonwealth Electoral Act 1918* requires agencies to report on expenditure to advertising agencies, market research organisations, polling organisations and direct mail organisations. Sums less than \$11,500 are not required to be reported. All sums are GST inclusive, and are actual expenditure, for 2010–11.

Advertising agencies	Expenditure	Purpose
Universal McCann	\$184,284	National consumer credit – responsible borrowing and managing credit, advertorial, high-circulation women's magazines, 2011
I&G Pty Ltd	\$29,317	National consumer credit – book-up provider awareness, radio campaign, remote locations, 2010
AdCorp Australia	\$198,621	Total recruitment advertising

## Market and professional research, media advice

Market and professional research, media advice	Expenditure	Purpose
Allen Consulting Group	\$223,999	External stakeholder survey. External supplier recruited to bring independence and specialist abilities to the research, 2010. Results reported on ASIC website. Previous survey conducted 2008.
Colmar Brunton Social Research	\$74,800	Field research, financial advice.
Orima Research	\$77,501	Advised on and conducted research among ASIC staff on perceptions of working at ASIC. Results and analysis (including using APS benchmark), results reported to ASIC.
Susan Bell Research	\$65,000	Research commissioned by ASIC's Consumer Advisory Panel on the social impact of financial loss. Also, qualitative research to meet ASIC's objectives of understanding 'capital protected' or 'capital guaranteed' investors' perceptions, expectations and motivations.
Cox Inall Communications	\$23,821	Services and advice, launch of MoneySmart website, 2011.

# Consultancies and expenditure on advertising continued

## Managing procurement

The *Financial Management and Accountability Act 1997* primarily governs ASIC's use of Commonwealth resources and expenditure of public money. To assist ASIC in meeting its obligations under the Act, a central procurement team oversees major procurement activities, develops and maintains ASIC's procurement processes and systems, and provides procurement support and training to staff.

Responsibility for procurement lies with the appropriate financial delegates. To support them, the procurement team advises on risk management, probity, specification development and contract management.

The central procurement team also manages procurements of \$80,000 or more, and complex procurements below this amount that have been referred by delegates.

Qualified procurement officers manage complex procurements, ensuring ASIC follows the principles and policies of the *Commonwealth Procurement Guidelines* (CPG).

All major contracts entered into in 2010–11 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

ASIC is compliant in its purchasing with the CPG as supported by internal audit findings and the annual CEO certification process.

Exceptions to the CPG and the Act – where they occur – are reported to the responsible Minister and the Minister for Finance as required.

## Using AusTender

ASIC advertises all open tender opportunities through the AusTender website: [www.tenders.gov.au](http://www.tenders.gov.au).

Contracts of \$100,000 or more were reported on ASIC's website, 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. ASIC's annual procurement plan was published on AusTender by 1 July 2010 and updated in January 2011.

During 2010–11, 51 new consultancy contracts were entered into involving total actual expenditure of \$1,976,285. In addition, 56 ongoing consultancy contracts were active during the year, involving total actual expenditure of \$2,282,550.

There were no contracts that were exempted from the contract reporting requirements.

### Consultancy trend data

	2010–11	2009–10	2008–09
Number of new consultancies	51	55	127
Expenditure on new consultancies (millions)	\$1.976	\$3.59	\$4.53
Number of ongoing consultancies	56	27	24
Expenditure on ongoing consultancies (millions)	\$2.282	\$5.60	\$0.28

Note: Sums are GST inclusive and include all consultancies valued over \$10,000 as indicated on AusTender. 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).

# Significant compulsory information-gathering powers

Beginning this year, ASIC reports the use of its significant compulsory information-gathering powers under statute. This appendix discloses data by number of instances in 2010–11. In future, data will be reported compared with information for the previous year.

## Significant compulsory information-gathering powers by number of instances

### Appear for examination

s19 ASIC Act	Requirement to appear for examination	616
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### Give reasonable assistance

s1317R Corporations Act	Power to require assistance in prosecutions	37
s253 National Credit Act	Requirement to provide reasonable assistance	11
s49(3) ASIC Act	Power to require reasonable assistance in a prosecution	42
s51 National Credit Act	Requirement to provide reasonable assistance	1
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	33
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	608

### Produce documents

s266 National Credit Act	Requirement to produce books (credit activities)	145
s267 National Credit Act	Requirement to produce books	80
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	1,216
s31 ASIC Act	Notice to produce books about financial products	366
s32A ASIC Act	Notice to produce books about financial services	4
s33 ASIC Act	Notice to produce books in person's possession	2,044

### Provide information

s12GY(2) ASIC Act	ASIC to require claims to be substantiated	3
s49(1) National Credit Act	Requirement to provide information (statement)	69
s912C Corporations Act	Power to require information from an AFS licensee	305
Item 17 Schedule 2 National Credit Act	Power to require information (obtain statement or audit report)	57
s672A Corporations Act	Power to require disclosure of relevant interests	21
s672B Corporations Act	Power to require disclosure of relevant interests	21
s37(4) National Credit Act	Power to request information or audit report from licence applicant	2
s792D Corporations Act	Power to require reasonable assistance from a market licensee	4

### Provide information and books

s30A ASIC Act	Notice to auditors requiring information or books	29
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### Search warrants

s33E Crimes Act (Cth)	Warrants to search premises/conveyance or person	6 <sup>1</sup>
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<sup>1</sup> In two individual investigations.

# Significant compulsory information-gathering powers continued

The table on page 85 lists the compulsory information-gathering powers used for the relevant period. Any powers available to ASIC that were not used are not listed. Although all instances of use of a power are recorded, the manual collection of this data may mean that some notices have not been captured in these figures. ASIC believes that this would not make a material difference to the overall total.

Challenges to the use of ASIC's information-gathering powers can be made via several avenues. There were two challenges via the courts in 2010–11:

- ♦ *ASIC v Sigalla* was a challenge to the admission of evidence on the basis that various notices were invalid. In final judgment, some of these challenges were upheld. In response to this decision, ASIC reviewed its processes and procedures and found that no changes needed to be made as this was an isolated incident.
- ♦ *Riotto v ASIC* was an application under the *Administrative Decisions (Judicial Review) Act 1977* challenging a notice to provide reasonable assistance. This matter was eventually settled on the basis that ASIC agreed to accept a different form of reasonable assistance that would satisfy the notice.

ASIC's professional standards unit reviews serious complaints from members of the public about misuse of ASIC's powers and makes recommendations where ASIC's policies or procedures need to be updated or additional training is required. In 2010–11 there were three complaints to the unit relating to use of powers. None of these complaints were substantiated following investigation.

Complaints about the use of compulsory information-gathering powers may be made to the Commonwealth Ombudsman. No such complaints were made this year.

Information on ASIC's compulsory information-gathering powers can be found in Information Sheet 145 *ASIC's compulsory information-gathering powers* at [www.asic.gov.au](http://www.asic.gov.au).



Commissioners taking part in a panel discussion at the 2011 ASIC Summer School. Pictured (L–R) former Commissioner Shane Tregillis, former Commissioner and current Chairman Greg Medcraft, Commissioners Michael Dwyer and Peter Boxall, Deputy Chairman Belinda Gibson and former Chairman Tony D'Aloisio.

# Major deterrence outcomes

Major deterrence outcomes by type of action are summarised in the following table.

## Major deterrence outcomes

Type of action	2010–11	2009–10
Litigation completed (total)	202	156
Litigation completed successfully	90%	91%
New litigation commenced	130	217
Investigations commenced	175	180
Investigations completed	184	133
Criminal proceedings completed	26	23
No. of people convicted	25	22
No. of people jailed	16	12
Non-custodial sentences/fines <sup>1</sup>	9	11
Civil proceedings completed	34	30
Illegal schemes shut down or other action taken	30	50
People removed from directing companies	72	90
People/companies banned from financial services or consumer credit	64	41
Action against auditors/liquidators	5	5
No. of enforceable undertakings	14	8
Negotiated outcomes	24	6

<sup>1</sup> Non-custodial sentences may include people who were sentenced to imprisonment, but were immediately released on recognisance orders, or similar orders.





## INDEPENDENT AUDITOR'S REPORT

### To the Parliamentary Secretary to the Treasurer

I have audited the accompanying financial statements of the Australian Securities and Investments Commission (the Commission) for the year ended 30 June 2011, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Asset Additions; Schedule of Administered Items and Notes to and forming part of the financial statements, including a Summary of significant accounting policies.

#### *Chairman's Responsibility for the Financial Statements*

The Commission's Chairman is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as the Chairman determines is necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation of the financial statements that give a true and fair view 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 Commission's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting

estimates made by the Commission's Chairman, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

***Independence***

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

***Opinion***

In my opinion, the financial statements of the Australian Securities and Investments Commission:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Securities and Investments Commission's financial position as at 30 June 2011 and of its financial performance and cash flows for the year then ended.

Australian National Audit Office



Carla Jago  
Executive Director  
Delegate of the Auditor General

Canberra

11 August 2011

## Statement by Chief Executive and Chief Financial Officer

In our opinion, the attached financial statements for the year ended 30 June 2011 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

This statement is made in accordance with a resolution of the Commission members.



**G. J. Medcraft**

Chairman  
11 August 2011



**M. M. Haerewa**

Chief Financial Officer  
11 August 2011

# Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2011

<b>EXPENSES</b>	<b>Notes</b>	<b>2011 \$'000</b>	<b>2010 \$'000</b>
Employee benefits	4A	221,497	208,232
Supplier expenses	4B	121,354	147,260
Depreciation and amortisation	4C	41,511	27,865
Finance costs	4D	487	488
Write-down and impairment of assets	4E	602	2,712
Losses from asset sales	4F	–	13
<b>Total expenses</b>	<b>31B</b>	<b>385,451</b>	<b>386,570</b>
<b>LESS:</b>			
<b>OWN-SOURCE INCOME</b>			
<b>Own-source revenue</b>			
Rendering of services	5A	4,412	3,734
Royalties	5B	203	250
Other revenues	5C	19,329	7,208
<b>Total own-source revenue</b>		<b>23,944</b>	<b>11,192</b>
<b>Gains</b>			
Other gains	5D	176	172
<b>Total own-source income</b>		<b>24,120</b>	<b>11,364</b>
<b>Net cost of services</b>		<b>361,331</b>	<b>375,206</b>
Revenues from Government <sup>1</sup>	5E	324,038	370,229
<b>(Deficit) attributable to the Australian Government</b>		<b>(37,293)</b>	<b>(4,977)</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
Changes in asset revaluation reserve		–	973
<b>Total comprehensive (loss) attributable to the Australian Government<sup>1</sup></b>	<b>3A</b>	<b>(37,293)</b>	<b>(4,004)</b>

1 The reduction in Revenues from Government in 2010–11 is the result of the revised cash funding arrangements for Commonwealth agencies. Under the new arrangements, which were introduced by Federal Government from 1 July 2010, depreciation and amortisation funding ceased. From 1 July 2010 a new appropriation referred to as 'Departmental Capital Budget' (DCB) was introduced. The DCB is included as contributed equity in the 2010–11 Statement of Changes in Equity and is not shown as 'Revenue from Government' in the 2010–11 Statement of Comprehensive Income (see Note 3).

The above Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

# Balance Sheet

AS AT 30 JUNE 2011

<b>ASSETS</b>	Notes	2011 \$'000	2010 \$'000
<b>Financial assets</b>			
Cash and cash equivalents	6A	4,734	189
Trade and other receivables	6B	76,557	72,046
<i>Total financial assets</i>		81,291	72,235
<b>Non-financial assets</b>			
Leasehold improvements	7A	63,263	68,072
Plant and equipment	7B	25,870	23,893
Intangibles	7C	113,709	82,611
Other non-financial assets	7D	4,722	8,271
<i>Total non-financial assets</i>		207,564	182,847
<b>Total assets</b>		288,855	255,082
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	8A	24,435	22,436
Other payables	8B	62,800	54,664
<i>Total payables</i>		87,235	77,100
<b>Provisions</b>			
Employee provisions	9A	53,838	50,071
Other provisions	9B	9,144	10,918
<i>Total provisions</i>		62,982	60,989
<b>Total liabilities</b>		150,217	138,089
<i>Net assets</i>		138,638	116,993
<b>EQUITY</b>			
Contributed equity		143,564	84,626
Reserves		6,473	6,473
Accumulated surplus/(deficit)		(11,399)	25,894
<i>Total equity</i>		138,638	116,993

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

# Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2011

	Notes	Accumulated surplus/(deficit)		Asset revaluation reserve		Contributed equity		Total equity	
		2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000
Opening balance		25,894	27,471	6,473	8,900	84,626	76,214	116,993	112,585
<b>Comprehensive income</b>									
Revaluation									
Leasehold improvements	7E	-	-	-	1,262	-	-	-	1,262
Restoration obligations	9B	-	-	-	(289)	-	-	-	(289)
(Deficit)	3A	(37,293)	(4,977)					(37,293)	(4,977)
<b>Total comprehensive (loss)/income attributable to the Australian Government</b>		<b>(37,293)</b>	<b>(4,977)</b>	<b>-</b>	<b>973</b>	<b>-</b>	<b>-</b>	<b>(37,293)</b>	<b>(4,004)</b>
Transfer from the asset revaluation reserve to retained earnings		-	3,400	-	(3,400)	-	-	-	-
<b>Transactions with owners</b>									
<b>Contributions by owners</b>									
Appropriations – contributed equity	3B	-	-	-	-	58,938	10,065	58,938	10,065
<b>Distribution to owners</b>									
Returns of capital:									
Finance Minister's determination									
No. 11 of 2009–10 Schedule 8		-	-	-	-	-	(1,653)	-	(1,653)
<b>Sub-total transactions with owners</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>58,938</b>	<b>8,412</b>	<b>58,938</b>	<b>8,412</b>
<b>Closing balance attributable to the Australian Government</b>		<b>(11,399)</b>	<b>25,894</b>	<b>6,473</b>	<b>6,473</b>	<b>143,564</b>	<b>84,626</b>	<b>138,638</b>	<b>116,993</b>

The above Statement of Changes in Equity should be read in conjunction with the accompanying notes.

# Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2011

	Notes	2011 \$'000	2010 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		355,069	414,444
Services		9,059	3,475
Net GST received		19,085	20,067
Other cash received		19,533	7,459
<i>Total cash received</i>		<u>402,746</u>	<u>445,445</u>
<b>Cash used</b>			
Employees		217,135	199,310
Suppliers		139,382	170,078
Return to Government – ESA court costs recovered		–	815
Transfers to the Official Public Account		26,123	7,574
<i>Total cash used</i>		<u>(382,640)</u>	<u>(377,777)</u>
Net cash from operating activities	10	<u>20,106</u>	<u>67,668</u>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of leasehold improvements, plant and equipment and intangibles		67,982	78,841
Net cash (used) by investing activities		<u>(67,982)</u>	<u>(78,841)</u>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity		52,421	8,412
Net cash from financing activities		<u>52,421</u>	<u>8,412</u>
<i>Net increase/(decrease) in cash held</i>		4,545	(2,761)
Cash and cash equivalents at the beginning of the reporting period		189	2,950
Cash and cash equivalents at the end of the reporting period	6A	<u>4,734</u>	<u>189</u>

The above Cash Flow Statement should be read in conjunction with the accompanying notes.

# Schedule of Commitments

FOR THE YEAR ENDED 30 JUNE 2011

<b>BY TYPE</b>	2011 \$'000	2010 \$'000
<b>Commitments payable</b>		
<b>Capital commitments</b>		
Leasehold improvements <sup>1</sup>	–	1,013
Plant and equipment <sup>1</sup>	–	3,663
Intangibles <sup>1</sup>	1,700	8,337
<b>Total capital commitments</b>	<b>1,700</b>	<b>13,013</b>
<b>Other commitments</b>		
Operating leases <sup>2</sup>	263,100	289,787
Other commitments (goods and services)	79,280	64,619
<b>Total other commitments</b>	<b>342,380</b>	<b>354,406</b>
<b>Less: commitments receivable</b>		
GST recoverable on commitments	31,280	33,402
<b>Total commitments receivable</b>	<b>31,280</b>	<b>33,402</b>
<b>Net commitments by type</b>	<b>312,800</b>	<b>334,017</b>
<b>BY MATURITY</b>		
<b>Commitments payable</b>		
<b>Capital commitments</b>		
One year or less	1,700	13,013
<b>Total capital commitments</b>	<b>1,700</b>	<b>13,013</b>
<b>Operating lease commitments</b>		
One year or less	31,227	31,574
From one to five years	127,349	121,093
Over five years	104,524	137,120
<b>Total operating lease commitments</b>	<b>263,100</b>	<b>289,787</b>
<b>Other commitments (goods and services)</b>		
One year or less	54,286	20,122
From one to five years	24,994	44,497
<b>Total other commitments</b>	<b>79,280</b>	<b>64,619</b>
<b>Less: commitments receivable</b>		
<b>GST recoverable on commitments</b>		
One year or less	10,201	5,883
From one to five years	11,577	15,054
Over five years	9,502	12,465
<b>Total commitments receivable</b>	<b>31,280</b>	<b>33,402</b>
<b>Net commitments by maturity</b>	<b>312,800</b>	<b>334,017</b>

1 Outstanding contractual payments for purchases of leasehold improvements, plant and equipment and intangibles.

2 Operating leases included are effectively non-cancellable and comprise:

**Nature of lease**

Leases for office accommodation  
Motor vehicles – senior executives  
Office equipment

**General description of leasing arrangement**

Subject to fixed increases and annual or bi-annual rent reviews.  
No contingent rentals exist. There are no purchase options available to ASIC.  
No contingent rentals exist. There are no purchase options available to ASIC.

Commitments are GST inclusive where relevant.

The above Schedule of Commitments should be read in conjunction with Note 1 of the Financial Statements.

# Schedule of Contingencies

AS AT 30 JUNE 2011

	Notes	2011 \$'000	2010 \$'000
<b>CONTINGENT ASSETS</b>			
Contingent receivables		1,452	735
<b>Total contingent assets</b>	11	<b>1,452</b>	<b>735</b>
<b>CONTINGENT LIABILITIES</b>			
Contingent payables			
Contingent payables		480	50
<b>Total contingent liabilities</b>	11	<b>480</b>	<b>50</b>

Details of all contingent liabilities and assets, including those not included above because they cannot be quantified, are disclosed in Note 11: Contingent liabilities and assets.

The above Schedule of Contingencies should be read in conjunction with the accompanying notes.

## Schedule of Asset Additions

FOR THE YEAR ENDED 30 JUNE 2011

The following non-financial non-current assets were added in 2010–11

	Leasehold improvements \$'000	Plant & equipment \$'000	Intangibles \$'000	Total \$'000
Purchases:				
Funded by equity injections	–	3,900	18,418	22,318
Funded by departmental capital budget	1,198	5,086	32,249	38,533
Funded by section 31 receipts	3,823	1,787	3,769	9,379
<b>Total funded additions 2010–11</b>	<b>5,021</b>	<b>10,773</b>	<b>54,436</b>	<b>70,230</b>

The following non-financial non-current assets were added in 2009–10

	Leasehold improvements \$'000	Plant & equipment \$'000	Intangibles \$'000	Total \$'000
Purchases:				
Funded by equity injections	–	–	23,577	23,577
Funded by appropriation ordinary annual services	44,514	18,784	17,060	80,358
<b>Total funded additions in 2009–10</b>	<b>44,514</b>	<b>18,784</b>	<b>40,637</b>	<b>103,935</b>
Additions recognised in 2009–10 to be funded in future years				
Make-good	3,562	–	–	3,562
<b>Total additions</b>	<b>48,076</b>	<b>18,784</b>	<b>40,637</b>	<b>107,497</b>

# Schedule of Administered Items

FOR THE YEAR ENDED 30 JUNE 2011

	Notes	2011 \$'000	2010 \$'000
<b>INCOME ADMINISTERED ON BEHALF OF GOVERNMENT</b>			
Revenue			
Non-taxation revenue			
<i>Corporations Act and National Consumer Credit Protection Act fees and fines</i> <sup>1</sup>	17A	622,105	581,509
<i>Banking Act unclaimed moneys</i> <sup>2</sup>	17A	57,291	53,740
<i>Life Insurance Act unclaimed moneys</i> <sup>3</sup>	17A	5,505	4,629
<i>Total income administered on behalf of Government</i>	21	684,901	639,878
<b>EXPENSES ADMINISTERED ON BEHALF OF GOVERNMENT</b>			
Grants <sup>4</sup>	18A	2,349	3,130
Write-down and impairment of assets	18B	33,079	33,137
Other expenses	18C	37,115	31,740
<i>Total expenses administered on behalf of Government</i>	21	72,543	68,007

ASIC's functions in administering revenues and expenses on behalf of the Government are described below:

- 1 ASIC collects and administers revenue under the *Corporations Act 2001* and prescribed fees set by the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003*. Since 1 July 2010, ASIC also collects and administers revenue under the *National Consumer Credit Protection Act 2009* and prescribed fees under the *National Consumer Credit Protection (Fees) Regulation 2010*. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA).
- 2 ASIC has responsibility for the administration of unclaimed moneys received from banking and deposit-taking institutions. Moneys received from banking and deposit-taking institution accounts that remain inactive for seven years are transferred to the Commonwealth and are deposited into the OPA.
- 3 ASIC also administers moneys received from life insurance institutions and friendly societies. Moneys received in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth and are deposited into the OPA.
- 4 On behalf of the Government, ASIC administers payments to registered insolvency practitioners. These payments are used to fund preliminary investigations of suspected breaches of directors' duties and fraudulent misconduct. The outcomes of the findings made by insolvency practitioners are reported to ASIC.

	Notes	2011 \$'000	2010 \$'000
<b>ASSETS ADMINISTERED ON BEHALF OF GOVERNMENT</b>			
Financial assets			
Cash and cash equivalents	19A	3,167	3,017
Receivables	19B	97,738	86,946
<i>Total assets administered on behalf of Government</i>		100,905	89,963
<b>LIABILITIES ADMINISTERED ON BEHALF OF GOVERNMENT</b>			
Payables			
Suppliers	20	10,608	7,826
<i>Administered assets less administered liabilities</i>	21	90,297	82,137

The above Schedule of Administered Items should be read in conjunction with the accompanying notes.

## Schedule of Administered Items continued

FOR THE YEAR ENDED 30 JUNE 2011

<b>ADMINISTERED CASH FLOWS</b>	Notes	2011 \$'000	2010 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
<i>Corporations Act and National Consumer Credit Protection Act</i> fees and charges		580,938	549,181
<i>Banking Act</i> unclaimed moneys		57,291	53,740
<i>Life Insurance Act</i> unclaimed moneys		5,505	4,629
Net GST received		236	341
<b>Total cash received</b>		<b>643,970</b>	<b>607,891</b>
<b>Cash used</b>			
Refunds paid to:			
Deposit-taking institution account holders		34,001	28,024
Life insurance policy holders		3,114	3,716
Grants		2,507	3,493
<b>Total cash (used)</b>		<b>(39,622)</b>	<b>(35,233)</b>
<b>Net cash from operating activities</b>	22	<b>604,348</b>	<b>572,658</b>
<b>Net increase in cash held</b>		<b>604,348</b>	<b>572,658</b>
Cash and cash equivalents at the beginning of the reporting period		3,017	3,072
Cash from Official Public Account for:			
– Appropriations	21	46,272	40,854
		<b>49,289</b>	<b>43,926</b>
Less: Cash to Official Public Account for:			
– <i>Corporations Act and National Consumer Credit Protection Act</i> fees and charges		587,674	554,478
– <i>Banking Act</i> unclaimed moneys		57,291	53,740
– <i>Life Insurance Act</i> unclaimed moneys		5,505	4,629
– Return of previous year's unspent appropriation		–	347
– Section 30A GST refunded		–	341
– Previous years' interest revenue		–	32
	21	<b>(650,470)</b>	<b>(613,567)</b>
<b>Cash and cash equivalents at end of the reporting period</b>	19A	<b>3,167</b>	<b>3,017</b>

The above Schedule of Administered Items should be read in conjunction with the accompanying notes.

## Schedule of Administered Items continued

FOR THE YEAR ENDED 30 JUNE 2011

### ADMINISTERED COMMITMENTS

As at 30 June 2011 ASIC has \$0.257m administered commitments payable (2010: \$0.5m). The commitments payable at 30 June 2011 relate to services from registered insolvency practitioners to investigate suspected breaches of the directors' duties and fraudulent misconduct. The administered commitments payable at 30 June 2011 were due within 1 year.

As at 30 June 2011 ASIC has \$0.023m administered commitments receivable (2010: \$0.05m). The administered commitments receivable at 30 June 2011 relate to GST refundable.

### ADMINISTERED CONTINGENT ASSETS

There were no administered contingent assets as at 30 June 2011 (2010: nil).

<b>ADMINISTERED CONTINGENT LIABILITIES</b>	<b>Notes</b>	<b>2011 \$'000</b>	<b>2010 \$'000</b>
<b>Payables – Refunds to claimants</b>			
<i>Banking Act</i> administration	23	38,193	37,242
<i>Life Insurance Act</i> unclaimed moneys	23	5,157	5,216
		<u>43,350</u>	<u>42,458</u>

Details of each class of contingent liabilities in the above table are disclosed in Note 23.

The above Schedule of Administered Items should be read in conjunction with the accompanying notes.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

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## Note 1: Summary of significant accounting policies

### 1.1 Objectives of the Australian Securities and Investments Commission

The Australian Securities and Investments Commission (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's objectives as outlined in the section 1(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* and the *National Consumer Credit Protection Act 2009*. 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's financial results are reported in the context of the Government's outcomes (see Note 31). Any intra-government costs included in arriving at the amount shown as 'net cost/contribution of outcome' are eliminated in calculating the Federal budget outcome for the Government overall.

Government outcomes are the intended results, impacts or consequences of actions by the Australian Government on the Australian community. ASIC is structured to meet the following outcomes:

Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks.

Outcome 2: Streamlined and cost effective interaction and access to information for business and the public, through registry, licensing and business facilitation services.

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

ASIC is an agency prescribed under Schedule 1, Part 1 of the *Financial Management and Accountability Regulations 1997* (FMA Regulations).

### 1.2 Basis of preparation of the financial statements

The financial statements and notes are required by section 49 of the *Financial Management and Accountability Act 1997* (FMA Act) and are general purpose financial statements.

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

- ♦ Finance Minister's Orders (FMOs) for reporting periods ending on or after 1 July 2010; and
- ♦ Australian Accounting Standards and Interpretations 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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 1: Summary of significant accounting policies continued

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to ASIC or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executor contracts are not recognised unless required by an accounting standard. Liabilities and assets that are not recognised are reported in the Schedule of Commitments or the Schedule of Contingencies (other than unquantifiable contingencies, which are reported at Note 11).

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the Statement of Comprehensive Income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets, liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for ASIC items, except where stated in Note 1.20.

### 1.3 Changes in accounting policy

There have been no changes in accounting policies during the year ended 30 June 2011.

### 1.4 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 accounting period.

### 1.5 New Australian Accounting Standards

#### Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. The following new accounting standards, amendments to standards and interpretations were issued by the Australian Accounting Standards

Board prior to the signing date are applicable to the current reporting period, but have not had a material financial impact on ASIC:

- ♦ AASB 7 *Financial Instruments: Disclosure* – June 2010 (Compilation)
- ♦ AASB 118 *Revenue* – May 2009 (Compilation)
- ♦ AASB 132 *Financial Instruments: Presentation* – June 2010 (Compilation)
- ♦ AASB 139 *Financial Instruments: Recognition and Measurement* – June 2009 (Compilation).

Other new standards or revised standards that were issued prior to the signing date and are applicable to the current reporting period did not have a financial impact, and are not expected to have a future financial impact on ASIC.

#### Future Australian Accounting Standard requirements

The following new standards and interpretations may have an impact on ASIC in future reporting periods but are not yet effective:

- ♦ AASB 9 *Financial Instruments* – December 2010 (Compilation)
- ♦ AASB 101 *Presentation of Financial Statements* – October 2010 (Compilation)
- ♦ AASB 107 *Statement of Cash Flows* – October 2010 (Compilation)
- ♦ AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors* – December 2009 (Compilation)
- ♦ AASB 110 *Events after the Reporting Period* – December 2009 (Compilation)
- ♦ AASB 118 *Revenue* – October 2010 (Compilation)
- ♦ AASB 119 *Employee Benefits* – October 2010 (Compilation)
- ♦ AASB 132 *Financial Instruments: Presentation* – October 2010 (Compilation)
- ♦ AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* – October 2010 (Compilation)
- ♦ AASB 139 *Financial Instruments: Recognition and Measurement* – October 2010 (Compilation)
- ♦ AASB 2010-7 *Amendments to Australian Accounting Standards arising from AASB 9 (December 2010)* [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 and 1038 and Interpretations 2, 5, 10, 12, 19 & 127] – December 2010
- ♦ Interpretation 4 – *Determining whether an Arrangement contains a Lease* – December 2009 (Compilation)

## Note 1: Summary of significant accounting policies continued

- ♦ Interpretation 115 – *Operating Leases – Incentives* – October 2010 (Compilation)
- ♦ Interpretation 127 – *Evaluating the Substance of Transactions Involving the Legal Form of a Lease* – October 2010 (Compilation)
- ♦ Interpretation 132 – *Intangible Assets – Web Site Costs* – October 2010 (Compilation).

Other new standards or revised standards that were issued prior to the signing date and are applicable to future reporting periods are not expected to have a financial impact on ASIC.

### 1.6 Revenue

#### Revenues from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when ASIC gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

#### Other types of revenue

Revenue from rendering of services is recognised by reference to the stage of completion of projects at the reporting date. 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.

The stage of completion of projects at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for services rendered, which have 30-day terms, are recognised at the nominal amounts due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

### Parental leave payments scheme

ASIC has offset amounts received under the Parental Leave Payments Scheme (for payment to employees) by amounts paid to employees under that scheme, because these transactions are only incidental to the main revenue-generating activities of ASIC. Amounts received by ASIC not yet paid to employees would be presented gross as cash and a liability (payable). The total amount received under this scheme is disclosed as a footnote to the Note 5E: Revenue from Government.

### 1.7 Gains

#### Resources received free of charge

Resources received free of charge are recognised as gains when and only when a 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, i.e. whether they have been generated in the course of the ordinary activities of ASIC.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government entity as a consequence of a restructuring of administrative arrangements.

#### Sale of assets

Gains from disposal of non-current assets are recognised when control of the asset has passed to the buyer.

### 1.8 Transactions with the Government as owner

#### Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

#### Other distributions to owners

The FMOs require that distributions to owners be debited to contributed equity unless they are of the nature of a dividend.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 1: Summary of significant accounting policies continued

### 1.9 Employee benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

#### Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of ASIC is estimated to be less than the annual entitlement for sick 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 actuary as at 30 June 2008. Actuarial reviews of long service leave are undertaken on a five-yearly basis. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

#### 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.

#### Superannuation

The majority of employees of ASIC are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS Accumulation Plan (PSSap).

The CSS and PSS are defined-benefit schemes of the Australian Government. The PSSap is a defined-contribution scheme.

The liability for these defined-benefit schemes is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

There are a small number of employees covered under state government and private superannuation schemes. The majority of employees employed in the state government superannuation scheme were originally employed by the various state governments and were transferred to ASIC at its inception in 1989.

ASIC makes employer contributions to the Australian Government and the various state superannuation schemes at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of ASIC's employees. ASIC expenses contributions to defined-benefit and defined-contribution plans. The liability for superannuation recognised as at balance date represents the outstanding contributions payable as at 30 June.

### 1.10 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the leased property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are depreciated over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

### 1.11 Finance costs

All finance costs are expensed as incurred.

## Note 1: Summary of significant accounting policies continued

### 1.12 Cash

Cash and cash equivalents includes notes and coins held and any deposits in bank accounts with an original maturity of three months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

### 1.13 Financial assets

ASIC's financial assets are classified as 'loans and receivables' for the purposes of AASB 139 *Financial Instruments: Recognition and Measurement*.

Financial assets are recognised and derecognised at transaction date.

#### Effective interest method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis.

#### Loans and receivables

Trade receivables and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

#### Impairment of financial assets

Financial assets are assessed for impairment at each balance date.

*Financial assets held at amortised cost* – if there is objective evidence that an impairment loss has been incurred for 'loans and receivables' financial assets, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Statement of Comprehensive Income.

### 1.14 Financial liabilities

Financial liabilities are classified as 'other financial liabilities' for the purposes of AASB 139 *Financial Instruments: Recognition and Measurement*.

Financial liabilities are recognised and derecognised at transaction date.

#### Other financial liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other 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).

### 1.15 Contingent liabilities and contingent assets

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an existing liability or asset in respect of which the amount cannot be reliably measured. Contingent assets are reported when the chance of settlement is probable but not virtually certain. Contingent liabilities are disclosed when the chance of settlement is greater than remote.

### 1.16 Acquisition of assets

Assets are recorded at cost on acquisition except as 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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 1: Summary of significant accounting policies continued

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

### Asset recognition threshold

Purchases of leasehold improvements, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, 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, if it is contractually required. 'Make-good' provisions in property leases are accounted for on this basis. These costs are included in the value of ASIC's leasehold improvements with a corresponding restoration provision recognised.

### 1.17 Leasehold improvements, plant and equipment

#### Revaluations

Fair values for each class of asset are determined as follows:

Asset class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Following initial recognition at cost, leasehold improvements, plant and equipment are carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses 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 reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

#### Depreciation

Depreciable leasehold improvements, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to ASIC. Computer equipment is depreciated using the declining balance method while all other plant and equipment and leasehold improvements are depreciated using the straight-line method.

Depreciation rates (useful lives), residual values and depreciation 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:

	2011	2010
Leasehold improvements	<b>Lease term</b>	Lease term
Computer equipment	<b>1 to 5 years</b>	1 to 5 years
Plant and equipment (owned)	<b>2 to 95 years</b>	2 to 95 years

#### Impairment

Leasehold improvements, plant and equipment are assessed for impairment at the end of each financial year. 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.

## Note 1: Summary of significant accounting policies continued

The recoverable amount of an asset is the higher of its fair value less costs to sell 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 ASIC were deprived of the asset, its value in use is taken to be its depreciated 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.

### 1.18 Intangibles

ASIC's intangibles primarily comprise internally developed software for internal use. As there is no active market for the majority of ASIC's software assets these assets are carried at cost less accumulated amortisation and impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of ASIC's software is 2 to 10 years (2010: 2 to 5 years).

All software assets are assessed for indications of impairment at the end of each financial year.

### 1.19 Taxation

ASIC is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses, assets and liabilities are recognised net of GST except for receivables and payables and where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

## 1.20 Reporting of administered activities

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

Except where otherwise stated below, 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 and Interpretations.

### Administered cash transfers to and from the Official Public Account (OPA)

Revenue collected by ASIC for use by the Government rather than ASIC is administered revenue. Collections are transferred to the OPA maintained by the Department of Finance and Deregulation (DoFD). Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by ASIC on behalf of the Government and reported as such in the Statement of Cash Flows in the Schedule of Administered Items and in the administered reconciliation table in Note 21. Accordingly the Schedule of Administered Items largely reflects the Government's transactions, through ASIC, with parties outside the Government.

### Revenue

All administered revenues are revenues relating to the course of ordinary activities performed by ASIC on behalf of the Australian Government.

Administered revenue is generated from annual review fees, other fees and search products prescribed under the *Corporations (Fees) Act 2001*, *Corporations (Review Fees) Act 2003* and the *National Consumer Credit Protection (Fees) Regulation 2010*. 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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 1: Summary of significant accounting policies continued

### 1.20 Reporting of administered activities continued

Administered revenue is recognised at its nominal amount due and an expense is recognised for impaired debts. Collectability of debts is reviewed at balance date. Impairment allowances are recognised when collection of the debt is no longer probable.

#### Receivables

Administered revenue is recognised at its 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* (FMO 31.1).

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 the result of estimation techniques to determine an estimate of current Corporations Act debts which are unlikely to be collected in future. Large debt amounts are individually reviewed, while the impairment allowance of the remaining debts is estimated using sampling methodologies.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under section 34 of the FMA Act.

#### Unclaimed moneys – administered items

##### Banking Act administration

ASIC is responsible for the administration of unclaimed moneys from banking and deposit-taking institutions.

In accordance with the *Banking Act 1959* moneys from bank and deposit taking institution accounts that are inactive for seven or more years are transferred to the Commonwealth and are deposited into the OPA. Refunds are paid to successful claimants from the OPA.

##### Life Insurance Act administration

ASIC is responsible for the administration of unclaimed moneys from life insurance institutions.

In accordance with the *Life Insurance Act 1995* moneys in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the OPA. Refunds are paid to successful claimants from the OPA.

### 1.21 Expenditure of boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001* and the *Superannuation (Resolution of Complaints) Act 1993*, ASIC is required to support the Companies Auditors and Liquidators 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 (see Note 27).

### 1.22 Comparative figures

Where necessary, comparative figures have been adjusted to conform with changes in presentation in this financial report.

### 1.23 Rounding

Amounts have been rounded to the nearest \$1,000 except in relation to the following:

- ♦ remuneration of senior executive officers;
- ♦ remuneration of auditors; and
- ♦ administered fee write-offs and waivers.

### 1.24 Insurance

ASIC has insured for risks through Comcover, the Government's insurable-risk managed fund. Workers compensation is insured through Comcare Australia.

## Note 2: Events after the balance sheet date

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

## Note 3: Change in funding arrangements

From 1 July 2010 the Federal Government introduced changes to the cash funding arrangements for Commonwealth agencies. ASIC's 2010–11 Statement of Comprehensive Income and Statement of Changes in Equity should be considered within the context of the changes outlined below.

In 2009–10 and previous years, ASIC's budgeted depreciation, amortisation and make-good<sup>1</sup> expenses were funded through a departmental appropriation included and reported in total 'Revenue from Government' in the Statement of Comprehensive Income.

From 1 July 2010 this arrangement ceased and a new arrangement was introduced whereby ASIC's replacement of business as usual assets (i.e. individual assets with a value of less than \$10m) are funded

through an annual appropriation referred to as a 'Departmental Capital Budget'. This appropriation is recognised as 'contributed equity' and not revenue.

There is no direct correlation between the amount of funding forgone for depreciation and amortisation expenses and the new DCB funding as depreciation expense is incurred on assets, including large project assets, while the Departmental Capital Budget funding replaces business as usual assets.

The Departmental Capital Budget is calculated based on ASIC's forward replacement program adjusted each year for changes in price indexes and efficiency dividends.

### Note 3A: Changes in Statement of Comprehensive Income

The table below is included to comply with the Finance Minister's Orders for Financial Reporting and to assist with the comparison of ASIC's 2010–11 and 2009–10 Statement of Comprehensive Income results. It shows the comprehensive income that would have been attributable to ASIC had the depreciation and amortisation expenses still been funded by an appropriation recognised as revenue in the Statement of Comprehensive Income for 2010–11 and equivalent to the expense.

	2011 \$'000	2010 \$'000
<b>Total comprehensive income/(loss) attributable to ASIC</b>		
Total comprehensive income/(loss) attributable to the Australian Government as shown in the Statement of Comprehensive Income	(37,293)	(4,004)
Plus: non-appropriated expenses		
Depreciation and amortisation expense	41,511	–
<b>Total comprehensive income/(loss) attributable to ASIC</b>	<b>4,218</b>	<b>(4,004)</b>

1 Contractual obligation to restore leased premises to the original state after the expiration of the lease (refer to Note 1.16).

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 3: Change in funding arrangements continued

### Note 3B: Changes in Statement of Changes in Equity

The table below shows the different components of ASIC's contributed equity.

(a) **Departmental Capital Budget** – From 1 July 2010 funding for ASIC's business as usual asset replacements (i.e. assets below \$10m), payout of make-good provisions and completion of the information technology program. The level of funding is determined with reference to ASIC's business as usual asset replacement program as included in the forward estimates.

(b) **Equity Injection** – From 1 July 2010 replacement of major project assets (ie assets over \$10m) and new assets approved through the Commonwealth budget process will be funded by equity injection (note \$34.141m in 2010–11 relates only to new assets). In 2009–10 and previous years these funds were provided only for new assets.

(c) **Supplementary equity funding** – Additional funds approved after the 2010–11 budget round were provided for work ASIC was directed by the Government to undertake during 2010–11 for the implementation of Stronger Super Initiatives and Competition for Market Services.

	2011 \$'000	2010 \$'000
(a) Departmental capital budget	22,800	–
(b) Equity injection	34,141	10,065
(c) Supplementary equity funding	1,997	–
	58,938	10,065

## Note 4: Expenses

	2011 \$'000	2010 \$'000
<b>Note 4A: Employee benefits</b>		
Wages and salaries	170,808	162,595
Superannuation <sup>1</sup>		
Defined-benefit schemes	12,630	13,666
Defined-contribution schemes	13,515	11,819
Leave and other entitlements	13,773	18,199
Separation and redundancies <sup>2</sup>	10,771	1,953
<b>Total employee benefits</b>	221,497	208,232

1 Contributions to superannuation schemes are at rates calculated to cover existing and emerging obligations. The employer contribution rate for the Commonwealth Superannuation Scheme was 17.7% (2010: 18.5%); the Public Sector Superannuation Scheme was 12.9% (2010: 13.3%); the PSS Accumulation Scheme was 15.4% (2010: 15.4%); and the superannuation productivity benefit was approximately 2.0% to 3.0% (2010: 2.0% to 3.0%).

2 The majority of separation and redundancies are 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.

## Note 4: Expenses continued

	Note	2011 \$'000	2010 \$'000
<b>Note 4B: Suppliers</b>			
<b>Goods and services</b>			
Legal and forensic costs		25,152	52,220
Office, computer and software expenses		19,167	18,154
Property-related outgoings		8,413	9,106
Consultants		7,320	8,577
Travel		4,210	7,035
Communications		5,507	6,049
Recruitment		1,244	4,878
Information costs		7,929	4,481
Learning and development		4,166	4,212
Security		3,002	2,977
Postage and freight		2,062	2,085
Other goods and services		5,472	2,914
<b>Total goods and services</b>		<b>93,644</b>	<b>122,688</b>
Goods and services are made up of:			
Provision of goods – related entities		13	26
Provision of goods – external parties		3,912	4,137
Rendering of services – related entities		3,764	8,085
Rendering of services – external parties		85,955	110,440
<b>Total goods and services</b>		<b>93,644</b>	<b>122,688</b>
<b>Other supplier expenses</b>			
Operating lease rentals from external entities:			
Minimum lease payments		25,081	21,520
Sublease payments		680	981
Workers compensation premiums		1,651	1,742
Fringe benefits tax		298	329
<b>Total other supplier expenses</b>		<b>27,710</b>	<b>24,572</b>
<b>Total supplier expenses</b>		<b>121,354</b>	<b>147,260</b>
<b>Note 4C: Depreciation and amortisation</b>			
Depreciation:			
Leasehold improvements		9,784	8,041
Plant and equipment		8,727	7,696
<b>Total depreciation</b>		<b>18,511</b>	<b>15,737</b>
Amortisation:			
Intangibles – computer software		23,000	12,128
<b>Total amortisation</b>		<b>23,000</b>	<b>12,128</b>
<b>Total depreciation and amortisation</b>		<b>41,511</b>	<b>27,865</b>
<b>Note 4D: Finance costs</b>			
Unwinding of restoration provision discount	9B	487	488
<b>Total finance costs</b>		<b>487</b>	<b>488</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 4: Expenses continued

	Note	2011 \$'000	2010 \$'000
<b>Note 4E: Write-down and impairment of assets</b>			
Bad and doubtful debts expense		149	(26)
Write-off of leasehold improvements, plant and equipment and intangibles		453	2,738
<b>Total write-down and impairment of assets</b>		<b>602</b>	<b>2,712</b>
<b>Note 4F: Losses from asset sales</b>			
Plant and equipment			
Carrying value of assets sold	7E	–	13
<b>Total losses from asset sales</b>		<b>–</b>	<b>13</b>

## Note 5: Income

		2011 \$'000	2010 \$'000
Revenue			
<b>Note 5A: Rendering of services</b>			
Rendering of services – related entities		817	1,950
Rendering of services – external parties		3,595	1,784
<b>Total rendering of services</b>		<b>4,412</b>	<b>3,734</b>
<b>Note 5B: Royalties</b>			
ASIC publications		203	250
<b>Total royalties</b>		<b>203</b>	<b>250</b>
<b>Note 5C: Other revenues</b>			
Cost recoveries <sup>1</sup>		656	1,627
Receipt from the Companies and Unclaimed Moneys Special Account <sup>2</sup>		18,012	4,191
Professional and witness fees		114	275
Recovery of property rental and outgoings relating to prior year		237	9
AusAID revenue <sup>3</sup>		83	248
Receipt from the Department of Treasury <sup>4</sup>		82	588
Miscellaneous		145	270
<b>Total other revenue</b>		<b>19,329</b>	<b>7,208</b>

1 Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

2 Project costs recovered from the Companies and Unclaimed Moneys Special Account on approval of the Minister.

3 Amount received by ASIC in respect of its participation in AusAID projects.

4 Amount received by ASIC in respect of its participation in the Financial Services Working Group.

## Note 5: Income continued

Gains	Notes	2011 \$'000	2010 \$'000
<b>Note 5D: Other gains</b>			
Resources received free of charge	15	176	172
<b>Total other gains</b>		<b>176</b>	<b>172</b>

As a prescribed agency ASIC receives audit services from the Australian National Audit Office free of charge. The fair value of that service is \$176,000 (2010: \$172,360) for the reporting period.

### Note 5E: Revenues from Government<sup>1</sup>

Appropriations:

Departmental outputs <sup>2</sup>		296,198	316,156
Departmental Special Account <sup>3</sup>	30A	27,840	54,073
<b>Total revenues from Government</b>		<b>324,038</b>	<b>370,229</b>

1 During the year ended 30 June 2011 ASIC received \$250,808 (2010: \$nil) under the Paid Parental Leave Scheme. Amounts received under this scheme are offset against the amounts paid to employees in the Statement of Comprehensive Income.

2 The decrease in revenue for departmental outputs primarily relates to the Government's revised Net Cash funding arrangements, whereby asset replacement is now funded through a capital appropriation rather than the departmental operating appropriation. This has been partially offset by an increase in funding for the regulation of consumer credit and the introduction of competition for market services.

3 The decrease in Departmental Special Account relates to the reduction in reserves available to draw down from the Enforcement Special Account.

## Note 6: Financial assets

	Note	2011 \$'000	2010 \$'000
<b>Note 6A: Cash and cash equivalents</b>			
Cash on hand or on deposit		4,734	189
<b>Total cash and cash equivalents</b>	16A	<b>4,734</b>	<b>189</b>

### Note 6B: Trade and other receivables

Goods and Services:

Goods and services – related entities		637	179
Goods and services – external parties		12,453	2,141
<b>Total receivables for goods and services</b>		<b>13,090</b>	<b>2,320</b>

Appropriations receivable:

Appropriations receivable <sup>1</sup>		60,404	65,563
<b>Total appropriations receivable</b>		<b>60,404</b>	<b>65,563</b>

1 During 2010–11 ASIC returned \$5m of unspent appropriation to the OPA. The savings relate to funding received by ASIC in 2005–06 to investigate matters arising from the collapse of the HIH Insurance Group.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 6: Financial assets continued

	2011 \$'000	2010 \$'000
Other receivables:		
GST receivable from the Australian Taxation Office	3,513	4,499
<b>Total other receivables</b>	<b>3,513</b>	<b>4,499</b>
<b>Total trade and other receivables (gross)</b>	<b>77,007</b>	<b>72,382</b>
Less impairment allowance account:		
Goods and services	450	336
<b>Total impairment allowance account</b>	<b>450</b>	<b>336</b>
<b>Total trade and other receivables (net)</b>	<b>76,557</b>	<b>72,046</b>
Receivables are expected to be recovered in:		
No more than 12 months	76,557	72,046
<b>Total trade and other receivables (net)</b>	<b>76,557</b>	<b>72,046</b>
Receivables are aged as follows:		
Not overdue	74,581	71,937
Overdue by:		
Less than 30 days	32	18
30 to 60 days	1,871	3
More than 90 days	523	424
<b>Total receivables (gross)</b>	<b>77,007</b>	<b>72,382</b>
The impairment allowance account is aged as follows:		
Overdue by:		
More than 90 days	450	336
<b>Total impairment allowance account</b>	<b>450</b>	<b>336</b>
<b>Reconciliation of the movement in the impairment allowance account</b>		
Opening balance 1 July	336	369
Amounts written off	–	(7)
Amounts recovered and reversed	(335)	(47)
Increase in allowance for doubtful debts recognised in net surplus	449	21
<b>Closing balance</b>	<b>450</b>	<b>336</b>

## Note 7: Non-financial assets

	2011 \$'000	2010 \$'000
<b>Note 7A: Leasehold improvements</b>		
Leasehold improvements		
Work in progress	6,214	5,029
Fair value	82,771	81,444
Accumulated depreciation	(25,722)	(18,401)
<b>Total leasehold improvements</b>	<b>63,263</b>	<b>68,072</b>

All revaluations are conducted in accordance with the revaluation policy stated at Note 1.17.

The carrying value of leasehold improvements were reviewed at 30 June 2011. No indicators of impairment were found for leasehold improvements at 30 June 2011.

### Note 7B: Plant and equipment

Fair value	52,751	44,769
Accumulated depreciation	(26,881)	(20,876)
<b>Total plant and equipment</b>	<b>25,870</b>	<b>23,893</b>

A desktop valuation was undertaken by the Australian Valuation Office as at 30 June 2011. The valuation confirmed there was no material difference between the fair value and the carrying value of plant and equipment assets.

The carrying value of plant and equipment assets were reviewed at 30 June 2011. No indicators of impairment were found for plant and equipment at 30 June 2011.

### Note 7C: Intangibles – computer software

Internally developed		
– work in progress	15,377	16,385
– in use	103,026	48,129
– accumulated amortisation	(36,415)	(20,304)
	<b>81,988</b>	<b>44,210</b>
Purchased		
– work in progress	14,758	21,847
– in use	30,572	24,041
– accumulated amortisation	(13,609)	(7,487)
	<b>31,721</b>	<b>38,401</b>
<b>Total intangibles</b>	<b>113,709</b>	<b>82,611</b>

The carrying value of intangible assets was reviewed at 30 June 2011. No indicators of impairment were found for intangibles at 30 June 2011.

### Note 7D: Other non-financial assets

Prepayments	4,722	8,271
<b>Total other non-financial assets</b>	<b>4,722</b>	<b>8,271</b>

Total other non-financial assets are expected to be recovered in:

No more than 12 months	4,136	8,116
More than 12 months	586	155
	<b>4,722</b>	<b>8,271</b>

No indicators of impairment were found for other non-financial assets.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 7: Non-financial assets continued

### Note 7E: Analysis of leasehold improvements, plant and equipment and intangibles

TABLE A: Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2010–11)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2010</b>					
Gross book value	86,473	44,769	64,514	45,888	241,644
Accumulated depreciation/ amortisation and impairment	(18,401)	(20,876)	(20,304)	(7,487)	(67,068)
<b>Net book value 1 July 2010</b>	<b>68,072</b>	<b>23,893</b>	<b>44,210</b>	<b>38,401</b>	<b>174,576</b>
<b>Additions:</b>					
by purchase	5,021	10,773	–	4,190	19,984
internally developed	–	–	50,246	–	50,246
<b>Total additions</b>	<b>5,021</b>	<b>10,773</b>	<b>50,246</b>	<b>4,190</b>	<b>70,230</b>
Reclassification	–	–	5,057	(5,057)	–
Depreciation expense	(9,784)	(8,727)	(17,187)	(5,813)	(41,511)
Write-offs	(46)	(69)	(338)	–	(453)
<b>Net book value 30 June 2011</b>	<b>63,263</b>	<b>25,870</b>	<b>81,988</b>	<b>31,721</b>	<b>202,842</b>
<b>Net book value as of 30 June 2011 represented by:</b>					
Gross book value	88,985	52,751	118,403	45,330	305,469
Accumulated depreciation/ amortisation	(25,722)	(26,881)	(36,415)	(13,609)	(102,627)
	<b>63,263</b>	<b>25,870</b>	<b>81,988</b>	<b>31,721</b>	<b>202,842</b>

## Note 7: Non-financial assets continued

### Note 7E: Analysis of leasehold improvements, plant and equipment and intangibles

TABLE B: Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2009–10)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
Gross book value	41,760	32,131	41,980	28,585	144,456
Accumulated depreciation/ amortisation	(14,717)	(14,890)	(14,222)	(4,194)	(48,023)
<b>Net book value 1 July 2009</b>	<b>27,043</b>	<b>17,241</b>	<b>27,758</b>	<b>24,391</b>	<b>96,433</b>
Additions:					
by purchase	48,076	18,784	–	15,827	82,687
internally developed	–	–	24,810	–	24,810
Total additions	48,076	18,784	24,810	15,827	107,497
Revaluations and impairments recognised in other comprehensive income	1,262	–	–	–	1,262
Reclassification	–	(4,143)	–	4,143	–
Depreciation/amortisation expense	(8,041)	(7,696)	(6,168)	(5,960)	(27,865)
Write-offs	(268)	(280)	(2,190)	–	(2,738)
Disposals	–	(13)	–	–	(13)
<b>Net book value 30 June 2010</b>	<b>68,072</b>	<b>23,893</b>	<b>44,210</b>	<b>38,401</b>	<b>174,576</b>
<b>Net book value as of 30 June 2010 represented by:</b>					
Gross book value	86,473	44,769	64,514	45,888	241,644
Accumulated depreciation/ amortisation	(18,401)	(20,876)	(20,304)	(7,487)	(67,068)
	68,072	23,893	44,210	38,401	174,576

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 8: Payables

	Note	2011 \$'000	2010 \$'000
<b>Note 8A: Suppliers</b>			
Trade creditors and accruals	16A	24,435	22,436
<b>Total supplier payables</b>		<b>24,435</b>	<b>22,436</b>
Supplier payables expected to be settled within 12 months:			
Related entities		120	299
External parties		24,315	22,137
<b>Total supplier payables</b>		<b>24,435</b>	<b>22,436</b>
<b>Note 8B: Other payables</b>			
Unearned revenue – Government appropriations <sup>1</sup>		4,183	10,950
Operating lease rent payable		7,143	4,739
Other unearned revenue <sup>2</sup>		10,028	367
Property lease incentives <sup>3</sup>		30,373	28,101
Salaries and bonuses		10,522	10,022
Superannuation		551	485
<b>Total other payables</b>		<b>62,800</b>	<b>54,664</b>
Total other payables are expected to be settled in:			
No more than 12 months		31,516	27,482
More than 12 months		31,284	27,182
<b>Total other payables</b>		<b>62,800</b>	<b>54,664</b>

1 Unearned revenue – Government appropriations represent appropriations for specific Government initiatives that have not been spent where the appropriation is conditional on any unspent balance being returned to Government. The reduction to unearned appropriation in 2010–11 primarily relates to savings ASIC realised from funding received to investigate matters arising from the collapse of the HIH Insurance Group. As a result of the savings ASIC returned \$5m to Government in 2010–11.

2 The unearned revenue relates to projects that have been approved for funding from the Companies Unclaimed Moneys Special Account.

3 Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2011. The amortisation of these amounts will be made over the life of the lease.

## Note 9: Provisions

	2011 \$'000	2010 \$'000
<b>Note 9A: Employee provisions</b>		
Annual leave entitlement	16,143	15,997
Long service leave entitlement <sup>1</sup>	27,853	31,182
Separations and redundancies	9,842	2,892
<b>Total employee provisions</b>	<b>53,838</b>	<b>50,071</b>
Employee provisions are expected to be settled in:		
No more than 12 months	24,313	15,147
More than 12 months	29,525	34,924
<b>Total employee provisions</b>	<b>53,838</b>	<b>50,071</b>
1 The liability for long service leave has been determined in accordance with the methodology developed by an independent actuary, refer to Note 1.9.		
<b>Note 9B: Other provisions</b>		
Provision for restoration obligations – leased premises	9,144	10,918
<b>Total other provisions</b>	<b>9,144</b>	<b>10,918</b>
Other provisions are expected to be settled in:		
No more than 12 months	532	2,261
More than 12 months	8,612	8,657
<b>Total other provisions</b>	<b>9,144</b>	<b>10,918</b>
<b>Reconciliation of the opening and closing balance of restoration provision</b>		
Carrying amount 1 July	20,918	6,696
Additional provisions made	–	3,562
Amounts revalued	–	289
Amounts used	(2,023)	(47)
Amounts reversed	(238)	(70)
Unwinding of discount or change in discount rate	487	488
<b>Closing balance 30 June</b>	<b>9,144</b>	<b>10,918</b>

ASIC currently has 13 agreements (2010: 17) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. ASIC has made a provision to reflect the present value of the 'make-good' obligations.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 10: Cash flow reconciliation

Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement

	2011 \$'000	2010 \$'000
<b>Cash and cash equivalents as per:</b>		
Cash Flow Statement	4,734	189
Balance Sheet	4,734	189
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net cost of services	361,331	375,206
Add revenue from Government	324,038	370,229
<b>(Deficit) attributable to the Australian Government</b>	<b>(37,293)</b>	<b>(4,977)</b>
<b>Adjustments for non-cash items</b>		
Depreciation/amortisation	41,511	27,865
Net write-down of non-financial assets	453	2,738
Loss on disposal of assets	–	13
<b>Changes in assets/liabilities</b>		
(Increase)/decrease in net receivables	2,006	36,320
(Increase)/decrease in prepayments	3,549	(4,024)
Increase in employee provisions	3,767	6,739
Increase in supplier payables	1,999	6,253
Increase/(decrease) in other provisions and payables	4,114	(3,259)
<b>Net cash from operating activities</b>	<b>20,106</b>	<b>67,668</b>

## Note 11: Contingent liabilities and assets

	2011 \$'000	2010 \$'000
<b>Contingent receivables</b>		
Balance from previous period	735	1,168
<i>Adjustments to prior period contingent receivables:</i>		
Assets recognised	(188)	(202)
Estimates not realisable	(195)	(956)
Revisions to estimates	353	90
New contingent receivables	747	635
<b>Total contingent assets</b>	<b>1,452</b>	<b>735</b>
<b>Contingent payables</b>		
Balance from previous period	50	120
<i>Adjustments to prior period contingent payables:</i>		
Estimates not payable	(50)	(120)
New contingent payables	480	50
<b>Total contingent liabilities</b>	<b>480</b>	<b>50</b>

## Note 11: Contingent liabilities and assets continued

### Quantifiable contingencies (ASIC departmental)

As at the date of this report, there are 15 matters (2010: 8 matters) for which ASIC has received an award of costs in its favour, and agreement with respect to the amount payable to ASIC has not been reached. ASIC has estimated these matters represent a combined receivable of \$1.452m (2010: \$0.735m), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

As at the date of this report, there are two matters (2010: one matter) in respect of which ASIC reasonably expects to have an award of costs against it. ASIC has estimated the potential liability for costs in relation to these matters is \$0.48m (2010: \$0.05m).

### Quantifiable contingencies (assets held in trust)

#### Companies Unclaimed Moneys

Unclaimed moneys held by ASIC, pursuant to Part 9.7 of the *Corporations Act 2001*, that have not been claimed within six years are transferred to the Commonwealth and deposited into the Official Public Account. A contingent liability estimated to be \$4,659,000 (2010: \$912,000) represents an estimate of future claims for repayment from the Official Public Account. The estimate of future claims for repayment at 30 June 2011 was calculated by an independent actuary (Russell Investment Group).

### Unquantifiable contingencies (ASIC departmental)

ASIC is party to many civil litigation matters arising from its statutory duty to administer and enforce laws for which it is responsible. As at the date of this report there is one matter (2010: one matter) where costs have been awarded against ASIC but where it is not possible to reliably estimate the liability at this time. The quantum of costs payable has not been negotiated with the other party and the case concerned has been appealed by ASIC. The outcome of the appeal is likely to have a material impact on the amount of costs payable.

In addition, 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, two matters of this type where proceedings are current. In each of those 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:

- (a) successfully defend the action instituted; and
- (b) 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.

There is one matter at the date of this report where ASIC has received an award of costs in its favour; however, the case is subject to an appeal and the outcome of the appeal is likely to have a material impact on the amount of costs recoverable.

In addition to the matters specifically referred to in this Note, ASIC has legal action pending in a number of other matters. 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 because 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.

### Future compensation claims

The 'Scheme for Compensation for Detriment caused by Defective Administration' (the CDDA scheme) is a method for agencies to provide compensation to persons who have been adversely affected by the maladministration of agencies, but who have no legal means to seek redress, such as a legal claim. It is not possible to estimate the value of potential future CDDA claims.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 12: Related party disclosures

### The Commissioners of ASIC during the financial year were:

G. J. Medcraft (Commissioner to 12 May 2011, Chairman from 13 May 2011)

A. M. D'Aloisio (Chairman to 12 May 2011)

B. G. Gibson (Deputy Chairman)

P. J. Boxall (Commissioner)

M. J. Dwyer (Commissioner)

S. F. Tregillis (Commissioner)

### Loans to Commissioners and Commissioner-related entities

There were no loans made to Commissioners or Commissioner-related entities during the reporting period.

### Other transactions with Commissioner-related entities

There were no other transactions with Commissioner-related entities during the reporting period, other than the payment of fees levied under the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003*.

## Note 13: Remuneration of Commissioners

The Finance Minister's Orders for 2010–11 require separate disclosure of actual remuneration paid to Commissioners during the period (refer to Note 13A) and salary packages for Commissioners as at the reporting date (refer to Note 13B).

### Note 13A: Total remuneration expense recognised in relation to Commissioners

	2011 \$	2010 \$
Short-term employee benefits:		
Salary	2,564,322	1,981,007
Annual leave accrued	(46,861)	41,122
Car parking fringe benefits	88,731	63,586
Total short-term employee benefits	<u>2,606,192</u>	<u>2,085,715</u>
Post-employment benefits:		
Superannuation	276,786	231,799
Other long-term benefits:		
Long service leave accrued	(17,478)	20,381
<b>Total remuneration expense for Commissioners<sup>1</sup></b>	<u><b>2,865,500</b></u>	<u><b>2,337,895</b></u>

1 Excludes acting arrangements and part-year service where remuneration expensed was less than \$150,000. The number of Commissioners whose remuneration is disclosed above is six (2010: 5).

## Note 13: Remuneration of Commissioners continued

### Note 13B: Average annual remuneration packages for Commissioners as at 30 June

Fixed Elements <sup>1,2</sup>	2011			
	Commissioners No.	Fixed elements		Total \$
		Salary \$	Allowances \$	
Total remuneration (including part-time arrangements):				
\$360,000 to \$389,999	2	368,365	–	368,365
\$420,000 to \$449,999	2	438,092	–	438,092
\$480,000 to \$509,999	1	507,995	–	507,995
<b>Total</b>	<b>5</b>			

Fixed Elements <sup>1,2</sup>	2010			
	Commissioners No.	Fixed elements		Total \$
		Salary \$	Allowances \$	
Total remuneration (including part-time arrangements):				
\$330,000 to \$359,999	3	353,851	–	353,851
\$390,000 to \$419,999	2	410,329	–	410,329
\$510,000 to \$539,999	1	511,959	–	511,959
<b>Total</b>	<b>6</b>			

1 This table reports on Commissioners who are employed by ASIC as at the end of the reporting period. Fixed elements are in accordance with a determination of the Remuneration Tribunal for each individual (i.e. the 'Total' column).

2 Commissioners are remunerated in accordance with a determination of the Remuneration Tribunal. In addition to the salary component of remuneration, Commissioners also received superannuation benefits of between 9% and 15.4%. Commissioners are also entitled to car parking.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 14: Remuneration of senior executives

Note 14 discloses the remuneration of those senior executives who are either classified in Groups 9–11 of the Public Service Classification Rules 2000 or those who perform functions controlling operational activities that directly impact the economic function and viability of ASIC and whose employment conditions are equivalent to SES employment conditions of service.

The Finance Minister's Orders for 2010–11 require separate disclosure of actual remuneration paid to senior executives during the period (see Note 14A) and salary packages for senior executives as at the reporting date (see Note 14B).

Note 14A includes executives acting in a higher capacity where their senior executive remuneration during the period exceeds \$150,000. Note 14B discloses only those senior executives appointed to a senior executive role in a substantive capacity as at reporting date.

### Note 14A: Total expense recognised in relation to employment of senior executives

	2011 \$	2010 \$
Short-term employee benefits:		
Salary and performance bonuses	7,500,819	8,656,732
Annual leave accrued	45,415	(85,365)
Motor vehicle allowances and other short-term benefits	1,014,706	1,064,045
Total short-term employee benefits	8,560,940	9,635,412
Post-employment benefits:		
Superannuation	806,184	1,023,241
Other long-term benefits:		
Long service leave accrued	67,813	(17,430)
Termination benefits	–	64,800
<b>Total remuneration expense for senior executives<sup>1,2</sup></b>	<b>9,434,937</b>	<b>10,706,023</b>

1 Excludes acting arrangements and part-year service where remuneration expensed was less than \$150,000. The number of senior executives whose remuneration is disclosed above is 33 (2010: 41).

2 The remuneration expense for senior executives in 2009–10 is \$0.576m higher than the amount reported in the 2009–10 financial statements. The difference relates to the remuneration of two senior executives previously omitted.

## Note 14: Remuneration of senior executives continued

### Note 14B: Average annual remuneration packages and bonus paid for substantive<sup>1</sup> senior executives as at 30 June

Fixed Elements and Bonus Paid <sup>2</sup>	2011			Bonus paid <sup>3</sup>	
	Senior Executives No.	Salary \$	Fixed elements Allowances \$		Total \$
Total remuneration (including part-time arrangements):					
\$150,000 to \$179,999	1	147,505	20,550	168,055	-
\$180,000 to \$209,999	2	167,862	20,550	188,412	12,050
\$210,000 to \$239,999	12	203,720	20,550	224,270	15,636
\$240,000 to \$269,999	6	242,021	20,550	262,571	13,261
\$270,000 to \$299,999	4	258,403	20,550	278,953	27,756
\$300,000 to \$329,999	2	295,547	20,550	316,097	35,427
<b>Total</b>	<b>27</b>				

Fixed Elements and Bonus Paid <sup>2</sup>	2010			Bonus paid <sup>3</sup>	
	Senior Executives No.	Salary \$	Fixed elements Allowances \$		Total \$
Total remuneration (including part-time arrangements):					
\$150,000 to \$179,999	1	157,690	20,550	178,240	9,461
\$180,000 to \$209,999	6	176,423	20,550	196,973	8,235
\$210,000 to \$239,999	8	201,387	20,550	221,937	10,195
\$240,000 to \$269,999	10	240,380	20,550	260,930	14,424
\$270,000 to \$299,999	3	276,721	20,550	281,271	18,291
\$300,000 to \$329,999	1	296,966	20,550	317,516	17,053
<b>Total</b>	<b>29</b>				

1 Substantive refers to the employee's base salary grade classification.

2 This table reports on substantive senior executives who are employed by ASIC as at the end of the reporting period. Fixed elements are based on the employment agreement of each individual – each row represents an average annualised figure (based on headcount) for the individuals in that remuneration package band (i.e. the 'Total' column).

3 Represents average actual bonuses paid during the reporting period. The 'Bonus paid' is excluded from the 'Total' calculation (for the purpose of determining remuneration package bands). The 'Bonus paid' within a particular band may vary between financial years due to factors such as individuals commencing with or leaving ASIC during the financial year. The performance bonus applicable is between 0% and 15%.

Note: In addition to the fixed elements of remuneration disclosed above, senior executives are also entitled to superannuation paid to the super fund of their choice, car fringe benefits, car parking and other fringe benefits negotiated at time of employment.

### Note 14C: Other highly paid staff

During the reporting period, there were 42 (2010: 25) employees whose salary plus performance bonus was \$150,000 or more. These employees did not have a role as a senior executive and are therefore not disclosed as a senior executive in Note 14A.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 15: Remuneration of auditors

	2011 \$	2010 \$
Financial statement audit services were provided free of charge to ASIC. The fair value of that service during the reporting period is:	176,000	172,360

No other services were provided by the Auditor-General.

## Note 16: Financial instruments

	2011 \$'000	2010 \$'000
<b>Note 16A: Categories of financial instruments</b>		
<b>Financial assets</b>		
Loans and receivables:		
Cash and cash equivalents	4,734	189
Receivables for goods and services (net of allowance for doubtful debts)	12,640	1,984
<b>Carrying amount of financial assets</b>	<b>17,374</b>	<b>2,173</b>
<b>Financial liabilities</b>		
At amortised cost:		
Trade creditors	24,435	22,436
<b>Carrying amount of financial liabilities</b>	<b>24,435</b>	<b>22,436</b>

### Note 16B: Net income and (expense) from financial assets

Loans and receivables		
Impairment	(149)	26
<b>Net gain/(expense) from financial assets</b>	<b>(149)</b>	<b>26</b>

### Note 16C: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

### Note 16D: Credit risk

ASIC is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables – 2011: \$13,089,617 (2010: \$2,319,998). ASIC has assessed the risk of the default on payment for each receivable and has allocated \$449,901 in 2011 (2010: \$335,502) to an allowance for doubtful debts account.

ASIC has policies and procedures that guide employees' debt recovery techniques that are to be applied where debts are past due.

ASIC holds no collateral to mitigate against credit risk.

The following table illustrates ASIC's gross exposure to credit risk, excluding any collateral or credit enhancements.

AASB 7 requires that the classification of financial instruments at fair value be determined by reference to the source of inputs used to derive the fair value. ASIC's Financial Instruments are classified as Class 1.

## Note 16: Financial instruments continued

Credit quality of financial instruments not past due or individually determined as impaired

	Not past due nor impaired 2011 \$'000	Not past due nor impaired 2010 \$'000	Past due or impaired 2011 \$'000	Past due or impaired 2010 \$'000
<b>Loans and receivables</b>				
Cash and cash equivalents	4,734	189	–	–
Receivables for goods and services (gross)	10,664	1,875	2,426	445
<b>Total</b>	<b>15,398</b>	<b>2,064</b>	<b>2,426</b>	<b>445</b>

Ageing of financial assets that are past due but not impaired for 2011:

	Overdue by				Total \$'000
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	
<b>Loans and receivables</b>					
Receivables for goods and services	32	1,871	–	73	1,976
<b>Total</b>	<b>32</b>	<b>1,871</b>	<b>–</b>	<b>73</b>	<b>1,976</b>

Ageing of financial assets that are past due but not impaired for 2010:

	Overdue by				Total \$'000
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	
<b>Loans and receivables</b>					
Receivables for goods and services	18	3	–	88	109
<b>Total</b>	<b>18</b>	<b>3</b>	<b>–</b>	<b>88</b>	<b>109</b>

### Note 16E: Liquidity risk

ASIC's financial liabilities are trade creditors. ASIC does not expect to have difficulty meeting its financial liabilities as and when they become due and payable.

ASIC receives appropriations from the Federal Government to deliver the outcomes defined in Note 1.1. ASIC is an FMA agency and is therefore required to comply with government policies, including the prompt payment of suppliers.

All ASIC's financial liabilities as at 30 June 2011 and 30 June 2010 were payable within 1 year.

As at 30 June 2011 ASIC has no financial liabilities payable on demand (2010: nil).

### Note 16F: Market risk

#### Currency risk

ASIC's exposure to 'Currency risk' is minimal as only a small number of contracts are in currencies other than Australian dollars.

#### Interest rate risk

ASIC's financial instruments are not exposed to interest rate risk.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 17: Income administered on behalf of Government

Revenue	2011 \$'000	2010 \$'000
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### Note 17A: Non-taxation revenue

Corporations Act and National Consumer Credit Protection Act fees <sup>1</sup>	531,768	505,553
Corporations Act and National Consumer Credit Protection Act fines	90,337	75,956
<i>Corporations Act and National Consumer Credit Protection Act fees and fines</i>	<b>622,105</b>	<b>581,509</b>
Moneys received from banks and deposit taking institutions in respect of accounts inactive for seven or more years	57,291	53,740
Moneys received from life insurance institutions and friendly societies for policies not claimed within seven years	5,505	4,629
<b>Total non-taxation revenue</b>	<b>684,901</b>	<b>639,878</b>

### Corporations Act and National Consumer Credit Protection Act fees and fines

	2011 \$'000 Fees	2011 \$'000 Fines	2011 \$'000 Total	2010 \$'000 Fees	2010 \$'000 Fines	2010 \$'000 Total
Mandatory collections <sup>1</sup>	478,564	78,425	556,989	454,078	74,616	528,694
Information broker fees <sup>2</sup>	52,598	–	52,598	50,827	–	50,827
Other fees <sup>2</sup>	606	–	606	648	–	648
Court receivables <sup>3</sup>	–	11,912	11,912	–	1,340	1,340
	<b>531,768</b>	<b>90,337</b>	<b>622,105</b>	<b>505,553</b>	<b>75,956</b>	<b>581,509</b>

1 Fees and charges arise from actions which are mandatory under the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009*. Examples include fees prescribed in the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003* and the *National Consumer Credit Protection (Fees) Regulations 2010*.

2 Fees and charges paid by information brokers (intermediaries between ASIC and the consumer) and other consumers for information provided by ASIC from its corporations information database.

3 Recovery of fines and penalties for contraventions of the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009*.

## Note 18: Expenses administered on behalf of Government

Expenses	Notes	2011 \$'000	2010 \$'000
<b>Note 18A: Grants</b>			
Private Sector:			
Insolvency practitioners <sup>1</sup>		2,349	3,130
<b>Total grants</b>		<b>2,349</b>	<b>3,130</b>

1 ASIC administers on behalf of the Government 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.

### Note 18B: Write-down and impairment of assets

Bad and doubtful debts expense		30,744	30,065
Waiver of fees and charges owing		2,335	3,072
<b>Total write-down and impairment of assets</b>	19B	<b>33,079</b>	<b>33,137</b>

### Note 18C: Other expenses

Refunds paid to bank and deposit-taking institution account holders	26C	34,001	28,024
Refunds paid to life insurance policy holders	26C	3,114	3,716
<b>Total other expenses</b>		<b>37,115</b>	<b>31,740</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 19: Assets administered on behalf of Government

Financial assets	Note	2011 \$'000	2010 \$'000
<b>Note 19A: Cash and cash equivalents</b>			
Cash at bank and on hand – Corporations Act and the National Credit Protection Act		694	1,430
Cash at bank – Banking Act		456	456
Cash at bank – Life Insurance Act		5	5
Cash at bank – Insolvency law reform		2,012	1,126
<b>Total cash and cash equivalents</b>	25A	<b>3,167</b>	<b>3,017</b>
<b>Note 19B: Receivables</b>			
<b>Corporations Act:</b>			
Corporations Act fees and charges		126,719	114,344
Information brokers fees		6,100	5,209
<b>Other receivables:</b>			
GST receivable from ATO		173	152
<b>Total receivables (gross)</b>		<b>132,992</b>	<b>119,705</b>
Less: impairment allowance account:			
Corporations Act		35,254	32,759
<b>Total receivables (net)</b>		<b>97,738</b>	<b>86,946</b>
Receivables were aged as follows:			
Not overdue		64,769	59,812
Overdue by:			
Less than 30 days		20,287	14,348
30 to 60 days		6,814	8,089
61 to 90 days		4,121	3,607
More than 90 days		37,001	33,849
<b>Total receivables (gross)</b>		<b>132,992</b>	<b>119,705</b>
The impairment allowance account is aged as follows:			
Not overdue		488	384
Overdue by:			
Less than 30 days		400	810
30 to 60 days		1,230	1,198
61 to 90 days		1,021	983
More than 90 days		32,115	29,384
<b>Total impairment allowance account</b>		<b>35,254</b>	<b>32,759</b>
Receivables are due from entities that are not part of the Australian Government.			
<b>Reconciliation of the movement in the impairment allowance account</b>			
Opening balance 1 July		32,759	30,157
Amounts written off		(28,249)	(27,463)
Amounts waived		(2,335)	(3,072)
Increase in allowance for doubtful debts recognised as an expense		33,079	33,137
<b>Closing balance</b>		<b>35,254</b>	<b>32,759</b>

## Note 20: Liabilities administered on behalf of Government

Payables	Note	2011 \$'000	2010 \$'000
<b>Note 20: Suppliers</b>			
Corporations Act refunds <sup>1</sup>		6,226	4,410
Unallocated moneys – Corporations Act <sup>1</sup>		3,298	2,431
Grants payable <sup>2</sup>	25A	1,084	985
<b>Total suppliers</b>		<b>10,608</b>	<b>7,826</b>

All supplier payables are entities that are not part of the Australian Government.

- 1 All supplier payables are expected to be settled within 12 months. Settlement is usually made within 30 days.
- 2 Settlement is usually made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.

## Note 21: Administered items reconciliation table

	2011 \$'000	2010 \$'000
<i>Opening administered assets less administered liabilities as at 1 July</i>	82,137	82,979
Plus: Administered revenues	684,901	639,878
Less: Administered expenses	(72,543)	(68,007)
Administered transfers (to)/from Australian Government:	–	–
Appropriation transfers from OPA:		
Special appropriations (unlimited)	46,272	40,854
Transfers to OPA	(650,470)	(613,567)
<i>Closing administered assets less administered liabilities as at 30 June</i>	<b>90,297</b>	<b>82,137</b>

## Note 22: Administered cash flow reconciliation

	2011 \$'000	2010 \$'000
<i>Reconciliation of net contribution to budget outcome to net cash provided by operating activities</i>		
Net contribution to budget outcome	612,358	571,871
Increase/(decrease) in allowance for doubtful debts	2,495	2,602
Increase in payables and provisions	2,782	1,412
(Increase)/decrease in receivables	(13,287)	(3,227)
	(8,010)	787
<i>Net cash provided by operating activities</i>	<b>604,348</b>	<b>572,658</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 23: Administered contingent liabilities

### Quantifiable administered contingencies

Quantifiable administered contingencies that are not remote are disclosed in the Schedule of Administered Items.

#### *Banking Act administration*

Moneys from bank and deposit-taking institution accounts inactive for seven or more years are transferred to the Commonwealth and are deposited into the OPA. The contingent liability disclosed in Schedule of Administered Items represents an estimate of future claims for repayment, where the validity of the claim has been established by the relevant institution.

An actuarial assessment of the amount of claims that are likely to be lodged with ASIC in respect of Banking Act Unclaimed Moneys was conducted by the Russell Investment Group to calculate the contingent liability.

#### *Life Insurance Act administration*

Moneys from matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the OPA. The contingent liability disclosed in the Schedule of Administered Items represents an estimate of the future claims for repayment where the validity of the claim has been established by the relevant institution.

An actuarial assessment of the amount of claims that are likely to be lodged with ASIC in respect of Life Insurance Act Unclaimed Moneys was conducted by the Russell Investment Group to calculate the contingent liability.

### Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

## Note 24: Administered contingent assets

There are no administered contingent assets.

## Note 25: Administered financial instruments

	2011 \$'000	2010 \$'000
<b>Note 25A: Categories of financial instruments</b>		
Financial assets		
Cash and cash equivalents	3,167	3,017
Financial liabilities		
At amortised cost:		
Grants payable	1,084	985

### Note 25B: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

### Note 25C: Credit risk

ASIC's administered receivables arise as a result of a statutory obligation not a contractual obligation and are therefore not classified as financial instruments.

ASIC has no significant exposures to any concentrations of credit risk.

### Note 25D: Liquidity risk

ASIC's administered financial liabilities are trade creditors. ASIC is able to meet its financial liabilities as and when they become due and payable.

All Administered financial liabilities as at 30 June 2011 and 30 June 2010 were payable within one year.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 26: Appropriations

Table A1: Annual appropriations ('recoverable GST exclusive')

	2011 Appropriations				Appropriations applied in 2011 (current and prior years) \$'000	Variance <sup>2,3</sup> \$'000
	Appropriation Act		FMA Act			
	Annual Appropriation \$'000	Appropriations reduced <sup>1</sup> \$'000	Section 31 \$'000	Total appropriation \$'000		
<b>DEPARTMENTAL</b>						
Ordinary annual services	340,756	-	28,592	369,348	384,083	(14,735)
Other Services						
Equity	34,141	-		34,141	22,318	11,823
<b>Total departmental</b>	<b>374,897</b>	<b>-</b>	<b>28,592</b>	<b>403,489</b>	<b>406,401</b>	<b>(2,912)</b>
<b>ADMINISTERED</b>						
Ordinary annual services						
Administered items	3,450	(1,101)		2,349	2,279	70
<b>Total administered</b>	<b>3,450</b>	<b>(1,101)</b>		<b>2,349</b>	<b>2,279</b>	<b>70</b>

1 Departmental appropriations do not lapse at financial year end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. No reduction has been made by the Finance Minister in respect of ASIC's 2010-11 appropriation.

2 The variance for departmental ordinary annual services primarily relates to activities funded by supplementary appropriation which will be received in 2011-12.

3 The underspend in departmental equity appropriations in 2010-11 primarily relates to the delay in implementation of the National Business Names initiative and capital expenditure savings in respect of supervision of financial markets funding.

## Note 26: Appropriations continued

Table A2: Annual appropriations ('recoverable GST exclusive')

	2010 Appropriations				Appropriations applied in 2010 (current and prior years) \$'000	Variance <sup>1,2</sup> \$'000
	Appropriation Act		FMA Act			
	Annual Appropriation \$'000	Appropriations reduced \$'000	Section 31 \$'000	Total appropriation \$'000		
<b>DEPARTMENTAL</b>						
Ordinary annual services	344,776	(247)	10,119	354,648	403,543	(48,895)
Other Services						
Equity	10,065	(1,653)		8,412	23,577	(15,165)
<b>Total departmental</b>	<b>354,841</b>	<b>(1,900)</b>	<b>10,119</b>	<b>363,060</b>	<b>427,120</b>	<b>(64,060)</b>
<b>ADMINISTERED</b>						
Ordinary annual services						
Administered Items	3,441	(310)		3,131	3,175	(44)
<b>Total administered</b>	<b>3,441</b>	<b>(310)</b>		<b>3,131</b>	<b>3,175</b>	<b>(44)</b>

1 The variance in departmental ordinary annual services in 2009–10 can be attributed to an increase in capital expenditure funded from internal resources and an increase in deterrence activities satisfying the criteria for funding from the Enforcement Special Account.

2 The variance in departmental equity appropriations in 2009–10 primarily relates to expenditure on a major IT project which was funded through an equity appropriation before 2009–10.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 26: Appropriations continued

Table B: Unspent departmental appropriations ('recoverable GST exclusive')

	2011 \$'000	2010 \$'000
<b>Authority</b>		
Appropriation Act (No.1) 2005–2006	267	5,267
Appropriation Act (No.1) 2006–2007	–	9,939
Appropriation Act (No.1) 2007–2008	–	15,952
Appropriation Act (No.1) 2008–2009	–	3,702
Appropriation Act (No.1) 2010–2011	30,136	–
Appropriation Act (No.2) 2007–2008	–	1,000
Appropriation Act (No.2) 2009–2010	–	7,362
Appropriation Act (No.2) 2010–2011	15,129	–
Appropriation Act (No.3) 2010–2011	1,514	–
Appropriation Act (No.3) 2008–2009	–	11,163
Appropriation Act (No.4) 2007–2008	–	141
Appropriation Act (No.4) 2008–2009	2,552	3,478
Appropriation Act (No.4) 2009–2010	–	1,050
Enforcement Special Account	2,334	6,508
<b>Total<sup>1</sup></b>	<b>51,932</b>	<b>65,562</b>

1 The total amount of unspent appropriations does not agree with the 'Appropriations receivable' shown in Note 6B. The difference of \$8.472m relates to supplementary funding ASIC received approval to spend in 2010–11 but will receive in 2011–12 Appropriation Act (No. 1) and 2011–12 Appropriation Act (No. 2). The supplementary funding relates to the competition for market services and implementation of Stronger Super initiatives.

## Note 26: Appropriations continued

Table C: Special appropriations ('recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2011 \$'000	2010 \$'000
s69 <i>Banking Act 1959</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed moneys from banking and deposit-taking institutions. Moneys from banking and deposit-taking institution accounts that remain inactive for seven or more years are transferred to the Commonwealth, and are deposited into the OPA. 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.	34,001	28,024
s216 <i>Life Insurance Act 1995</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed moneys from life insurance institutions and friendly societies. Moneys from matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth and are deposited into the OPA. ASIC receives special appropriations from the OPA (section 216 <i>Life Insurance Act 1995</i> ) to refund amounts to life insurance policy holders.	3,114	3,716
s28 FMA Act, <i>Corporations Act 2001</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 CRF as received. Refunds of overpayments are appropriated under section 28 of the FMA Act.	6,937	5,756
s28 FMA Act, <i>Corporations Act 2001</i> (Companies and Unclaimed Moneys Special Account), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed moneys from the Companies and Unclaimed Moneys Special Account. Moneys that are not claimed within six years are transferred to the Commonwealth (Part 9.7 of the <i>Corporations Act 2001</i> ), and are deposited into the OPA. Refunds are appropriated under section 28 of the FMA Act.	1,160	881
<b>Total</b>			<b>45,212</b>	<b>38,377</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 26: Appropriations continued

Table D1: Reduction in administered items ('recoverable GST exclusive')

2011	Amount required <sup>1,2</sup> – by Appropriation Act	Spent	Retention	Total amount required <sup>1,2</sup>	Total amount appropriated <sup>3</sup>	Total reduction <sup>4</sup>
Ordinary Annual Services Outcome 1	2,349,315.86	1,364,283.36	985,032.50	2,349,315.86	3,450,000.00	1,100,684.14

1 Administered items for 2010–11 will be reduced to these amounts when these financial statements are tabled in the Parliament as part of ASIC's 2010–11 annual report. This reduction is effective in 2011–12 (i.e. the year the report is tabled) and the amounts in the Total Reduction column are reflected in Table A1 of these financial statements in the column 'Appropriations reduced (Appropriation Act sections 10, 11&12)'.  
2 Amount required as per Appropriation Act (Act 1 s11; Act 2 s12).  
3 Total amount appropriated in 2010–11.  
4 Total reduction effective in 2011–12.

Table D2: Reduction in administered items ('recoverable GST exclusive')

2010	Amount required <sup>1,2</sup> – by Appropriation Act	Spent	Retention	Total amount required <sup>1,2</sup>	Total amount appropriated <sup>3</sup>	Total reduction <sup>4</sup>
Ordinary Annual Services Outcome 1	3,131,080.08	2,235,397.12	895,682.96	3,131,080.08	3,441,000.00	309,919.92

1 Administered items for 2009–10 were reduced to these amounts when the financial statements were tabled in the Parliament as part of ASIC's 2009–10 annual report. This reduction is effective in 2010–11 (i.e. the year the report is tabled) but the amounts in the Total Reduction column are reflected in Table A2 of these financial statements in the column 'Appropriations reduced (Appropriation Act sections 10, 11&12)'.  
2 Amount required as per Appropriation Act (Act 1 s11; Act 2 s12).  
3 Total amount appropriated in 2009–10.  
4 Total reduction effective in 2010–11.

## Note 27: Expenditure relating to statutory boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001*, ASIC is required to support statutory boards and a tribunal to promote activities that assist ASIC to attain its aims.

The following expenditure incurred on behalf of these boards and tribunal are included in the Statement of Comprehensive Income of ASIC:

	2011 \$'000	2010 \$'000
Companies Auditors and Liquidators Disciplinary Board	483	645
Superannuation Complaints Tribunal	5,840	5,015

The Superannuation Complaints Tribunal (SCT) 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.

## Note 28: 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. In 2010–11 ASIC began taking a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

ASIC generally deals only with vested property once an application is made by a third party for ASIC to exercise its powers under section 601AE of the *Corporations Act 2001*. ASIC does not consider it practical to value any identified property vesting and consequently such property is not recorded or disclosed in these financial statements.

## Note 29: Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* and the *Corporations Regulations 2001* requires 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 moneys and deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	2011 \$'000	2010 \$'000
<b>Security deposits under <i>Corporations Regulations 2001</i> regulation 7.6.02AA (dealers and investment advisers)</b>		
Cash (at bank) <sup>1</sup>	63	63
Interest bearing deposits (at bank) <sup>1</sup>	240	320
Inscribed stock	20	20
Insurance bonds	20	20
Bank guarantees	16,890	22,550
<b>Closing balance</b>	<b>17,233</b>	<b>22,973</b>

<sup>1</sup> Included in the balance of Security Deposits Special Account in Note 30D.

### Security deposits under *Corporations Act 2001* section 1284(1) (liquidators)

Insurance bonds	1,800	1,800
<b>Closing balance</b>	<b>1,800</b>	<b>1,800</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 30: Special Accounts

### Note 30A: Enforcement Special Account (Departmental)

Legal authority – section 20 (1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2006/31 – Enforcement Special Account Establishment 2006*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Enforcement Special Account (ESA) is a departmental Special Account which was established by a determination of the Finance Minister on 13 September 2006 to fund the costs of ASIC arising from the investigation and litigation matters of significant public interest.

	2011 \$'000	2010 \$'000
Balance carried forward from previous year	6,508	32,912
Appropriation for the reporting period	30,000	30,000
Available for payments	36,508	62,912
Costs recovered	–	815
Cash payments from the Special Account <sup>1</sup>	(32,014)	(57,219)
Balance available to draw down next year	4,494	6,508
Represented by:		
Cash – held in the OPA	4,494	6,508

1 For the year ended 30 June 2011 ASIC recognised ESA revenue of \$27.84m (2010: \$54.073m), of which \$32.014m (2010: \$57.219m) was drawn down in cash during the year. Of the \$4.494m available to draw down in 2011–12, \$2.334m will be used to pay expenditure incurred in 2010–11.

### Note 30B: Companies and Unclaimed Moneys Special Account (Special Public Money)

Legal authority – section 21 *Financial Management and Accountability Act 1997* and section 133 of the *Australian Securities and Investments Commission Act 2001*

Appropriation – section 21 *Financial Management and Accountability Act 1997*

Purpose – The Companies and Unclaimed Moneys Special Account (CUMSA) was established on 1 July 2007 when ASIC became a prescribed agency under the *Financial Management and Accountability Act 1997*. The CUMSA was established to administer unclaimed moneys received by ASIC under section 1341 of the *Corporations Act 2001*.

<b>Table A – Special Account</b>	2011 \$'000	2010 \$'000
Balance carried forward from previous year	7,215	8,902
Appropriation for the reporting period	1,160	881
Receipts during the year	28,072	43,599
Interest amounts credited	554	611
Investments realised	344,184	18,000
Available for payments	381,185	71,993
Cash transferred to Consolidated Revenue	(8,019)	(9,974)
Investments made from the Special Account	(296,184)	(12,000)
Disbursements	(25,127)	(30,212)
Administration costs	(1,229)	(880)
Special purpose disbursement	(25,168)	(11,712)
Balance carried to next period (excluding investment balances) and represented by:	25,458	7,215
Cash – held by ASIC	25,458	7,215

## Note 30: Special Accounts continued

### Note 30B: Companies and Unclaimed Moneys Special Account (Special Public Money) (continued)

	2011 \$'000	2010 \$'000
<b>Table B – Special Account investment of Public Money</b>		
Special Appropriations under section 39 of the FMA Act		
Balance carried forward from previous year	264,621	261,692
Investments made from the Special Account	296,184	12,000
Investment income	12,116	8,929
Investments realised	(344,184)	(18,000)
Balance carried to next period	<u>228,737</u>	<u>264,621</u>

### Note 30C: Deregistered Companies Trust Moneys Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/02 – ASIC Deregistered Companies Trust Moneys Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Deregistered Companies Trust Moneys Special Account was established by the Finance Minister on 18 February 2008 to manage property vesting in the Commonwealth as a result of the deregistration provisions of the *Corporations Act 2001*.

	2011 \$'000	2010 \$'000
Balance carried forward from previous year	740	698
Receipts during the year	60	68
Interest received	34	32
Disbursements	(60)	(58)
<b>Closing balance</b>	<u>774</u>	<u>740</u>

### Note 30D: ASIC Security Deposits Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/03 – ASIC Security Deposits Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The ASIC Security Deposits Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage security deposits lodged with ASIC by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees.

	2011 \$'000	2010 \$'000
Balance carried forward from previous year	383	383
Disbursements	(80)	–
<b>Closing balance</b>	<u>303</u>	<u>383</u>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 30: Special Accounts continued

### Note 30E: ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/04 – ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage money or other property temporarily held by ASIC for the benefit of a person other than the Commonwealth as a result 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.

	2011 \$'000	2010 \$'000
Balance carried forward from previous year	13,721	87
Receipts during the year	68,661	22,005
Interest received	534	152
Disbursements	(14,216)	(8,523)
<b>Closing balance</b>	<b>68,700</b>	<b>13,721</b>

### Note 30F: Other Trust Moneys Special Account (Special Public Money)

	2011 \$'000	2010 \$'000
Balance carried forward from previous year	–	1
Receipts during the year	843	17
Disbursements	(843)	(18)
Balance carried to next period	–	–

### Note 30G: Services for Other Governments and Non-Agency Bodies Special Account (Administered)

This Special Account was established on 31 December 1997 by the Department of Finance and Deregulation in accordance with the terms of section 20 of the *FMA Act* ('Services for Other Governments and Non-Agency Bodies Account'). This account was closed on 11 September 2009.

## Note 31: Reporting of outcomes

Since 1 July 2009, ASIC's outcomes are:

Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks

Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public, through registry, licensing and business facilitation services

### Note 31A: Net (cost)/contribution of outcome delivery

	Outcome 1		Outcome 2		Total	
	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000
<b>Expenses</b>						
Administered	2,349	3,130	70,194	64,877	72,543	68,007
Departmental	296,798	301,525	88,653	85,045	385,451	386,570
<b>Total expenses</b>	<b>299,147</b>	<b>304,655</b>	<b>158,847</b>	<b>149,922</b>	<b>457,994</b>	<b>454,577</b>
<b>Income from the non-government sector</b>						
Administered						
Non-taxation revenue	–	–	684,901	639,878	684,901	639,878
Total administered	–	–	684,901	639,878	684,901	639,878
Departmental						
Activities subject to cost recovery	656	1,627	–	–	656	1,627
Other	3,349	2,019	945	569	4,294	2,588
Total departmental	4,005	3,646	945	569	4,950	4,215
<b>Total income from the non-government sector</b>	<b>4,005</b>	<b>3,646</b>	<b>685,846</b>	<b>640,447</b>	<b>689,851</b>	<b>644,093</b>
<b>Net (cost)/contribution of outcome delivery</b>	<b>(295,142)</b>	<b>(301,009)</b>	<b>526,999</b>	<b>490,525</b>	<b>231,857</b>	<b>189,516</b>

The above table excludes intra-government transactions.

The table shows the net contribution to the Commonwealth Budget outcome by adding the departmental and administered expenses, less external departmental and administered revenues and costs recovered to produce a net contribution to the Budget outcome of \$231.857m (2010: \$189.516m). This derived amount is meaningful only when it is used to consider ASIC's contribution to the Budget outcome for the purposes of 'whole of Government' reporting. It is not intended to represent or portray an alternative operating result for ASIC to that which is disclosed in the Statement of Comprehensive Income.

Administered expenses represent revenue forgone to the Commonwealth as a result of refunds and waivers and write-offs of fees and charges owing to the Commonwealth (not ASIC) under the Corporations Act. Administered revenues and administered expenses are detailed in Notes 17 and 18 respectively.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 31: Reporting of outcomes continued

### Note 31B: Major classes of departmental expenses, income, assets and liabilities by outcomes

	Outcome 1		Outcome 2		Not attributed		Total	
	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000
<b>Departmental expenses</b>								
Employee benefits	170,553	162,421	50,944	45,811	–	–	221,497	208,232
Supplier expenses	93,443	114,863	27,911	32,397	–	–	121,354	147,260
Depreciation and amortisation	31,963	21,735	9,548	6,130	–	–	41,511	27,865
Finance costs	375	381	112	107	–	–	487	488
Write-down and impairment of assets	464	2,115	138	597	–	–	602	2,712
Losses from asset sales	–	10	–	3	–	–	–	13
<b>Total departmental expenses</b>	<b>296,798</b>	<b>301,525</b>	<b>88,653</b>	<b>85,045</b>	<b>–</b>	<b>–</b>	<b>385,451</b>	<b>386,570</b>
<b>Departmental income</b>								
Rendering of services	3,397	2,913	1,015	821	–	–	4,412	3,734
Royalties	156	195	47	55	–	–	203	250
Other revenue	14,883	5,622	4,446	1,586	–	–	19,329	7,208
Other gains	136	134	40	38	–	–	176	172
Revenues from Government	249,509	288,779	74,529	81,450	–	–	324,038	370,229
<b>Total departmental income</b>	<b>268,081</b>	<b>297,643</b>	<b>80,077</b>	<b>83,950</b>	<b>–</b>	<b>–</b>	<b>348,158</b>	<b>381,593</b>
<b>Departmental assets</b>								
Cash and cash equivalents	–	–	–	–	4,734	189	4,734	189
Trade and other receivables	58,949	56,196	17,608	15,850	–	–	76,557	72,046
Leasehold improvements	48,713	53,096	14,550	14,976	–	–	63,263	68,072
Plant and equipment	19,920	18,637	5,950	5,256	–	–	25,870	23,893
Intangibles	87,556	64,437	26,153	18,174	–	–	113,709	82,611
Other non-financial assets	3,636	6,451	1,086	1,820	–	–	4,722	8,271
<b>Total departmental assets</b>	<b>218,774</b>	<b>198,817</b>	<b>65,347</b>	<b>56,076</b>	<b>4,734</b>	<b>189</b>	<b>288,855</b>	<b>255,082</b>
<b>Departmental liabilities</b>								
Suppliers	18,815	17,500	5,620	4,936	–	–	24,435	22,436
Other payables	48,356	45,047	14,444	9,617	–	–	62,800	54,664
Employee provisions	41,455	39,055	12,383	11,016	–	–	53,838	50,071
Other provisions	7,041	8,516	2,103	2,402	–	–	9,144	10,918
<b>Total departmental liabilities</b>	<b>115,667</b>	<b>110,118</b>	<b>34,550</b>	<b>27,971</b>	<b>–</b>	<b>–</b>	<b>150,217</b>	<b>138,089</b>

The income and expense disclosed in this table include intra-government transactions that are eliminated in calculating the 'Net (cost)/contribution of outcome delivery' in Note 31A.

## Note 31: Reporting of outcomes continued

### Note 31C: Major classes of administered expenses, income, assets and liabilities by outcomes

	Outcome 1		Outcome 2		Not attributed		Total	
	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000	2011 \$'000	2010 \$'000
<b>Administered expenses</b>								
Grants	2,349	3,130	–	–	–	–	2,349	3,130
Write-down and impairment of assets	–	–	33,079	33,137	–	–	33,079	33,137
Other expenses	–	–	37,115	31,740	–	–	37,115	31,740
<b>Total administered expenses</b>	<b>2,349</b>	<b>3,130</b>	<b>70,194</b>	<b>64,877</b>	<b>–</b>	<b>–</b>	<b>72,543</b>	<b>68,007</b>
<b>Administered income</b>								
Non-taxation revenue	–	–	684,901	639,878	–	–	684,901	639,878
<b>Total administered income</b>	<b>–</b>	<b>–</b>	<b>684,901</b>	<b>639,878</b>	<b>–</b>	<b>–</b>	<b>684,901</b>	<b>639,878</b>
<b>Administered assets</b>								
Cash and cash equivalents	2,012	1,126	1,155	1,891	–	–	3,167	3,017
Receivables	–	–	97,738	86,946	–	–	97,738	86,946
<b>Total administered assets</b>	<b>2,012</b>	<b>1,126</b>	<b>98,893</b>	<b>88,837</b>	<b>–</b>	<b>–</b>	<b>100,905</b>	<b>89,963</b>
<b>Administered liabilities</b>								
Suppliers	1,084	985	9,524	6,841	–	–	10,608	7,826
<b>Total administered liabilities</b>	<b>1,084</b>	<b>985</b>	<b>9,524</b>	<b>6,841</b>	<b>–</b>	<b>–</b>	<b>10,608</b>	<b>7,826</b>

The income and expense disclosed in this table include intra-government transactions that are eliminated in calculating the 'Net (cost)/contribution of outcome delivery' in Note 31A.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2011

## Note 32: Compensation and debt relief

	2011 \$'000	2010 \$'000
<b>Departmental</b>		
No expenses were incurred in relation to matters dealt with under the 'Compensation for Detriment caused by Defective Administration Scheme' during the reporting period (2010: two matters)	-	2

### Administered

Included in the bad and doubtful debts expense in the Schedule of Administered Items are amounts written off under section 47 of the *FMA Act*. The number of items and aggregate amount of Commonwealth moneys written off during the financial year under this section is 160,165 items totalling \$28,249,165 (2010: 160,948 items totalling \$27,463,323).

The number of items and aggregate of amounts owing to the Commonwealth, the recovery of which was waived during the financial year pursuant to section 34(1) of the *FMA Act* is 16,109 items totalling \$2,335,081 (2010: 17,099<sup>1</sup> items totalling \$3,071,808).

1 The published financial statements for 2009–10 incorrectly quoted this figure as 147,099.

End of financial statements

# Glossary

AFS licence	Australian financial services licence
APX	Asia Pacific Exchange Limited
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASX	ASX Limited
ASX 24	Operated by ASX Limited (formerly known as Sydney Futures Exchanges [SFE])
BSX	SIM Venture Securities Exchange Limited (formerly known as Bendigo Stock Exchange Limited)
CFD	Contract for difference
Corporations Act	<i>Corporations Act 2001</i>
CPSS	Committee on Payment and Settlement Systems
CRA	Credit rating agency
Dark pools or dark liquidity	A type of matching system characterised by the absence of pre-trade transparency, meaning that bids and offers are not made publicly available as is the case with, for example, the ASX's central order limit book
Derivatives	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index. Common derivatives include options and futures contracts
Flash crash	On 6 May 2010 major equity indices in both the US futures and securities markets fell 5–6% in minutes before rebounding. The Securities and Exchange Commission and Commodity Futures Trading Commission issued a report on causes
FoFA reforms	Future of Financial Advice reforms
GFC	Global financial crisis
High-frequency trading	The use of high-speed computer programs to generate, route and execute orders on markets
IMB	IMB Limited
IOSCO	International Organization of Securities Commissions
ITSA	Insolvency and Trustee Service Australia
MIS	Managed investment scheme
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
NSXA	National Stock Exchange of Australia (formerly known as Stock Exchange of Newcastle)
OTC	Over the counter
PDS	Product Disclosure Statement
Phoenix activity	Typically, phoenix activity involves transferring the assets of a company (the previous company) to a subsequent company in circumstances where the previous company was unable to pay its debts, and the transfer may have been conducted in a manner so as to deprive unsecured creditors equal access to its assets, and there is a connection between the management or shareholding of the previous company and the subsequent company

## Glossary continued

### Stronger Super reforms

The Stronger Super reforms are the Government's response to the review of Australia's superannuation system (Super System Review). The Stronger Super reforms were announced by the Assistant Treasurer and Minister for Financial Services and Superannuation, the Hon Bill Shorten MP, on 16 December 2010

### Trustee(s) for hire

Trustees with a business model conducive to promoters approaching trustees to hold trusteeship, while the promoter effectively operates marketing and investment management of the fund and, in some cases, fund administration and other outsourced functions



*The Brisbane floods in January were the city's biggest in nearly 40 years and left a trail of destruction and ruin. In response, ASIC's Brisbane team took time out to help with the clean-up effort. Pictured are (L-R) Deeya Boolell, Lesley Symons, Claire Clegg, Donna Henderson and Skye Growden who volunteered at the St Vincent de Paul depot at Sumner Park, Brisbane.*

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ASIC

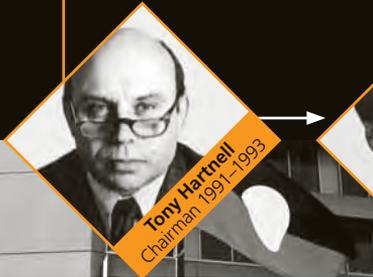
# the first 20 years

- ◆ After High Court challenges and the Alice Springs Agreement, Australian Securities Commission (ASC) begins operations under the new Corporations Law in January
- ◆ Australian Company Number system established

- ◆ ASIC's Information Processing Centre (IPC) opens in Traralgon
- ◆ ASX launches the CHESS system
- ◆ Corporate Law Simplification Program is established

- ◆ IPC becomes the first information management organisation in the world certified under ISO9001

- ◆ Reforms to the Corporations Law facilitate share buy-backs



**Tony Hartnell**  
Chairman 1991-1993



**Alan Cameron**  
Chairman 1993-2000



1991

1992

1993

1994

1995

1996

1997

- ◆ ASC releases first investor publication, *Don't Kiss Your Money Goodbye*
- ◆ *Corporate Law Reform Act 1992* introduces civil penalty provision regime

- ◆ Wallis Inquiry Report

- ◆ ASC moves from Attorney-General's Department to Treasury portfolio

IMAGES, from left to right: 1992 – High Court ruling recognises Native Title in Australia; 1993 – Australian Government starts privatisation of Qantas; 1997 – Asian financial crisis sparks stockmarket crash; 1999 – Australians vote against becoming a republic; 2000 – Sydney Olympic Games; 2002 – Bali bombings bring terrorism close to Australians; 2006 – Drought changes the way Australians use water; 2009 – Black Saturday bushfires claim 173 lives in Victoria; 2010 – Queensland floods affect 70 towns and 200,000 people

- ◆ ASC becomes ASIC
- ◆ ASIC assumes responsibility for consumer protection in insurance, superannuation and banking
- ◆ *Managed Investments Act 1998*
- ◆ ASIC launches its first April Fool's Day campaign to warn investors of scams, with a bogus 'land and airspace' package

- ◆ ASIC hosts International Organization of Securities Commissions (IOSCO) Conference in Sydney

- ◆ ASIC licenses 604 financial services providers under the new regime

- ◆ CLERP 7 reforms simplify and streamline the procedures for reporting and lodging documents with ASIC



**David Knott**  
Chairman 2000-2003



**Jeffrey Lucy**  
Chairman 2003-2007

1998

1999

2000

2001

2002

2003

2004

- ◆ High Court finds problems in the Corporations Law in *In Re Wakim* case
- ◆ Financial Industry Complaints Service and the Financial Industry Resolution Service established
- ◆ *Corporations Law Economic Reform Program Act 1999* implements CLERP 1 to CLERP 4, dealing with matters including fundraising and directors' duties
- ◆ ASIC launches its consumer website, FIDO

- ◆ *Corporations Act 2001*
- ◆ *Australian Securities and Investments Commission Act 2001*
- ◆ *Financial Services Reform Act 2001*

- ◆ CLERP 9 reforms enhance corporate governance
- ◆ Transitional period for implementing the new financial services regime ends

# 1991–2011

- ◆ Superannuation choice of fund reforms introduced
- ◆ Cole Inquiry into UN Food-For-Oil program

- ◆ CAMAC inquires into corporate social responsibility

- ◆ Global financial crisis begins
- ◆ ASIC assumes responsibility for financial literacy

- ◆ ASIC bans short selling



**Tony D'Aloisio**  
Chairman 2007-2011



**Greg Medcraft**  
Chairman 2011-to date

2005

2006

2007

2008

2009

2010

2011

- ◆ Parliamentary Joint Committee Inquiry into Financial Products and Services in Australia
- ◆ ASIC begins licensing credit rating agencies

- ◆ Government announces the Future of Financial Advice reforms
- ◆ ASIC assumes responsibility for consumer credit and finance broking
- ◆ ASIC assumes responsibility from the ASX for the supervision of trading
- ◆ Cooper Review of Superannuation
- ◆ Senate inquiry into the insolvency industry

- ◆ Transition period for new credit licensing regime ends

# Contact details

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## ASIC online

[www.asic.gov.au](http://www.asic.gov.au)

## For consumers and retail investors

[www.moneysmart.gov.au](http://www.moneysmart.gov.au)

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Go to [www.asic.gov.au/question](http://www.asic.gov.au/question) or phone 1300 300 630:

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- ♦ for help with company annual statements, notification of changes to company or licence details, routine company or licence compliance, document lodgements, deregistration and reinstatements.

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- ♦ credit and financial services and products
- ♦ companies
- ♦ company directors
- ♦ auditors
- ♦ liquidators
- ♦ licensees
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**ASIC, GPO Box 9827 in your capital city**

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PO Box 4000  
Gippsland Mail Centre Vic 3841

For street addresses, please see [www.asic.gov.au](http://www.asic.gov.au).

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