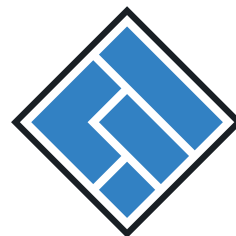


fighting fraud and misconduct

'enforcement is an essential part of effective regulation'

David Knott, ASIC Chairman

annualreport
2002-03



ASIC

**Australian Securities &
Investments Commission**

ASIC's profile

The Australian Securities and Investments Commission enforces and regulates company and financial services laws to protect consumers, investors and creditors.

An independent Commonwealth government body, ASIC has regulated financial markets, securities, futures and corporations since January 1991. From 1998, we became responsible for consumer protection in superannuation, insurance, deposit taking and, from 2002, credit. ASIC works with other financial and law enforcement agencies in Australia and internationally.

For our statutory aims and where we fit in the regulatory picture, see page 12.

In 2002–03, ASIC:

- employed 1,396 full time equivalent staff around Australia, see page 58
- outputs cost \$173 million and we collected \$405 million in fees for the Commonwealth, see page 10
- operated under full time Commissioners appointed by the Governor-General on the nomination of the Treasurer, see page 16.

2002-03

fighting fraud and misconduct

- Achieved record enforcement outcomes, including 29 criminals jailed for fraud, criminal breach of duties and insider trading, page 25.
- \$506 million in funds protected, compensation orders or assets frozen for the public and creditors, page 27.
- Launched new initiatives targeting insolvency, financial reporting and disclosure, and secured additional budget funding to develop them, page 51.
- More consumers turned to ASIC. Visits to our consumer website up 79%, reports of misconduct up 19%, database searches up 20%, pages 42, 52.
- More than 1,400 approvals to facilitate commercial transactions and reduce business costs, page 5.

Inside this report

Highlights		1
Chairman's report	<i>ASIC Chairman David Knott reports.</i>	3
ASIC effectiveness	<i>Achieving our statutory aims over the past 3 years.</i>	7
Objectives, plans and results	<i>Implementing our 3 year plan.</i>	8
Financial report	<i>Meeting expanding demands.</i>	10
Organisation chart	<i>Key reporting lines.</i>	11
The regulatory picture	<i>ASIC's role, financial regulation: who's involved, who it protects and how it's carried out.</i>	12
ASIC directorates	<i>Summary of our 7 operational directorates.</i>	14
Commissioners	<i>Commissioners' qualifications, experience, photos.</i>	16
Governance, ethics and audit	<i>How ASIC is run, ethical standards and audit.</i>	18
Community involvement	<i>Relations with consumers, business and professionals.</i>	22
Enforcement	<i>Criminals jailed, civil actions, bannings and disciplinary actions.</i>	23
Financial services regulation	<i>Financial services reform, licensing and compliance, fee disclosure and legal issues.</i>	32
Markets regulation and policy	<i>Company accounts checked, market operators inspected, and policy on financial services and cross border issues.</i>	36
Consumer protection	<i>Financial advice, mortgage brokers, consumer and Consumer Advisory Panel report.</i>	41
International relations and regional coordination	<i>International enforcement and cooperation. State and Territory service maintained.</i>	46
Public and commercial services	<i>Reforms for companies, company information, helping liquidators and complainants, enquiry services.</i>	49
Infrastructure	<i>Costs reviewed, unclaimed money, faster company documents, sharing information and a new certified agreement.</i>	54
Our staff	<i>Merit and equal opportunity, staff profile, occupational health and safety.</i>	58
Audit	<i>Audit Committee report and internal audit.</i>	62
Appendices	<i>Publications, Freedom of information, Disability strategy, Electoral Act disclosure, cost comparisons.</i>	63
Six year summary	<i>Data on business, ASIC performance and finance.</i>	66
Financial statements	<i>Reporting on operational and administered finances.</i>	67
Index		119

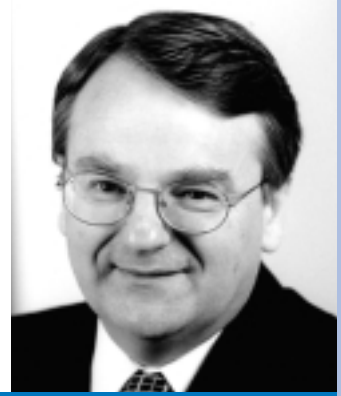
About this report

This report was produced under the *Commonwealth Authorities and Companies Act 1997*. The members of the Commission are responsible under section 9 of that Act for the preparation and content of the report of operations in accordance with the Finance Minister's orders.

To meet high standards of disclosure, we used feedback from Parliamentarians and the public. Last year's report won ASIC's fourth Gold Award from the Australasian Reporting Awards Inc.

Chairman's report

'Enforcement is an essential part of effective regulation.'



In this section:

- enforcement
- combining strategies
- consumer education
- financial services reform
- facilitating commerce
- effectiveness measures
- the Commission
- ASIC staff

Enforcement

Enforcement is an essential part of effective regulation.

In the current domestic and international environment, the fight against fraud and misconduct has pervaded much of our work. ASIC has responded strongly to Australia's corporate failures and market abuses, including insider trading, as outlined in this report. These measures have been critical to the restoration of investor confidence and to the good reputation of the Australian equities market.

Enforcement is demanding and challenging work, and the results to date reflect credit on ASIC's enforcement officers. That work now includes the 53 referrals to ASIC from the HIH Royal Commission, in addition to the criminal and civil actions ASIC had already taken.

Successfully combining strategies

We have also combined enforcement with wider regulatory strategies, for example, in action we have taken on insolvency and market disclosure.

There has been a substantial increase in complaints about corporate insolvencies since 2000. Last year, ASIC responded to this increase by:

- helping liquidators to obtain books and records
- requiring companies to properly maintain such records
- visiting companies that appeared to be at risk of failure, and
- pursuing legal proceedings where appropriate, including insolvent trading proceedings against directors.

Encouraged by the positive feedback from the insolvency profession, we sought and obtained additional, dedicated funding in this year's budget to extend our pilot project into a continuing regulatory program.

Similarly, in financial reporting and market disclosure, we combined more assertive intervention with other measures designed to raise standards. Our audit of Australia's listed companies for 'Enron' style reporting abuses suggested that there is no reason to believe that the type of accounting abuses identified in the United States pose a material risk in Australia, but it raised awareness of other issues and resulted in some financial restatements.

We also used a combination of strategies to promote a stronger culture of market disclosure among companies, including:

- regulatory intervention that led in many cases to the release of additional information to the market
- closer cooperation with the Australian Stock Exchange Ltd (ASX), and
- extensive industry consultation.

The Government recognised the importance of these disclosure and financial reporting initiatives by including an additional budget appropriation to expand them over the next 3 years. The Government's CLERP 9 legislative package, expected later this year, will further support these regulatory and enforcement programs.

Consumer education

Consumer education and protection plays a less direct, but equally important, role in fighting fraud and misconduct.

Many of the worst abuses we encountered were financial frauds targeting unsophisticated consumers. Realistically, enforcement actions will only ever catch a relatively small number of offenders, often after the horse has bolted. In the long term, the best policy for protecting consumers is to raise their own knowledge of the issues and their skill in dealing with them.

ASIC has recently sought to place financial literacy firmly on the national education agenda. This has attracted strong cross-sectoral support and, hopefully, will lead to the adoption of a coordinated and cohesive approach to this issue in our schools.

Financial services reform

Consumers of financial products and services are entitled to expect a regulatory framework that includes systemic safeguards and accessible redress against misconduct.

The *Financial Services Reform Act 2001* is central to these objectives. After a somewhat slow start, industry licensing is gaining momentum and will reach a peak by the end of this calendar year. The Treasurer's recent statements that the Government will not extend the transition period, which expires in March 2004, have provided a further incentive for financial services businesses to lodge their licence applications.

On behalf of the Commission, I wish expressly to acknowledge the outstanding work of ASIC officers on this project.

While this report accurately describes our progress, it cannot adequately reflect the complexity and challenge that this reform has posed for ASIC's management and staff. They have made a huge commitment to consulting industry on policy and implementation, a commitment that has been both appreciated and reciprocated by industry.

ASIC's collateral initiatives to protect and inform investors have also won public attention and support, including our work to enhance the quality and credibility of investment advice and our proposals to improve fee disclosure. The 79% increase in visits to our consumer website indicates too that we are reaching more consumers and providing them with valuable assistance.

Facilitating commerce

In the past financial year, we approved more than 1,400 applications for waivers of or modifications to the law that reduced business costs. In some 90 cases, we considered and approved innovative and complex transactions that might otherwise never have proceeded.

Although that is not high profile work, it is important to the competitiveness of Australian enterprise and the long term interests of Australian investors. It forms part of our statutory mandate to help improve the performance of Australia's financial system.

We also prepared to implement the Government's CLERP 7 reforms, which will further reduce the compliance costs associated with lodging annual returns for approximately 1.3 million registered companies.

Finally, we contributed substantially to international efforts to facilitate cross-border capital and business flows, particularly through the International Organization of Securities Commissions (IOSCO).

New effectiveness measures

For the first time this year, we have sought to measure explicitly our regulatory effectiveness, against both our statutory mandate and our 2003–2005 strategic plan, see pages 7–9. This stands in addition to a full account of our activities and our stewardship of public moneys.

Measuring regulatory effectiveness is challenging. Statistics or 'heads on sticks' portray activity levels, but do not fully reflect the effectiveness of that activity. For example, how do you prove that successful results against fraud and misconduct deterred other would be offenders? Yet without overstating the significance of specific measures included in this report, we strongly believe these new measures will contribute to a better assessment of our performance. We will develop these measures in future reports.

The Commission

In February 2003, Mr Jeffrey Lucy, AM, was appointed Deputy Chairman for a 3 year term. Mr Lucy brings significant experience in accountancy and expertise in financial reporting to the Commission, and has taken up residence in Sydney.

Pending Mr Lucy's appointment, Mr Ian Johnston (Executive Director, Financial Services Regulation) acted for extended periods as a Commission member. His support and assistance were much appreciated.

This will be my last annual report, as I intend to retire from ASIC at the end of 2003. My decision has been made in the knowledge that ASIC is well prepared and structured to deal with its outstanding enforcement and regulatory issues.

During my term at ASIC, the Treasurer has been a strong supporter of effective and well resourced corporate and securities regulation. The considerable achievements of the agency over that time could not have been delivered without his support.

I also express my appreciation to the Commission members and ASIC staff for their professionalism and hard work in ensuring that the agency is so well placed to carry out its mandate, and to the Parliamentary Secretary to the Treasurer, Senator the Hon Ian Campbell, for his ongoing support.

Our staff

This year workloads have risen right across the organisation as a result of major law reforms, numerous large and complex investigations and increased public demand for our assistance. Our staff have risen to the occasion and coped admirably with these pressures and demands.

The Commission is also pleased with the progress that has been made in implementing new staff training programs and improved systems for capturing and sharing information across the agency. These key components of our 2003–2005 strategic plan were foreshadowed in last year's report, and remain critical to ASIC's continuing development as a nationally focused, knowledge based agency. We took a further step towards their achievement by including information sharing strategies as performance requirements for staff in our recently negotiated Certified Agreement.

My report, and the rest of this annual report except for the financial statements, constitutes ASIC's report of operations in accordance with a resolution of Commissioners made on 12 August 2003.



David Knott
Chairman

ASIC effectiveness: 3 year perspective

Statutory aims (from the ASIC Act, see page 12)	2002–03	2001–02	2000–01
Upholding the law effectively and quickly			
• Criminals jailed	29	19	25
• Civil orders against people or companies	151	140	n/a
• Successful litigation (target 70%)	94%	92%	71%*
• Additional disclosures achieved through ASIC intervention	311	n/a	n/a
Promoting confident and informed consumers			
• \$ millions protected, frozen or compensation orders	\$506m	\$401m	\$530m
• Public complaints about misconduct finalised	9,292	7,827	6,646
• Use of our consumer website FIDO	875,000	488,000	241,000
• Callers assisted through our Infoline	142,284†	161,000	123,000
Making company information available quickly and efficiently			
• Total use of our databases (free and paid)	10,997,500	9,095,600	7,260,700
• Company data lodged on time	93%	93%	93%
• Availability of database	99.9%	99.9%	99.9%
Improving the performance of the financial system and the entities within it			
• Approvals of commercial transactions or products that reduced costs	1,360	n/a	n/a
• Approvals of innovative transactions or innovative financial products	90	204‡	80
• Australian financial services licences issued	604	35	n/a

* Success rate understated.

† Calls fell because company document lodgement enquiries were re-routed, see page 53.

‡ Financial services reform triggered an unusually high number of special applications.

Staff, expenses and revenue	2002–03	2001–02	2000–01
Staff (full time equivalents) increased for enforcement and financial services reform			
No of staff	1,396	1,284	1,221
Annual change	9%	5%	–1%
Operating expenses rose to pay for extra workload			
\$ millions	\$173m	\$160m	\$143m
Annual change	8%	12%	nil
Revenue collected for the Commonwealth up			
\$ millions	\$405m	\$379m	\$363m
Annual change	7%	4%	1%

Objectives, plans and results

'We have sought explicitly to measure effectiveness against our 2003–05 strategic plan.'

Objectives and context

3 year plan for 2002–05

Results in 2002–03

Fight fraud and misconduct.

The public rates enforcement as our highest priority and has acknowledged that ASIC is more credible and more visible.

We plan to:

- produce results that will justify this shift in opinion
- seek support for more flexible enforcement remedies
- act against misleading and deceptive conduct affecting consumers, and
- promote awareness about scams and fraud.

This year, ASIC:

- tackled crucial issues and succeeded in 94% of litigation, page 24
- sought power to fine for breaches of market disclosure rules
- acted against 43 illegal schemes, and obtained 311 corrective disclosures, pages 7, 24, and
- increased publication and distribution of warnings, page 42.

Raise standards in financial services and further build our expertise.

Parliament has given us a major task to implement its financial services reforms smoothly.

We plan to:

- raise standards in the industry
- become more active and more skilled in superannuation and insurance, and
- enhance confidence in Australian financial markets.

This year, ASIC:

- licensed 604 businesses, assessed quality of advice and ran targeted campaigns, pages 33–34, 42
- boosted compliance checks, and set up staff superannuation and insurance communities of practice, pages 34, 55, and
- inspected market operators and clearing houses and reported to the Minister, page 39.

Make a greater impact in the boardroom and improve the financial system.

The market needs effective disclosure, but some company boards and company auditors have not delivered.

We plan to:

- encourage a culture of disclosure and compliance by directors and others with financial reporting and audit obligations
- encourage improved corporate governance and greater compliance with the Corporations Act, and
- assist Australian market operators and maintain Australia's relevance as a capital market.

This year, ASIC:

- reviewed accounts of all listed companies to check for accounting abuses, page 37.
- targeted directors' duties and won extra funding to focus on insolvent trading, pages 24, 26, 51, and
- represented Australian interests internationally and assisted cross-border businesses, pages 47, 39–40.

Objectives and context 3 year plan for 2002–05 Results in 2002–03

Detect and act on early warning signs.

We have responded well to events but in the past some important issues have jumped out unexpectedly.

We plan to:

- build systems that capture and synthesise data, and
- upgrade significantly our skills in managing and applying knowledge.

This year, ASIC

- established a national framework to analyse and report on key risks, page 43, and
- launched a new intranet and sponsored cross-disciplinary teams to share information, page 55.

Maintain optimal funding, relevance and efficiency.

Our responsibilities and workload have increased over the past few years.

To achieve our other objectives, we plan to:

- assist Government decisions about our funding and our responsibilities, and
- press on with greater efficiencies in our operations, infrastructure and decision making.

This year, ASIC:

- secured additional funding for work on HIH, corporate disclosure and insolvency, and
- reviewed and cut administrative costs, and boosted efficiency of staff accommodation, pages 55, 57.

Strengthen the skills of our staff.

Our increased workload and responsibilities mean we must strengthen the skills within the organisation.

We plan to:

- maximise our performance
- retain knowledge and skills, manage costs of retraining and recruitment, and minimise the risk of losing key skills, and
- develop, support and recruit staff in a demanding and competitive market.

This year, ASIC:

- maintained our performance management system, page 61
- negotiated a new Certified Agreement emphasising information sharing, page 56, and
- extended our leadership training, and recruited 18 new graduates, page 61.

In 2002–03, ASIC received an appropriation of \$162.8 million. This included an increase of \$16.8 million, provided principally to implement the Financial Services Reform Act and to supplement our general enforcement capability.

Some \$10.6 million of our appropriation was collected by the Government as a levy on various deposit taking, superannuation, retirement savings and insurance organisations. The levy was used for ASIC's consumer protection, regulatory and enforcement activities relating to the products and services these organisations offer, and for the Superannuation Complaints Tribunal. ASIC spent approximately \$9.8 million on these activities, and the Superannuation Complaints Tribunal spent \$3.1 million, bringing the total amount expended against the levy to \$12.9 million. See also page 65.

We also generated more than \$9 million from external sources including \$2 million in recoveries for court and investigation costs. Our combined revenue funded our regulatory, enforcement and consumer protection activities.

We incurred a small operating deficit of \$0.112 million, an improvement on last year's deficit of \$5.599 million. Benchmarking our infrastructure services against public and private sectors continued to demonstrate that we managed resources efficiently.

Total fees and charges collected for the Commonwealth amounted to \$405 million.

Our financial statements begin on page 67.

Cost of outputs

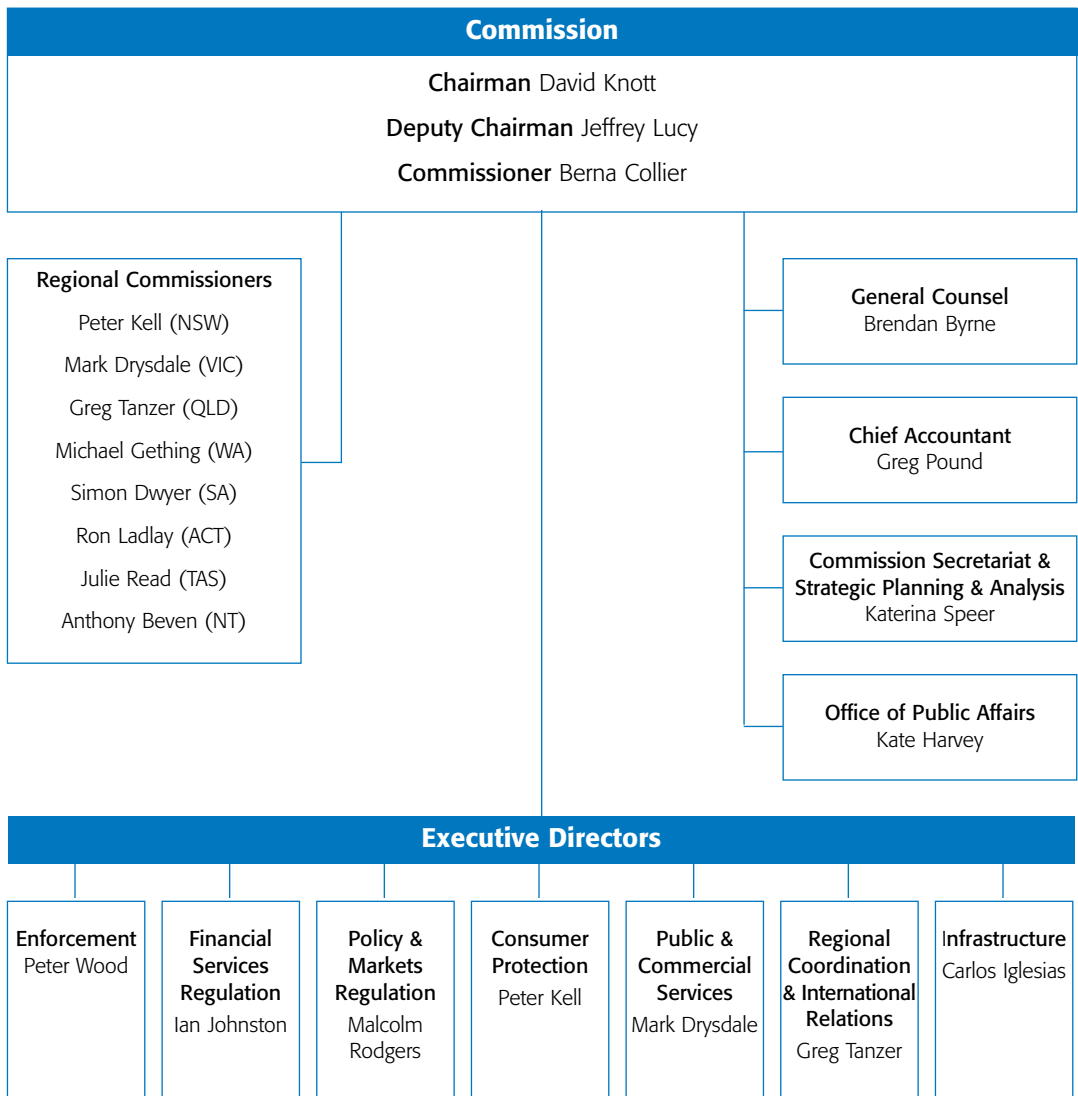
ASIC's outputs in 2002–03 cost \$172.6 million, up from \$159.9 million. The increase reflected the cost of new financial services reform and enforcement activities.

Output*	Cost
1 Policy and guidance about laws administered by ASIC	\$9.7m
2 Comprehensive and accurate information on companies and corporate activity	\$46.1m
3 Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity	\$47.7m
4 Enforcement activity to give effect to the laws administered by ASIC	\$69.0m
Total	\$172.6m

*Infrastructure costs are apportioned to these outputs

Employee expenses, our major outlay, increased 14% to \$96.9 million. Some 112 additional full time equivalent staff were engaged to meet our financial services reform and enforcement responsibilities. These extra staff also contributed to increased supplier expenses, excluding property costs, of \$43.6 million. Expenditure on enforcement matters and litigation also increased. Property expenses of \$18.9 million fell by \$0.9 million, a cost we continued to manage tightly by accommodating all additional staff within existing premises.

Organisation chart



Where ASIC fits in the regulatory picture

'ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection.'

In this section:

- ASIC's legislation
- who we protect
- other financial regulators

ASIC's legislation

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection under the *Australian Securities and Investments Commission Act 2001*; *Corporations Act 2001*; *Insurance Act 1973*; *Insurance (Agents and Brokers) Act 1984*; *Insurance Contracts Act 1984*; *Superannuation (Resolution of Complaints) Act 1993*; *Life Insurance Act 1995*; *Retirement Savings Accounts Act 1997*; and the *Superannuation Industry (Supervision) Act 1993*.

In brief, section 1(2) of the ASIC Act requires us to:

- uphold the law uniformly, effectively, and quickly
- promote confident and informed participation by investors and consumers in the financial system
- make information about companies and other bodies available to the public, and
- improve the performance of the financial system and entities within it.

Who does ASIC regulation protect?

We protect consumers, investors and creditors of corporations, including an estimated*:

- 15.4 million people with a deposit account

- 9.9 million investing through superannuation or annuities
- 9.5 million with credit or charge cards including debit only
- 6.1 million with a home, personal or investment loan
- 4.3 million directly owning shares
- 2.3 million having invested through a financial adviser, and
- 1.4 million investing in managed funds.

*Roy Morgan Research, 12 months to March 2003 people aged 14+

Other financial regulators

These government bodies also regulate Australia's financial system and financial services:

- Australian Prudential Regulation Authority (APRA) regulates prudential standards for deposit taking institutions, insurance companies, and larger superannuation funds designed to ensure, under all reasonable circumstances, that they meet their financial promises
- State and Territory fair trading or consumer affairs agencies regulate consumer credit under the Uniform Consumer Credit Code, and
- Reserve Bank of Australia (RBA) regulates monetary policy and the stability of the financial system.

ASIC cooperated with these bodies through consultation at senior level and regular contact by operational and policy staff.

Who we regulate

How we regulate them

<p>1.3 million companies.</p>	<p>Register each company with a unique number, and record the number, name, directors and other information on a public register.</p> <p>Investigate and act against misconduct by company directors and officers.</p> <p>Grant or refuse requests for relief from the law.</p> <p>Receive prospectuses before money is raised.</p> <p>Uphold the law on financial reporting and company mergers and acquisitions.</p>
<p>7,025 company auditors, 832 registered liquidators and 363 official liquidators.</p>	<p>Register them before they start operating.</p> <p>Investigate and act against misconduct.</p>
<p>5 financial markets authorised by the Minister, including:</p> <ul style="list-style-type: none"> • Australian Stock Exchange Ltd (ASX) • Sydney Futures Exchange Ltd. 	<p>Investigate and act against misconduct by listed companies, brokers and traders.</p> <p>Assess and report to the Minister on market supervisory arrangements.</p> <p>Advise the Minister about rule changes and whether to approve new markets.</p> <p>Monitor what ASX does as a listed company, and trading in its shares.</p>
<p>3,899 financial services businesses regulated by ASIC, including:</p> <ul style="list-style-type: none"> • fund managers • stockbrokers • financial advisers • insurance brokers. 	<p>License or register them before they start operating.</p> <p>Set standards for education, training and operations.</p> <p>Investigate and act against misconduct.</p> <p>Record their details and their authorised representatives on a public register.</p>
<p>3,487 managed investment schemes, registered by ASIC.</p>	<p>Register them before they start operating.</p> <p>Investigate and act against misconduct.</p> <p>Record their details on a public register.</p>
<p>APRA regulated financial services businesses, including:</p> <ul style="list-style-type: none"> • banks and deposit taking institutions • superannuation funds • life and general insurance companies. 	<p>Report on how they comply with codes of practice.</p> <p>Approve consumer complaint resolution schemes.</p> <p>Investigate and act against misconduct affecting consumers or misconduct as corporations.</p> <p>Cooperate with APRA.</p>
<p>Credit providers operating under State and Territory laws.</p>	<p>Investigate and act against misleading and deceptive conduct affecting consumers.</p> <p>Cooperate with State and Territory regulators.</p>

Description of ASIC directorates

	Enforcement	Financial services regulation	Markets regulation & policy
Staff†	336 staff	178 staff	125 staff
Role	Investigate and act against misconduct.	Regulate financial advice and retail financial products.	Regulate markets, fundraising, takeovers and financial reporting; develop policy.
Key events	HHH Royal Commission referred matters to ASIC for possible prosecution.	Industry transition to financial services reform started slowly.	Government foreshadowed stricter rules for company directors and new ASIC powers.
Results	<p>29 people gaoled for 84 years; 16 directors banned; 39 banned from financial services.</p> <p>Successful proceedings on insolvent trading, directors' duties, insider trading.</p> <p>Acted against 43 illegal schemes involving more than \$200 million.</p>	<p>Issued 604 financial services licences.</p> <p>Boosted compliance checks, producing corrective action.</p> <p>Worked to rationalise presentation of fees and charges in offer documents.</p>	<p>Reviewed 1,225 listed company accounts to combat accounting abuses.</p> <p>Inspected market operators and clearing houses and reported to the Minister.</p> <p>Guided industry on financial services reform, and cross border regulation.</p>
Targets for next 2 years	<p>Manage high profile cases and achieve successful outcomes.</p> <p>Seek more flexible enforcement remedies.</p> <p>Act against misleading conduct affecting consumers.</p>	<p>Manage a challenging transition for financial services reform.</p> <p>Achieve consistent industry regulation and consumer protection.</p> <p>Use licensing and surveillance to raise industry standards.</p>	<p>Encourage a culture of disclosure and strengthen corporate governance.</p> <p>Increase transparency and accountability in our markets.</p> <p>Participate in and influence international standard setting.</p>

* The work of these directorates received substantial support from other directorates.

† Full time equivalents, not including 34 staff supporting the Commission, General Counsel, Chief Accountant, and 35 staff supporting the Superannuation Complaints Tribunal and other statutory bodies.

‡ Includes 21 full time graduates working for other directorates.

Consumer protection*	International relations & regional coordination*	Public & commercial services	Infrastructure
25 staff	12 staff	366 staff	285 staff†
Identify and act on consumer issues, approve complaints schemes, review codes of practice.	Coordinate international matters, State and Territory offices.	Maintain company data, assess complaints, answer inquiries, sell imaging services.	IT and knowledge management, HR, finance, management services.
Expert assessment of consumers' financial plans issued a wake up call to the industry.	World financial regulators sought more consistent global standards.	Parliament simplified requirements for updating company information.	Government approved additional special purpose funding.
875,000 visits to our consumer website, up 79%. 270,000 consumer publications distributed.	Assisted HIH and One.Tel investigations and promoted faster cross border exchange of information.	Implemented easier ways for small companies to update information and pay fees.	Obtained increased Government funding for special projects.
Mortgage brokers report began reform process to protect consumers.	Contributed to international principles for disclosure, audit and auditor independence.	Total use of our databases jumped 20% to 11 million searches.	Reunited more people with their unclaimed money through new search engine.
ASIC called for a financial literacy organisation to boost financial education in schools.	Maintained service levels in all States and Territories.	9,292 public complaints about misconduct, up 19%. Resolved 66%.	Initiated program to share information, supported by a new Certified Agreement.
Promote public awareness of domestic and international scams and fraud.	Work on international standards of disclosure, audit, clearing and settlement.	Implement law reform affecting small companies.	Develop and implement knowledge management strategies.
Help consumers make more informed decisions about superannuation.	Improve international enforcement capacity.	Implement campaign to reduce insolvent trading.	Implement strategies to manage staff retention and development.
Establish an independent, cross sector financial literacy organisation.	Maintain service levels in all States and Territories.	Further improve access to Australia's corporate database.	Increase internal efficiencies and accountability for costs.



David Knott
LLB

ASIC Chairman from November 2000 for a 5 year term. (In August 2003, he announced his intention to retire at the end of 2003).

David Knott is a lawyer and Fellow of the Australian Institute of Company Directors. In 2002, he was elected Chairman of the Technical Committee of the International Organisation of Securities Commissions. Member: Companies and Markets Advisory Committee, Council of Financial Regulators, Australian Crime Commission. Previously ASIC Deputy Chairman from July 1999.

His career covers 13 years in private legal practice, specialising in company and commercial law, 10 years in senior roles in investment banking, and 9 years in the public sector. He has been a partner at Arthur Robinson and Co, Senior Executive Director Capel Court, Executive Director of the Australian Financial Institutions Commission, Chief Executive of Commonwealth Funds Management and Chief Operating Officer of APRA.



Jeffrey Lucy, AM
FCA

ASIC Deputy Chairman from February 2003 for a 3 year term.

Jeffrey Lucy is a Chartered Accountant and a Fellow of the Institute of Chartered Accountants in Australia, the National Institute of Accountants, and the Australian Institute of Company Directors. He was most recently the Chairman of the Financial Reporting Council and head of Lucy Consulting.

He is a former member of the Business Regulation Advisory Group, a former National President of the Institute of Chartered Accountants in Australia, and a former Managing Partner of PricewaterhouseCoopers, Adelaide. He was made a Member of the Order of Australia for his contribution to the accounting profession and to the business sector as an adviser on corporate and taxation reform.

**Berna Collier**

BA, LLB (Hons)(Qld), LLM (Melb)

ASIC Commissioner from November 2001 for a 3 year term.

Professor Berna Collier is a lawyer and a member of the Insolvency, the Company Law and the Banking and Finance Committees of the Law Council of Australia. She serves on the Advisory Board of Axiss Australia, and was ASIC's nominee on the APRA board until 30 June 2003.

She has worked in and written extensively about commercial and insolvency law for 15 years. Professor Collier was most recently Professor of Commercial Law at the Queensland University of Technology and an educational consultant with CPA Australia. She previously practised law in Melbourne and Brisbane. During 1999 and 2000, Professor Collier chaired the Commonwealth Government's Taskforce on Industry Self-Regulation.

**Ian Johnston**

Acting Commissioner from July 2002 until February 2003.

Ian Johnston is a lawyer and ASIC's Executive Director, Financial Services Regulation. He previously served in other senior ASIC roles, and has been a company director in the financial services sector and CEO of a major trustee company. The Treasurer appointed him to serve as Acting Commissioner until the appointment of Deputy Chairman Jeffrey Lucy.

ASIC governance, ethics and audit

'All ASIC staff must comply with the Australian Public Service Code of Conduct.'

In this section:

- governance and the role of Ministers
- ethics
- audit

Governance

Three full time Commissioners directed ASIC's affairs. Full time membership:

- enabled Commissioners to monitor and direct ASIC's complex and wide ranging activities, and
- avoided conflicts of interest that might otherwise affect part time Commissioners still active in business, law or accounting.

The Commission held 17 formal meetings to consider and set goals and strategy, including ASIC's strategic plan (page 8) and directorate business plans. Meetings also reviewed operational, financial and Audit Committee reports, and discussed key issues affecting human resources, governance and delegations.

Commissioner	Eligible to attend	Attended
David Knott	17	17
Jeffrey Lucy	6	6
Berna Collier	17	15
Ian Johnston (acting)	10	10

Independent legal and accounting experts advised on specific matters. Where necessary, an individual Commissioner may obtain independent legal advice at ASIC expense.

ASIC's Executive Committee, the senior management forum of Commissioners and Executive Directors of our 7 operating Directorates, met monthly to discuss current and emerging issues, to plan and make policy across the organisation, and to maintain high level communications.

Commissioners' appointment and remuneration

The Governor-General, on the nomination of the Treasurer, appointed Chairman David Knott in November 2000, Deputy Chairman Jeffrey Lucy in February 2003 and Professor Berna Collier in November 2001 on fixed terms that may be terminated earlier only for reasons set out in section 111 of the ASIC Act.

The Treasurer may nominate as Commissioners only people who are qualified by knowledge or experience in business, administration of companies, financial markets, financial products and financial services, law, economics or accounting.

The Remuneration Tribunal set Commissioners' remuneration; see also page 99.

Reporting to Parliament

ASIC reported to Parliament through its annual report, replies to Parliamentary questions and inquiries on behalf of constituents, and 12 appearances before 5 Commonwealth Parliamentary Committees: Joint Committee on Corporations & Financial Services (5); Joint Committee of Public Accounts & Audit (1); Senate Committee on Economics (4); Senate Select Committee on Superannuation (1); House of Representatives Committee on Environment & Heritage (1).

Role of the responsible Minister

The Ministers responsible for ASIC are the Treasurer, the Hon Peter Costello MP and, in matters determined by him, the Parliamentary Secretary to the Treasurer, Senator the Hon Ian Campbell.

Under the ASIC Act, the Minister nominates Commission members for appointment by the Governor-General. Commissioners reported formally to the Minister through their annual report of operations, briefings, submissions and meetings with the Treasurer or Parliamentary Secretary. ASIC also briefed the Treasury about current issues and proposed changes to the law.

ASIC's legislation permits the Minister formally to direct ASIC in specific circumstances. Consistent with Ministerial practice across most statutory authorities, such powers have been exercised rarely.

Under section 12 of the ASIC Act, the responsible Minister may direct ASIC about policies and priorities in using our powers or performing our functions, but may not direct us about a particular case. Only one such general direction has been given, in September 1992, about collaboration and consultation between ASIC and the Director of Public Prosecutions in the investigation and prosecution of serious corporate wrongdoing.

Under section 137, the Minister must approve contracts exceeding \$1 million (recently raised from \$250,000) and leases of land exceeding 10 years.

Under section 28 of the Commonwealth Authorities and Companies Act, the Minister may also notify Commissioners in writing of general policies of the Commonwealth

Government that will apply to ASIC. No such notifications have been received. However, as with other agencies, Commonwealth Ministers and Departmental Secretaries from time to time asked ASIC to conform to Government policies affecting our general administration, for example, staff employment practices.

Relationship with the States

The Commonwealth assumed responsibility for corporate regulation from the States in 1991. The relationship between the Commonwealth, States and Northern Territory in corporate regulation is governed by the Corporations Agreement 2002.

Under that agreement, the Commonwealth consults the Ministerial Council for Corporations (MINCO), comprising Commonwealth, State and Northern Territory Ministers in appointing ASIC Commissioners, and ASIC must:

- consult the relevant State or Northern Territory Minister in appointing Regional Commissioners
- maintain certain minimum service levels in each State and the Northern Territory
- maintain offices in each State capital and Darwin, and
- maintain regional liaison committees in each State and the Northern Territory to consult the local business community, and use our best endeavours to have a Commission member present at every meeting, see page 22.

ASIC attended MINCO as an observer and to answer questions about the administration of the corporations legislation.

Ethics

All ASIC staff must uphold the Australian Public Service Values and comply with the Australian Public Service Code of Conduct as set out in the *Public Service Act 1999*. The values and code require impartiality, honesty, diligence and service.

In addition, formal procedures require disclosure of any real or apparent conflict of interest. Commissioners and staff are required to take no part in decisions where real or apparent conflicts of interest may arise. We set up special reporting and decision making procedures to maintain the integrity of our decisions.

The Chairman and Commissioners disclosed to the Minister all direct or indirect pecuniary interests in businesses, companies, or financial products regulated by ASIC.

Staff were required to keep registers of interests that supervisors may inspect at any time. Commissioners appointed senior disclosure officers to advise managers and staff on how to handle possible conflicts.

Investigating complaints about staff

As our staff have significant public responsibilities, we have maintained internal procedures for investigating complaints about how they carry out those responsibilities.

During this financial year, ASIC completed inquiries into 8 substantive complaints. Four inquiries remain on foot. In one of the 8 completed inquiries, the complaint was found to be substantiated. That complaint related to the standard of service provided to a member of the public.

Complaints about the way in which ASIC administers its powers may also be made to, and investigated by, the Commonwealth Ombudsman.

Disclosure

To operate transparently, while protecting confidential information, ASIC:

- observed the requirements of the *Freedom of Information Act 1982*, see page 63.
- met high standards of disclosure through our annual report, see page 2
- published up to date information on our websites, and through the *ASIC Digest* and other publications, see page 63, and
- issued media releases, subject to written guidelines, about enforcement and regulatory issues, while respecting the rights of people subject to investigation or administrative action.

Fraud control

ASIC reviewed its fraud risks and implemented the strategies outlined in its 2001–03 fraud control plan. The plan outlines strategies and processes to avoid, detect, investigate and minimise the effects of fraud. We maintained reporting and data collection mechanisms that met our needs and complied with Commonwealth Fraud Control Guidelines.

Indemnity and insurance policies

Consistent with the Commonwealth Authorities and Companies Act, ASIC:

- paid a premium of \$47,025 for directors and officers' insurance (including employment practices insurance), which

covered all current and former Commission members and ASIC staff members for liabilities, including legal costs, incurred by them in the performance of their duties, and

- provided indemnities to Commission members for liabilities, including legal costs, incurred by them in the course of their duties.

Audit

The Commonwealth Auditor-General audited ASIC's financial statements, see page 68.

The Commission's Audit Committee examined internal and external audit matters and risk assessment, see page 62. The majority of members are independent of ASIC, including the Chair, Ms Merran Kelsall, who is a senior chartered accountant and company director in private practice. The Committee's charter conforms with Australian National Audit Office and Australian Institute of Company Directors guidelines.

Community involvement

'Senior ASIC staff gave more than 300 presentations to an estimated 21,000 people.'

Presenting ASIC to the community

Senior ASIC staff gave more than 300 presentations to an estimated 21,000 people from the markets, financial services industry, companies, government agencies and consumer groups about how to comply with the law and how the law protects users of financial markets, products and advice.

Consulting regions and business

To ensure that we understood specific needs in all the States and Territories, we convened liaison committees representing the business community in each State and Territory. Each committee met about 4 times, received information on our performance and service, and offered ideas. A Commissioner usually attended these meetings.

To build support for compliance and good practice, we met regularly with some 18 peak industry and professional associations, and consulted other organisations, companies and professionals on proposed policies. We helped thousands of company office holders and professionals over the phone.

Supporting a consumer voice

We funded a 10 member Consumer Advisory Panel, including consumer and

investor advocates experienced in financial services and an independent Chair. It recommended research, alerted us to issues and commented on policy affecting investors and consumers. Read the Panel's report on page 44. We also consulted other investor and consumer organisations.

Building relationships

ASIC's ninth Summer School brought together 24 speakers and 77 participants from overseas and Australia selected from industry, the professions, government, regulators and our own staff. The theme, 'Borderless boards – a changing global paradigm in ethics and governance', focused on recent Australian and international developments.

Supporting professional standards

To encourage professional education in the financial industry, we sponsored prizes for two Securities Institute courses: Financial Markets Law, Regulation and Compliance, and Financial Advising Essentials. We also sponsored the Australian Securities and Investments Commission Prize for Proficiency in Corporate Law at the University of Sydney, and the ASIC prize in Corporate Law at the University of Wollongong.