

The **Allen Consulting** Group

ASIC Stakeholder Survey 2010

December 2010

Report to the Australian Securities and Investments Commission

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Suggested citation for this report:

Allen Consulting Group 2010, *ASIC Stakeholder Survey 2010*, Report to the Australian Securities and Investments Commission.

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Chapter 1

This study in context

1.1 This study

Background

The Australian Securities and Investments Commission (ASIC) commissioned this study in order to obtain an independent reading of the views of its external stakeholders about ASIC and its performance. The Allen Consulting Group (ACG) was engaged to consult with stakeholders, learn their views and report on this.

As the financial services regulator, ASIC has many responsibilities and functions. Reflecting its role, ASIC has a wide range of stakeholders and there are a large number of people in each stakeholder group. For the purposes of the study, the range of stakeholders has been divided into five broad categories, shown in Box 1.1. This study sought stakeholder views on the following:

- how they currently perceive ASIC and its performance;
- the current environment in which ASIC operates; and
- what they expect of ASIC in the future (3 to 5 year horizon).

Methodology

A number of approaches were adopted to engage with the large number and broad range of stakeholders and to discern their views. These approaches fell into two main categories:

- a quantitative survey — using quantitative analysis of information obtained from samples of the stakeholder population; and
- a qualitative survey — involving stakeholder consultations and structured conversations with a broad range of industry and community bodies to identify issues, themes and comments about ASIC, its services, priorities and outcomes and to explore further issues that may be apparent from the broader quantitative survey.

ASIC's responsibilities and activities have recently expanded. From 1 July 2010, ASIC took over the regulation of consumer credit and finance broking under the *National Consumer Credit Protection Act 2009 (National Credit Act)*. From August 2010, ASIC assumed responsibility for the supervision of Australian financial markets. This was taken into account when framing the scope of the survey and when consulting stakeholders.

The ASIC Stakeholder Survey 2010 (the 2010 survey) was in the field for four weeks from 8 September 2010 to 7 October 2010. Complete responses were received from 1551 respondents, generating small relative standard errors and allowing for meaningful, statistically significant comparisons across respondent cohorts. The responses received also demonstrated good representation across the frequency and ways in which respondents interacted with ASIC, where they were located, and what sorts of financial products they owned.

Appendix A contains information about the survey design, the nature of the respondents and their interactions with ASIC, and the administration of the survey itself.

Interpretation of results

The survey contained the following four types of questions:

- stakeholders' views on how ASIC has performed against specific areas of its mandate over the last two years (with a five-point response scale ranging from 'very poor' to 'very well');
- how much stakeholders agreed or disagreed about statements on the performance of the market, players in the market and ASIC's performance (with a five-point response scale ranging from 'very poor' to 'very well');
- whether stakeholders had used or interacted with operational areas within ASIC (with a two-point response scale ranging from 'yes' to 'no'); and
- questions seeking information about the respondent, such as the nature and frequency of their interactions with ASIC.

Responses to questions with a five-point scale have been indexed to a mean score out of 100. A score of 100 indicates that on average, the sample strongly agreed with a statement or felt that ASIC had performed 'very well', a score of 75 indicates agreement or that ASIC performed 'well', 50 is 'neutral', 25 is 'disagree' or 'poorly' and 0 is 'strongly disagree' or 'very poorly'. Since respondents were not given an opportunity to select a 'not applicable' or a 'don't know' response, some respondents selected 'neutral' rather than skipping over questions where they had no opinion.

In addition to the mean scores, this report presents the proportion of the sample that selected each response, simplified to a three-point scale. That is, the proportions that 'strongly agree' (very well) and 'agree' (well) are interpreted as the proportion that 'agree' (well), the proportions that 'strongly disagree' (very poorly) and 'disagree' (poorly) are interpreted as the proportion that 'disagree' (poorly), and the rest are 'neutral'. More information about the survey and how its results have been reported is shown in Appendix A. The charts in this report will show bar charts with the distribution of responses and the index scores reported in brackets.

Throughout this report, stakeholder views have been reported and quoted. ACG has not been commissioned to assess the accuracy or the validity of their views or comments. The important aspect of these quotes, however, is that they reflect the views of some or many stakeholders and ACG has sought where feasible to reflect them as clearly as they were reflected to ACG. The identity of stakeholders who have provided comments has not been disclosed throughout the report, and stakeholders were advised that ACG would not disclose the identities of stakeholders who made comments. This has allowed people to be more comfortable in sharing frank views.

Box 1.1

THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**Introducing ASIC**

ASIC is Australia's corporate, markets and financial services regulator. ASIC contributes to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers.

ASIC is an independent Commonwealth Government body. It has been set up and is administered under the *Australian Securities and Investments Commission Act 2001* (ASIC Act), and it carries out most of its work under the *Corporations Act 2001*.

Together with other regulators including the Australian Prudential Regulation Authority, the Australian Tax Office, and the Australian Competition and Consumer Commission, ASIC regulates the activities of Australian companies, financial markets, and financial services organisations and professionals.

Section one of the ASIC Act requires ASIC to:

- maintain, facilitate and improve the performance of the financial system and entities in it;
- promote confident and informed participation by investors and consumers in the financial system;
- administer the law effectively and with minimal procedural requirements;
- enforce and give effect to the law;
- receive, process and store, efficiently and quickly, information that is given to ASIC; and
- make information about companies and other bodies available to the public as soon as practicable.

Strategic review

ASIC undertook a Strategic Review of its operations in 2008, with an announcement of the results in May 2008 and a restructure that was completed by September 2008. A major outcome of the Strategic Review and subsequent restructure was the articulation of the following strategic priorities for ASIC:

- assisting retail investors and consumers protecting retail investors and consumers;
- building confidence in the integrity of Australia's capital markets;
- facilitating international capital flows and enforcement;
- lifting operational effectiveness and service levels;
- reducing costs for business by using new technologies; and
- managing the domestic and international implications of global financial turbulence.

In seeking to meet these priorities, ASIC also undertook to make the following changes:

- additional investment in market research and analysis;
- the appointment of an experienced External Advisory Panel, drawn from a variety of sectors of the economy, to advise ASIC's Commission on market developments and potential systemic issues;
- abolition of the four 'silo' directorates of ASIC and their replacement with 20 outwardly focused stakeholder and deterrence teams covering the financial economy;
- additional resources directed to the supervision of brokers and intermediaries, to providers of exchange-traded products and to surveillance of exchange-traded markets; and
- a better balance between national and regional initiatives, including greater resources in the burgeoning Western Australian market.

ASIC's stakeholders

ASIC's external stakeholders fall into 5 broad groupings:

- people and entities regulated by ASIC, and industry bodies representing them;
- users of the services provided by ASIC's public information program;
- investors and consumers of financial services, and bodies representing consumer interests;
- those who advise people and entities ASIC regulates (such as legal or accounting advisers); and
- government and government agencies that interact with ASIC.

1.2 The market context and regulatory responses

It is difficult to look at the capital market and the performance of market regulators over recent years without considering the dramatic impact of and substantive regulatory response to the Global Financial Crisis (GFC) — shown in Figure 1.1.

The foreign origins and impact of the GFC on Australia

The leverage ratios of US major commercial and investment banks steadily increased between 2004 and 2007. Increasing leverage in the American banking system, particularly in sub-prime lending, created the conditions that would precipitate the GFC.

US residential property prices began to weaken from 2006 and problems spread through the riskier end of the US financial sector. However, global stock markets remained firm for a time, peaking in the second half of 2007.

The immediate impact in Australia of the US downturn was slight. The Australian stock market did not peak until November 2007, confidence persisted and policy interest rates continued to be raised or held firm until August 2008, even while the stock market moved sideways or down.

The global situation deteriorated sharply in 2008, with the problems spreading to Europe through European banks' investments in US securities. A weakened Bear Stearns was taken over by JP Morgan in March 2008. Concerns over Fannie Mae and Freddie Mac, US Government Sponsored Enterprises (GSEs) important for securitisation, increased in mid-2008.

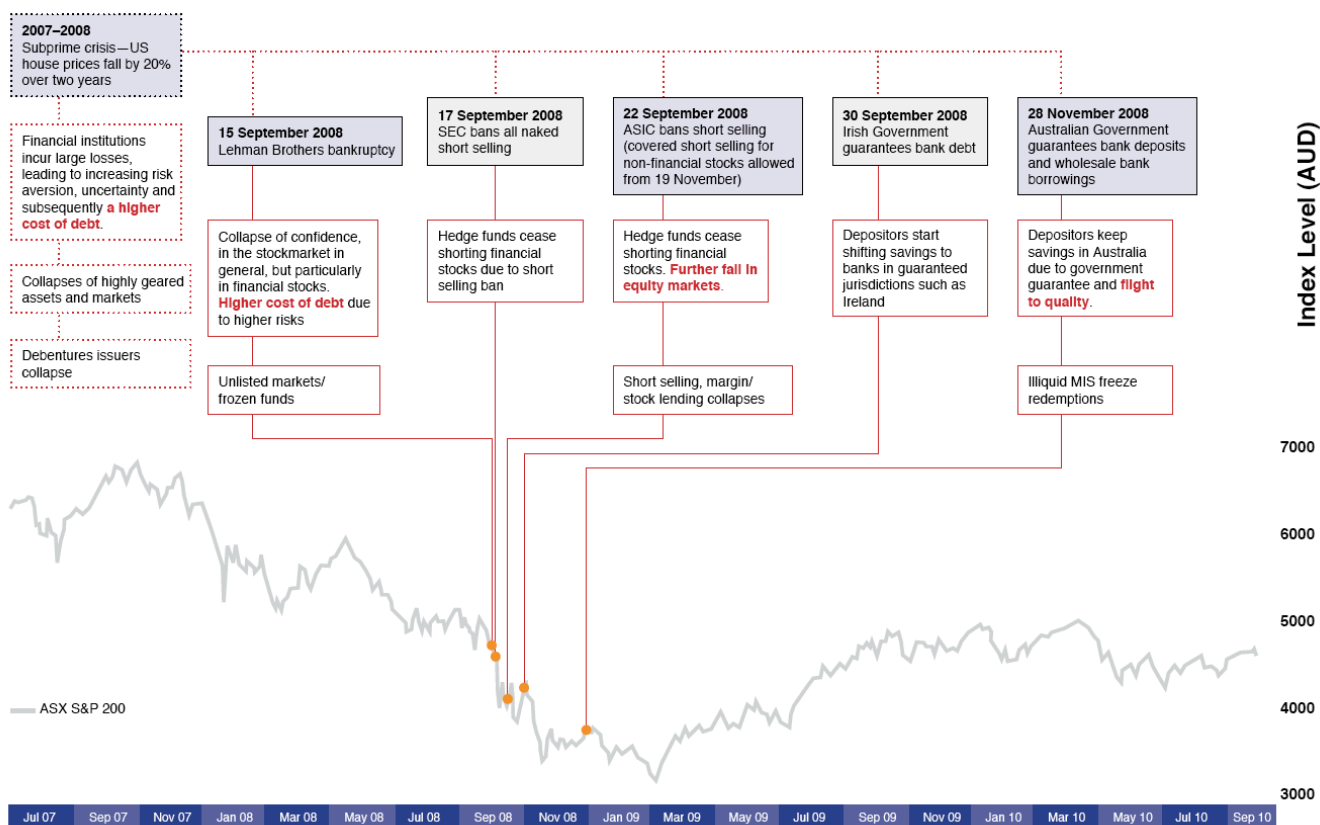
A much bigger shock came when Lehman Brothers filed for Chapter 11 bankruptcy protection on 15 September 2008, AIG (American International Group) had to be rescued after incurring extensive losses on credit default swaps (CDSs) on collateralised debt obligations (CDOs) and a prominent money market fund 'broke the buck', a sign of catastrophic problems in money markets.¹ Confidence collapsed in US and other investment banks. Merrill Lynch was sold in a fire sale, and Goldman Sachs and Morgan Stanley both converted into commercial banks, subject to stricter regulation and able to access a stronger safety net.

The US and other authorities then responded with progressively stronger actions to prevent further deterioration in confidence and to restore the functions of the financial sector. Despite these actions, the availability of credit became constrained throughout the US and global banking systems and in capital markets. The value of shares in many markets fell reflecting a general loss of confidence as the outlook for the global economy was revised sharply downwards.

¹ Investing in a money market fund is a low-risk, low-return investment in a pool of secure, liquid, short-term debt instruments which plays a key role in capital markets. Money market funds seek to keep their net asset value (NAV) at \$1. This 'one-buck' NAV baseline gives rise to the phrase 'break the buck', meaning that if the value falls below the \$1 NAV level, some of the original investment is gone and investors will lose money. In the history of the money market, dating back to 1971, there was only one fund that 'broke the buck' up to 2008. That was an institutional fund and in that case no individual investors lost money, and 37 years had passed up to 2008 without a single individual investor being at a loss. In 2008 however, the day after Lehman Brothers Holdings Inc. filed for bankruptcy, one money market fund fell to 97 cents after writing off the debt it owned that was issued by Lehman. This created the potential for a bank run in money markets as there was fear that more funds would break the buck. Shortly thereafter, another fund announced that it was liquidating due to redemptions, but the next day the United States Treasury announced a program to insure the holdings of publicly offered money market funds so that should a covered fund 'break the buck', investors would be protected to \$1 NAV.

Figure 1.1

THE GFC AND KEY REGULATORY RESPONSES



Source: ASX and ASIC

The impacts of the GFC were widespread and far reaching. One dimension is the impact upon share prices. This is reflected in changes in the All Ordinaries Index which fell sharply between November 2007 and March 2009.

Aspects of the Australian regulatory response

Australia was not immune from the GFC and regulatory response actions were applied on several fronts in response to each of the phases mentioned above. Key regulatory responses spanned activities to address and manage deleveraging in the corporate sector, a review of credit rating agencies, addressing issues with debentures, management of short selling, regulation of margin lending and retail leverage, liaison regarding management of the interaction of funds under management and the provision of deposit guarantees and monitoring and enforcement actions relating to hedge funds.

Excessive leverage was a community-wide phenomenon and the impacts of the GFC and the related withdrawal of financial liquidity were pervasive. The regulatory responses also had community-wide implications. A key challenge of much regulatory intervention is that while actions aim to improve the overall integrity and efficiency of markets, not every investor or consumer is directly advantaged and sometimes challenges arise where the impact of intervention has been to restrain some parties in the interests of making improvements for the greater community or public interest. This has many implications when consulting individuals and stakeholders about the performance of regulators.

The GFC has not been fully resolved. Market analysts note, however, that dealing with the weaknesses emphasised by the GFC may now also be accompanied in Australia with challenges in coping with emerging issues such as the strength of the mining boom. It is likely that the GFC highlights the importance of dealing with challenges ahead and also taking into account a community-wide view in resolving these.

Chapter 2

2010 survey results — outcomes

This chapter presents stakeholder views on the outcomes of ASIC’s performance and the overall results of the ASIC Stakeholder Survey 2010.

“All of the Australian regulators have responded well to the GFC — in particular APRA, the RBA and Treasury have been heavily involved in GFC decisions. The Australian regulators as a whole performed pretty well and Australia is generally recognised around the world as having managed the GFC in a very effective way.”

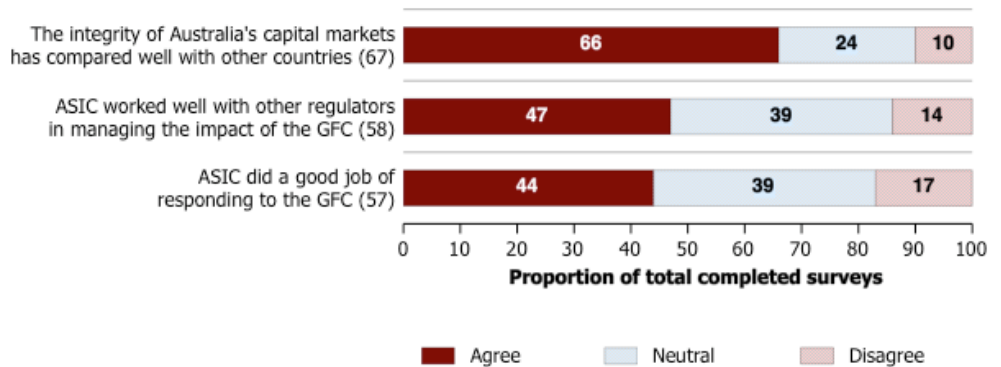
2.1 Managing the GFC

Stakeholders are positive in their assessment about the performance of Australia’s capital markets and ASIC’s efforts to manage the domestic and international implications of the global financial turmoil. Key results are shown in Figure 2.1, with a simplified presentation of the proportion of stakeholders who agree, disagree or are neutral. The average scores out of 100 are shown in brackets next to the question, while the bars show the distribution of stakeholders’ views. In summary, Figure 2.1 shows that stakeholders view:

- the integrity of Australia’s capital markets has compared well with other countries, with a weighted average score of 67;
- ASIC worked well with other regulators in managing the impact of the GFC, with a weighted average score of 58; and
- ASIC did a good job of responding to the GFC, with a weighted average score of 57.

Figure 2.1

AUSTRALIA AND ASIC’S MANAGEMENT OF THE GFC



“When things are going well, they’re criticised for enforcing too much. When there’s a crisis, they’re criticised for not doing enough. It’s a major challenge for ASIC and other regulators.”

Source: ASIC Stakeholder Survey 2010

In addition to showing that stakeholders are confident in Australia’s capital markets, the positive scores reported in Figure 2.1 indicate that they attribute part of this to the efforts of ASIC.

Post-survey consultations with industry and consumer representative bodies support the survey results about ASIC and the management of the GFC. In general, the individual stakeholder consultations provided a stronger endorsement of Australia's financial performance and regulatory action than the wider survey instrument results. Many industry bodies commented that ASIC had responded quickly and shown good judgement in intervening to combat financial turmoil. Not all of those consulted agreed with every measure, but all of the individual stakeholders noted that Australia had fared better than most other countries and that ASIC and other regulators would be justified in viewing that their actions had contributed to the favourable difference.

“The intensity of regulation has been dialled up considerably globally and ASIC has been bringing our regulatory regime up to what is being done internationally. They are looking to understand to how things that are being done internationally can be implemented here.”

Additionally, due to strong outcomes achieved in Australia's capital and financial markets, many individual stakeholders said that they thought that ASIC (together with the Australian Prudential Regulatory Authority and the Reserve Bank of Australia) was well regarded internationally by securities regulators in other countries. Some said that as a result, ASIC was in a strong position to influence the international debate in forums such as the International Organization of Securities Commissions (IOSCO) and the Group of 20 (G20).

2.2 ASIC's performance over the last two years

Stakeholder responses to questions about ASIC's performance over the last two years confirm a broadly positive view about Australia's resilience to the GFC. Stakeholders are positive about ASIC's performance in building confidence in the integrity of Australia's capital markets (56) and in managing the domestic and international implications of the GFC (56). A relatively large proportion of respondents viewed that ASIC did well in these areas.

The survey responses suggest that stakeholders do not view that ASIC did as well in protecting retail investors over the last two years as it did in managing the GFC. Respondents provided sub-neutral scores in regard to ASIC assisting retail investors and consumers (49) and in protecting retail investors and consumers (45).

In post-survey interviews, some of the consumer representative bodies noted that consumers and retail investors may be more likely to have become pessimistic about ASIC's performance than business stakeholders over the last two years. This may be attributed to retail investors not fully understanding the risk associated with the products in which they had invested in early years (there seems to be evidence that the market as a whole was not pricing risk very well in the years prior to the GFC). One explanation for the predominantly 'more negative than average' views of consumers and retail investors, as suggested by one of the survey respondents, is that:

ASIC is in a difficult position of protecting retail investors who often do not have the knowledge or education to be aware or understand the risks of the products they are investing in. It is difficult for ASIC to balance protecting retail investors and creating a nanny state. There will always be products that are high risk, but dressed up as low risk or are promising returns that are so attractive, that those retail investors will always be at risk.

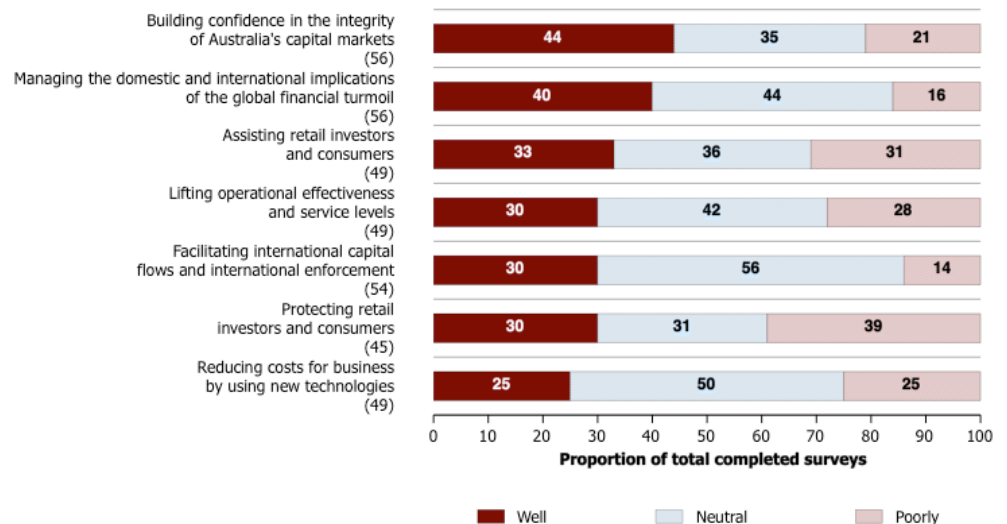
The other factor is that financial markets and their regulators have been tested by the GFC and the subsequent fall out. This has also been associated with increased activity by domestic regulators and some high profile cases against firms suspected of misconduct. As noted by industry representative groups in the post-survey interviews, some of these high profile cases have resulted in high profile failures with ASIC being unable to successfully prosecute, which again affects the perceptions of retail investors and consumers. It is likely that these sorts of factors would have affected stakeholders' views in the last two years, from when the market was at its peak.

“ASIC generally does a good job. I think you need to sell your success better.”

ASIC's performance in other key priorities was given neutral scores. This includes lifting operational effectiveness and service levels (49), facilitating international capital flows and international enforcement (54) and reducing costs for business by using new technologies (49). It is notable that a large proportion of the actual scores given in answer to these questions were neutral — in some cases half or more of the stakeholders responded with a neutral score.

Figure 2.2

PERFORMANCE ON STRATEGIC PRIORITIES OVER THE LAST TWO YEARS



Source: ASIC Stakeholder Survey 2010

“Previously the Commission was overstretched with only three Commissioners and through the internal changes some of their responsibilities were devolved down to more junior executive level. Restructuring and increasing the number of Commissioners ensured that ASIC's structure better reflected the scope of their responsibilities and allowed the Commissioners to be more closely involved in matters where they had expertise. They can now bring a deeper understanding to areas and not be spread so thinly.”

Stakeholder responses about ASIC's general performance suggest that it has done well in understanding markets. They believe that ASIC has:

- demonstrated an improved understanding of the markets and the people it regulates (52);
- been clear about what it is doing and why (51);
- compared well with other regulators in other countries that have similar responsibilities (56).

ASIC has not done as well in some areas. Stakeholder responses suggest that they are less supportive of the view that ASIC has:

- become more forward looking in examining issues and assessing risks (49);

- been good at identifying and dealing with emerging problems (44); and
- provided good value for the taxpayer dollar (45).

“Under resourced by government but still do a great job. A very effective regulator and the best we have. The government has given ASIC a very difficult brief, it is doing exceedingly well all things considered.”

When asked in individual consultations whether there were any regulatory bodies that were forward looking, or good at identifying and dealing with emerging problems, stakeholders noted that this was an extremely challenging area for ASIC. A member of one of the industry bodies consulted noted that ‘no regulator performed this function well’. There were concerns about ASIC’s ability to anticipate or identify some of the problems that might emerge in relation to the regulation of credit.

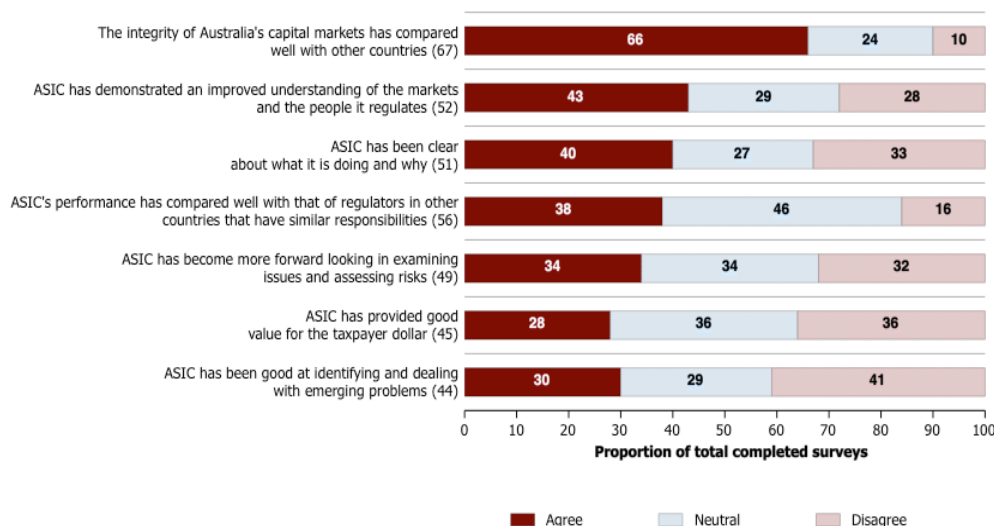
An area in which there was a significant difference between the survey results and the views of the industry and consumer bodies consulted in the post-survey interviews was with respect to whether or not ASIC had provided good value for the tax-payer dollar. Nearly every individual consulted noted the size of ASIC’s mandate and the broad scope of the activities and markets that ASIC regulates and concluded that ASIC was doing well given its current resources. With one exception, all of the individuals consulted emphasised that more funding was necessary for ASIC to be able to better communicate with consumer and retail stakeholders and to be more effective in its monitoring and enforcement activities.

“I have a concern that the ASIC is being asked to take on too many different spheres of regulation and will find itself too thinly stretched to do an adequate job in all.”

The post-survey interviews with industry groups indicated that they viewed that ASIC was held in high regard internationally. They did not indicate that ASIC’s performance had worsened following the restructure, however, they noted that stakeholder views may be more pessimistic due to perceptions and attitudes that stem from the impact of the GFC — in particular, the impact on consumers and retail investors who are strongly represented in this survey.

Figure 2.3

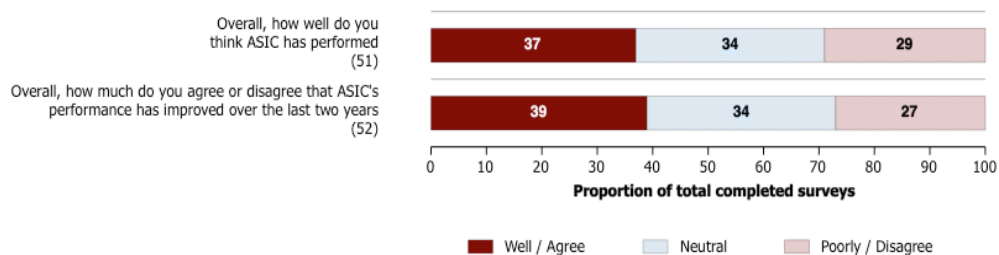
PERFORMANCE ON OTHER ASPECTS OVER THE LAST TWO YEARS



Source: ASIC Stakeholder Survey 2010

Taking an overall perspective, the majority of stakeholders believe that ASIC has performed well (51) and that ASIC’s performance has improved over the last 2 years (52).

Figure 2.4

OVERALL PERFORMANCE

Source: ASIC Stakeholder Survey 2010

“Over the last few years ASIC has certainly made significant strides to get industry knowledge into its organisation through more proactive recruitment for industry skilled people. Previously a lawyer culture dominated ASIC and consequently the people in ASIC had no real understanding of the commercial world and industry realities.”

The post-survey consultations with industry and consumer representative bodies indicated that they were generally more positive about the extent to which ASIC had improved since the restructure. Issues raised by some stakeholders included the following:

- Some stakeholders observed a ‘positive shift’ of staff expertise towards better understanding of markets and financial products and away from ‘lawyer-ly, compliance-oriented staff’ with concerns about whether or not this was sustainable, given the widely held view that it is easier to recruit ‘industry experts’ during a downturn than when the market is booming.
- Stakeholders also recognised that ASIC had made an effort towards better engagement with industry, with one representative body noting that ASIC’s consultative arrangements had made a positive shift from a ‘silos structure’ to a more cross-cutting, ‘spaghetti and meatballs’ structure.
- A few stakeholders noted that ASIC’s strategic priorities and tasks are not really defined by ASIC, because it is all part of the Australian Government’s reform agenda, which in turn is informed by international discussions in forums such as the G20 and International Organisation of Securities Commission. It is therefore necessary to consider the scope of ASIC’s task when forming a view on its performance.

2.3 Enforcement and deterrence

“Don’t not attempt a prosecution simply from fear of failure. It’s not the Australian way. Failure to take on suspected wrong doers sends the message that if you don’t play fairly you’ll probably not get caught. You must have a go at every prosecution otherwise there’s no perceived deterrent and therefore you actually enhance the problem by default! Find ways to do this more cost effectively and liaise with overseas bodies to find out how/ if they handle enforcement better.”

One of ASIC’s fundamental responsibilities is to enforce the law. A range of propositions were posed to test the views of stakeholders about ASIC’s approach. Stakeholder responses suggest that there is a lack of clarity and understanding about ASIC’s enforcement actions and what they achieve, considering that:

- Stakeholders on average disagreed with the statement that ‘ASIC concentrates too much on the small cases’ (45) while agreeing with the statements that ‘ASIC concentrates too much on high profile cases’ (58) and that ‘ASIC concentrates on easy targets for enforcement action’ (61).
- There were many responses that are essentially neutral — ‘ASIC seeks sanctions that are proportionate to the misconduct’ (50), ‘ASIC communicates clearly about why it takes action’ (47), and ‘ASIC is consistent and fair in the way it takes enforcement action’ (47).

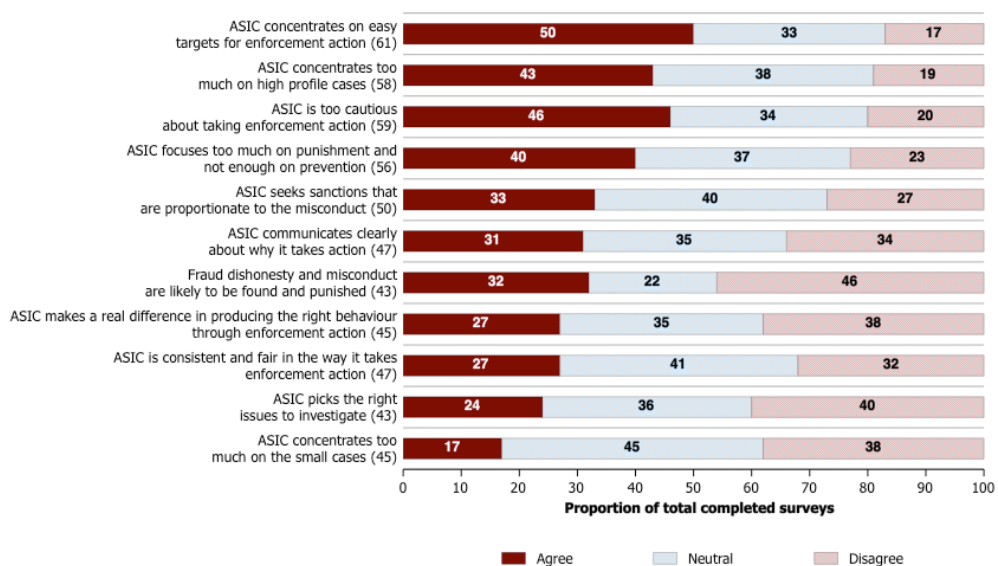
“Sometimes the wheels turn very slowly. We have for instance reported the conduct of a lender. Still nothing done and in the meantime does more damage. They also allow spurious people involved in the demise of third tier lenders to be actively involved in the industry.”

“One implication of the global turmoil has been the cost of providing disclosures and the sort of disclosures that ASIC required. People in the markets understood why it was being done and were willing to work with ASIC. But how much cost do you need to impose and how much information do you require them to disclose?”

- Propositions that attracted stakeholder agreement included ‘ASIC is too cautious about taking enforcement action’ (59) and ‘ASIC focuses too much on punishment and not enough on prevention’ (56).
- Propositions that received less support from stakeholders included ‘ASIC makes a real difference in producing the right behaviour through enforcement action’ (45), ‘fraud dishonesty and misconduct are likely to be found and punished’ (43), ‘ASIC picks the right issues to investigate’ (43).

Figure 2.5

STAKEHOLDER VIEWS ON ENFORCEMENT



Source: ASIC Stakeholder Survey 2010

The post-survey consultations with industry and consumer representative bodies reinforced mixed perspectives about enforcement. Issues that were raised included:

“Do more marketing, especially online! I may have heard of you but only in the big news cases.”

- Some stakeholders noted the fact that there had been high-profile collapses (for example, Westpoint and Opes Prime), which affected the public’s perception of ASIC — in spite of ASIC successfully prosecuting wrong doings and in some cases delivering compensation to investors. Stakeholders also pointed to some of the equally high-profile unsuccessful prosecutions (for example, Fortescue and One.Tel) and related this to the public’s perception of ASIC’s ability to successfully prosecute perceived wrongdoing. None of the stakeholders consulted in the follow-up interviews raised any specific situation in which ASIC had prosecuted successfully (for example, James Hardie), and the general perception was that ASIC needed to do more to ‘sell’ its success stories;
- Many individual stakeholders noted that enforcement action took so very long. It was noted that this is not entirely ASIC’s fault, but processes to reach a finding in Australia seemed to be much longer than in other comparable jurisdictions and delays reduced the effectiveness of enforcement, particularly as a deterrent;

“When a complaint is reported to ASIC and substantiated, crack down hard, and prosecute fast and make people actually scared of ASIC. It’s a good thing, not a bad thing, for people to be scared of ASIC!”

- A small number of stakeholders observed that ASIC seems to be reluctant to operate ‘test cases’ to obtain clarity from the courts about matters where the issues are open to interpretation;
- Some individual stakeholders mentioned a lack of clarity or feedback following complaints received through the call centre, although it was acknowledged that non-compliance that was reported through other channels (such as stakeholder or industry liaison arrangements) was dealt with quickly and appropriately;
- Concerns were voiced around resources and the quality of talent within ASIC to identify issues, deal with complaints and take enforcement action; and
- Some stakeholders noted the issues around coordination with other regulators or law enforcement agencies that made it difficult to successfully prosecute regardless of the funding available — particularly where there was a disconnect between ASIC wanting to progress a case and the Commonwealth Department of Public Prosecutions (CDPP) being reluctant to proceed. Some stakeholders asked why ASIC did not use its existing powers to prosecute without having to rely upon the CDPP.

2.4 Building confidence in the integrity of Australia’s capital markets

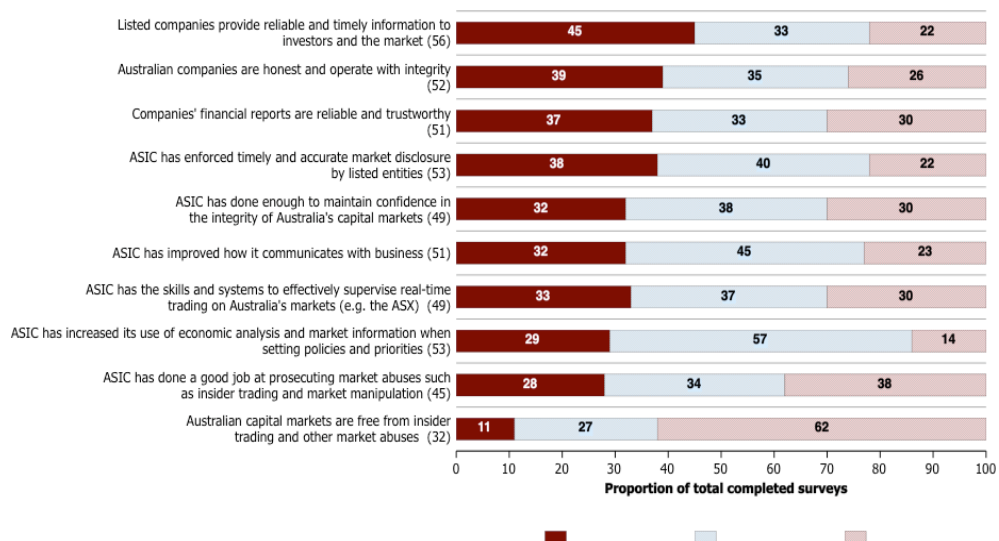
Building confidence in the integrity of Australia’s capital markets is a key priority for ASIC. Stakeholders were asked if they agree, disagree or are neutral about a number of propositions relating to the integrity of Australia’s capital markets. Responses indicate that:

- they agree or are positive-to-neutral about key indicators of market integrity, such as whether ‘listed companies provide reliable and timely information to investors and the market’ (56), ‘Australian companies are honest and operate with integrity’ (52), and ‘companies financial reports are reliable and trustworthy’ (51);
- the majority agree that ASIC is taking supportive action, with agreement for statements that ‘ASIC has enforced timely and accurate market disclosure by listed companies’ (53), ‘ASIC has improved how it communicates with business’ (51) and ‘ASIC has increased its use of economic analysis and market information when setting policies and priorities’ (53);
- stakeholders are broadly neutral regarding some statements such as ‘ASIC has done enough to maintain confidence in the integrity of Australia’s capital markets’ (49), and ‘ASIC has the skills and systems to effectively supervise real-time trading on Australia’s markets’ (49); and
- few stakeholders agree or are neutral with the statements that ‘ASIC has done a good job at prosecuting market abuses such as insider trading and market manipulation’ (45) and ‘Australian capital markets are free from insider trading and other market abuses’ (32). Effectively, looking at this mix of responses survey respondents provide a stronger acknowledgement of general market outcomes than their recognition of specific regulatory actions.

“There is already confidence in the integrity of Australia’s capital market and for ASIC it’s a matter of maintaining that confidence.”

Figure 2.6

BUILDING CONFIDENCE IN THE INTEGRITY OF AUSTRALIA'S CAPITAL MARKETS

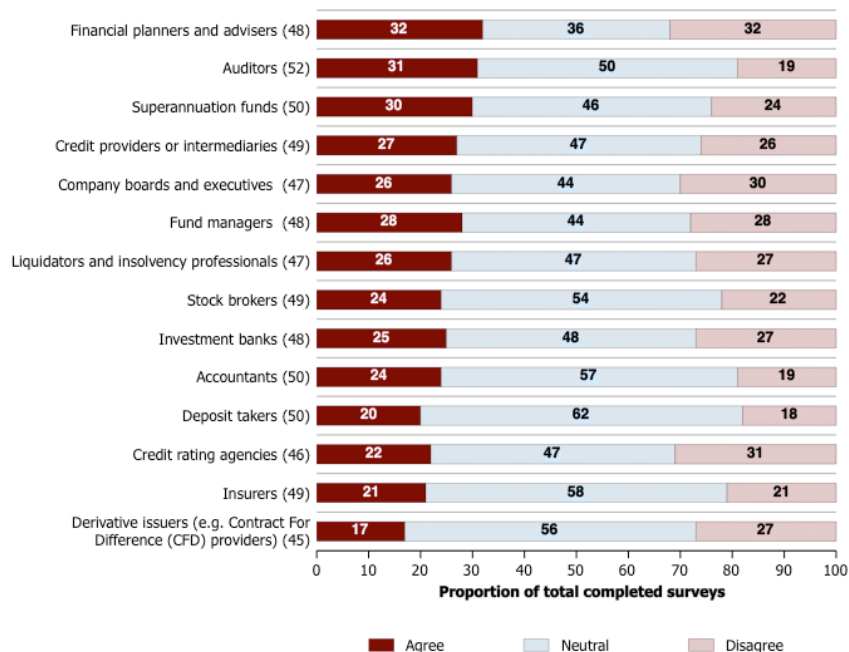


Source: ASIC Stakeholder Survey 2010

Respondents were asked their views on ASIC's oversight of a number of professions (see Figure 2.7). The results indicate that respondents were overwhelmingly neutral or uncertain of ASIC's role in this regard, with more than two-fifths selecting 'neutral' in relation to all but one of the occupations tested. Of those who either agreed or disagreed with the statement, it is not clear whether respondents were rating ASIC's oversight of these occupations (as asked) or were reporting views about the professions themselves.

Figure 2.7

VIEWS ABOUT IMPROVEMENTS IN ASIC OVERSIGHT OF KEY PROFESSIONS



Source: ASIC Stakeholder Survey 2010

“New credit laws — a big plus is the way they have engaged in relation to credit and the guidelines and things there.”

The views from the post-survey interviews were mixed as to the role ASIC played in building integrity in Australia’s capital markets, although nearly all individual stakeholders consulted noted that ASIC had significantly improved in the way in which it engaged with industry — particularly in relation to the new oversight of credit providers.

2.5 Helping consumers and retail investors

Assisting and protecting retail investors and consumers in the financial economy is a strategic priority for ASIC, and is one of the areas in which ASIC’s efforts are most visible to the broader community. Overall, stakeholders’ perceptions of ASIC’s performance in this area over the last two years are neutral to sub-neutral in most of the areas tested.

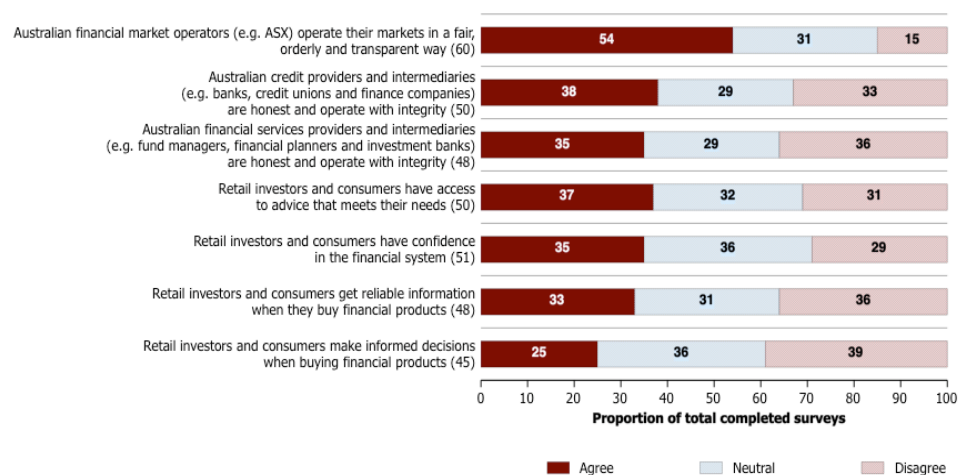
“ASIC needs a balance between protecting and assisting”.

Regarding the environment in which ASIC operates (see Figure 2.8), stakeholders:

- agree that ‘Australian financial market operators operate their markets in a fair, orderly and transparent way’ (60), with a much larger proportion of respondents agreeing with the statement (54 per cent) than disagreeing (15 per cent);
- were largely neutral about the performance of Australian credit providers and intermediaries (50), financial services providers and intermediaries (48), the extent to which retail investors and consumers have access to advice that met their needs (50) and the extent to which retail investors and consumers have confidence in the financial system (51); and
- disagreed with the statements that ‘retail investors and consumers get reliable information when they buy financial products’ (48) and that ‘retail investors and consumers make informed decisions when buying financial products’ (45).

Figure 2.8

IN HELPING CONSUMERS AND RETAIL INVESTORS, CURRENTLY...

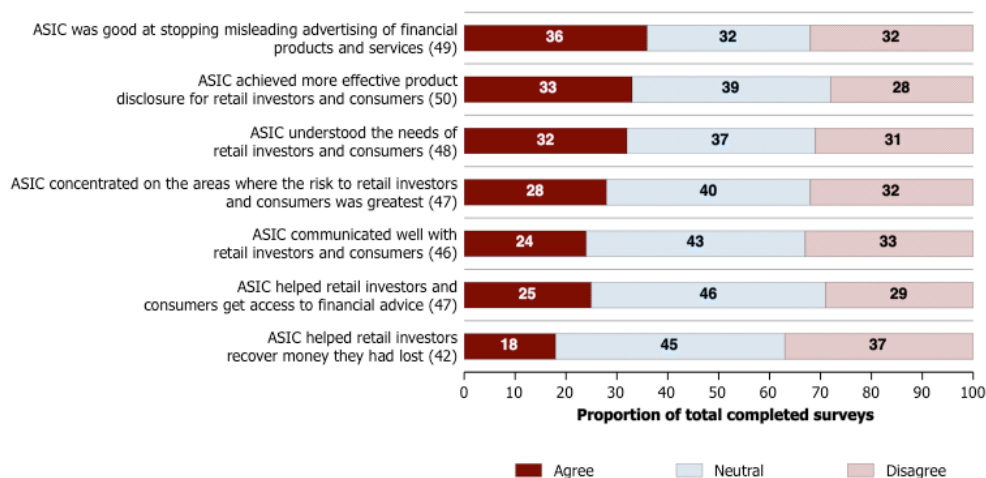


Source: ASIC Stakeholder Survey 2010

In response to the questions about ASIC directly, responses indicate that:

- Respondents agree that ASIC has done more over the last two years to help retail investors and consumers avoid financial scams (50) (see Figure 2.10) and that ASIC has achieved more effective product disclosure for retail investors and consumers (50). While the scores for the statements that ‘ASIC was good at stopping misleading advertising of financial products and services’ and ‘ASIC understood the needs of retail investors and consumers’ were slightly sub-neutral (49 and 48, respectively), a higher proportion of respondents agreed with these statements (36 per cent and 32 per cent, respectively) than disagreed (32 per cent and 31 per cent, respectively).
- Respondents were generally neutral when tested on all of the other aspects of ASIC’s performance as it related to helping retail investors and consumers, with more than two-fifths of the sample indicating a neutral response for seven out of thirteen of the statements put to them as shown in Figure 2.9 and Figure 2.10.
- A large proportion of respondents indicated disagreement with the statements that ‘ASIC has done more to help consumers and retail investors in understanding new and complex products’ (43) or that ‘ASIC helped retail investors recover money they had lost’ (42).

Figure 2.9

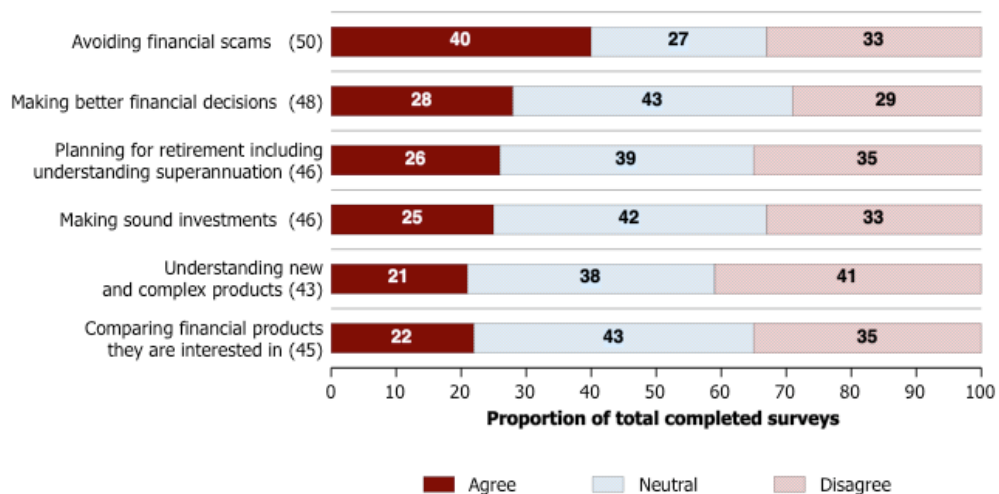
IN HELPING CONSUMERS AND RETAIL INVESTORS OVER THE LAST TWO YEARS...

Source: ASIC Stakeholder Survey 2010

“Often when there is a complaint, it’s the person who’s aggrieved not understanding their rights or what they’re entitled to.”

In post-survey consultations many individual stakeholder bodies said that they viewed that ASIC could do more to communicate with retail investors and consumers — particularly regarding financial literacy. A number of industry and consumer bodies noted that some consumers and retail investors lacked an understanding of financial products as well as an understanding of what ASIC could do. They argued that taking steps to improve consumer education could address some stakeholders’ negative perceptions of aspects of ASIC’s performance. For example, retail investors may report what they believe to be non-compliance or a wrongdoing causing significant financial loss, when in fact outcomes reflect adverse market circumstances. Where there is no wrong-doing, ASIC can take no action, which may result in frustration and disengagement by some retail investors and a neutral response to questions in the 2010 survey.

Figure 2.10

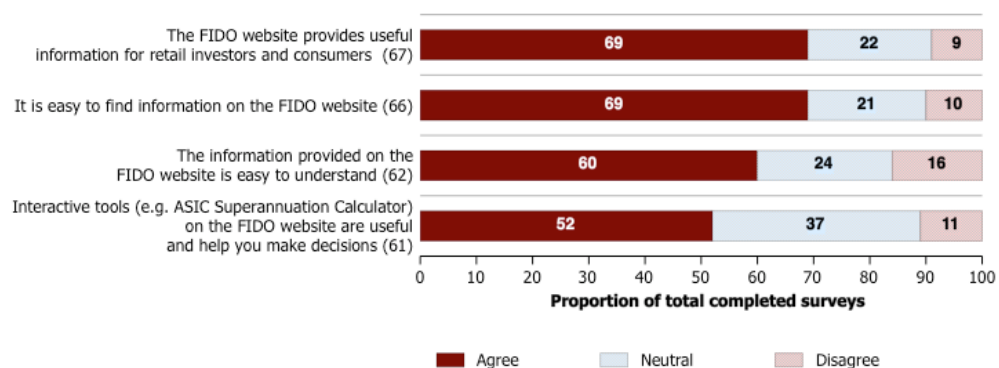
ASIC HAS DONE MORE TO HELP CONSUMERS AND RETAIL INVESTORS IN...

Source: ASIC Stakeholder Survey 2010

As shown in Figure 2.11, around 47 per cent of respondents indicated that they had used the FIDO website in the last two years. Stakeholder perceptions of the FIDO website were strongly positive with regards to whether it provides useful information (67), whether information is easy to find (66), and whether the information is easy to understand (62), and positive about the usefulness of interactive tools (61).

“Make information easily accessible to the public. Not everyone has or can operate a computer — many small time investors have been so badly hurt because ASIC did not check regularly on companies who have failed.”

Figure 2.11

STAKEHOLDER VIEWS ABOUT THE FIDO WEBSITE

Note: These questions were asked of the 734 respondents who indicated that they had used the FIDO website in the last two years.

Source: ASIC Stakeholder Survey 2010

Some of the other issues raised in the post-survey consultations include:

- Consumer and retail investor protection was recognised as a challenging area for ASIC — both in terms of actual performance and the public perception of that performance. Nearly all industry bodies consulted reflected that they viewed that ASIC had done a better job of this than their counterparts in other countries.

- Both industry and consumer bodies emphasised the need for greater engagement by ASIC with regards to financial planners and to develop standards and guidelines that ensured that financial planners acted in the best interests of their clients. Some stakeholders said that companies and products had failed despite complying with disclosure requirements and in some cases ASIC audits, pointing to the need to be more pro-active with information received.
- Demonstrating the challenges in obtaining clarity while also advancing other objectives, some stakeholders commented that they viewed that the information on the FIDO website was useful and well-presented. One stakeholder held a concern that it over-emphasised the risks — something that might discourage consumers and retail investors from participating in financial markets.

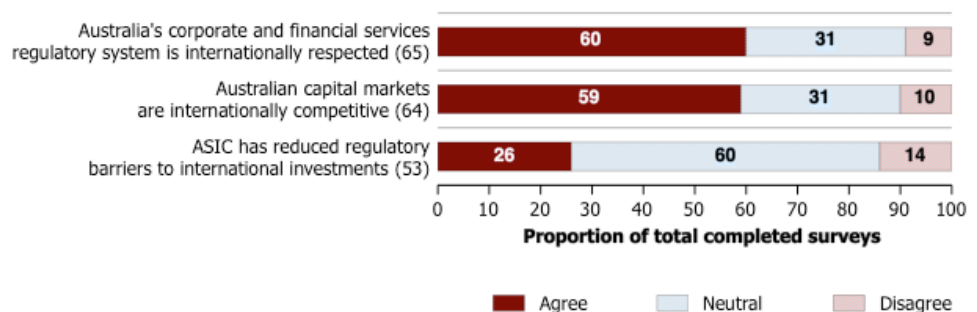
“ASIC must learn to better listen to those in the financial planning industry especially those with extensive compliance experience and not just use its liaison meetings to TALK AT THEM. Action must match the rhetoric without the spin if consumer confidence and protection is to be restored.”

2.6 Facilitating international capital flows

Overall responses to the survey indicate that respondents are strongly positive about Australia’s capital markets and how they compare against those of other countries (see Figure 2.12) with roughly 60 per cent of respondents agreeing that Australia’s regulatory system is internationally respected (65) and that Australian capital markets are internationally competitive (64). Stakeholders are overwhelmingly neutral (60 per cent) about the role that ASIC may have played in reducing regulatory barriers to international investments over the last two years (53).

Figure 2.12

FACILITATING INTERNATIONAL CAPITAL FLOWS AND INTERNATIONAL ENFORCEMENT



Source: ASIC Stakeholder Survey 2010

“Interact particularly well with regulators in other countries, and engagement with IOSCO is very strong and should continue.”

“ASIC recognises the need to work within a globalised world and to break down barriers. They’ve done a good job around that — mutual recognition work with our neighbours has been good.”

Post-survey interviews were broadly consistent with the survey results. In particular, many of those consulted said that Australia had performed strongly in recent years and had been resilient to the global financial crisis. These outcomes were attributed to many factors including the underlying structure of the economy as well as the strength of Australia’s system of regulation as a whole rather than to ASIC specifically. A handful of those consulted questioned the extent to which ASIC should or could play a role in facilitating international capital flows, although there was no disagreement with ‘facilitating international enforcement’ being an appropriate priority for ASIC.

2.7 Key points

- The global financial turmoil has tested financial markets and the regulators. Stakeholders view ASIC to have performed well.
- Survey respondents are generally more positive about the market and the outcomes of ASIC's work (for example, the integrity of companies, accuracy of reporting, etc) than they are about ASIC's outputs (for example, ASIC's enforcement, ASIC's assistance of retail investors and consumers).
- Post-survey interviews reflected a more positive perspective on what ASIC has been able to do given the global financial turmoil and ASIC's own expanding role.

Chapter 3

2010 survey results — operations

In addition to the broad outcomes of ASIC’s work, stakeholders were asked for their views on ASIC’s operations. This chapter presents stakeholder views about their experiences with individual process areas within ASIC.

3.1 Lifting operational effectiveness

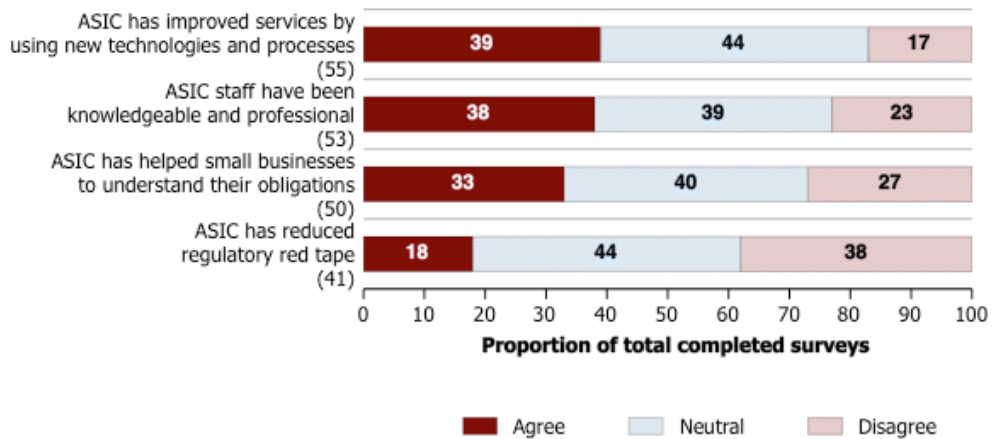
Stakeholders are neutral in regards to ASIC’s overall performance in lifting operational effectiveness and service levels over the last two years, as shown in Figure 3.1. The overall results include responses from people who may not have had a great deal of interaction with ASIC’s service areas — reflected in the relatively large proportions of respondents who indicated a neutral response for these questions. Overall responses indicate that:

“Got a long way to go on this one. ASIC doesn’t understand the industry, and has such a high turnover of staff.”

- stakeholders agree that ‘ASIC has improved services by using new technologies and processes’ (55) and that ‘ASIC staff have been knowledgeable and professional’ (53);
- respondents are neutral as to whether ‘ASIC has helped small businesses understand their obligations’ (50); and
- there is disagreement that ‘ASIC has reduced regulatory red tape’ (41).

Figure 3.1

LIFTING OPERATIONAL EFFECTIVENESS AND SERVICE LEVELS



Source: ASIC Stakeholder Survey 2010

When questioned about specific service areas, stakeholder views are much clearer and consistent, as these specific questions were only asked of stakeholders that had some interaction with ASIC’s operations areas. Stakeholder perceptions were tested with regard to the areas with which they had interacted in the last two years, with responses indicating that:

“Investment in technology is important but more important is investment in staff...need to ensure you are able to attract and retain clever people who really know the respective businesses you are responsible for supervising.”

- the Client Contact Centre, document lodgement, and the database and website are areas against which ASIC staff have performed well;
- some stakeholders representing industry and professionals in the financial system were particularly pleased with ASIC’s recent consultative approach in implementing new technology solutions to knowledge management platforms. They view that the changes that are being made in consultation with the industry will bring big improvements to those that report to ASIC and those who use the information collected and held by ASIC;
- some stakeholders noted that it seemed odd to apply charges to access some information held by ASIC about the public — taxpayers seemed to pay for this information three times; when preparing the information for ASIC, when ASIC incurs costs to collect and sort the data, and when the community is charged for retrieval of the data; and
- complaints handling and dealings with regulatory staff are perceived as weak areas.

3.2 Complaints handling

“If ASIC receives a complaint and ASIC actually does decide to take substantive action in response, if ASIC nevertheless won’t give details and says things like ‘we don’t comment on operational matters’, the complainant is likely to conclude, wrongly, that ASIC is not doing anything substantive in response, and is likely not to bother reporting things in the future.”

The handling of complaints within ASIC plays an important role in regulating the market, as market operators can ‘self-police’ by identifying misconduct and market abuse by making a complaint. Around 16 per cent of respondents reported having made a complaint to ASIC in the last two years. Of all of the operational areas tested in the survey, complaints handling had the smallest proportion of respondents saying that they had used this service. It also had the lowest scores for respondent perceptions about performance than any of the other areas. Overall:

- respondents agreed with the statements (see Figure 3.2) that they ‘would complain to ASIC in the future if necessary’ (54) and that ‘ASIC was prompt in confirming receipt’ of their complaint (50); and
- respondents were overwhelmingly negative about the process for making a complaint being efficient (45), being satisfied with the length of time it took for ASIC to respond to a complaint (30), receiving information from ASIC that helped with the complaint (28), and overall being satisfied with the service that they received from ASIC (24).

“They need to provide answers to questions; not ‘I can’t comment’ all the time. Surely this is the area where answers need to come from?”

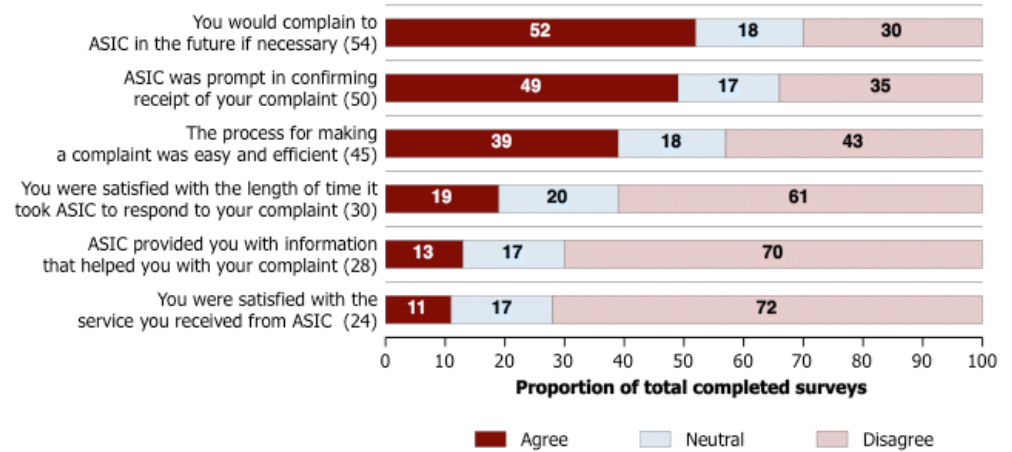
These views were confirmed in comments received in many of the post-survey interviews, with both industry and consumer bodies linking ASIC’s poor performance in complaints handling to views about its performance in enforcement and in being able to identify emerging issues. Specific issues that were raised include:

“When a complaint is reported and substantiated, actually tell the complainant what ASIC is doing about it or not doing about it, and keep the complainant informed (i.e. don’t hide behind statements like ‘ASIC does not comment on operational matters’).”

- some stakeholders noted that it could take from several months to more than a year to find out if ASIC had taken a decision to investigate the subject of a complaint; and
- as foreshadowed in the discussion on enforcement, some consumer representative bodies noted that poor complaints handling discouraged retail investors from making complaints and from participating in financial markets, as they would start to feel that financial markets were ‘not for the little guy’.

Figure 3.2

COMPLAINTS HANDLING



Note: These questions were asked of the 254 respondents who indicated that they had made a complaint to ASIC in the last two years.
 Source: ASIC Stakeholder Survey 2010

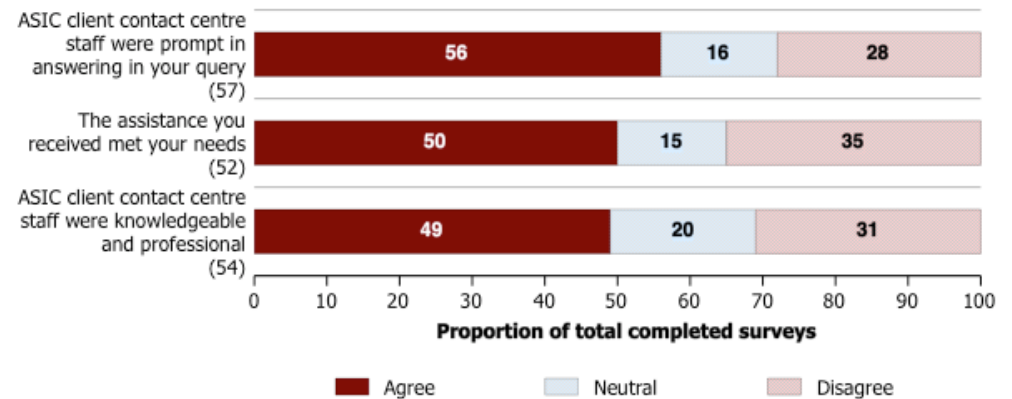
3.3 Client Contact Centre

“In transactions they’ve been involved with they’ve been very professional and approachable, definitely over the process, but not towards ‘outcomes’. Getting told ‘no’ quickly is better than slowly – this is appreciated.”

As shown in Figure 3.3, around 32 per cent of respondents indicated that they had had interactions with ASIC’s Client Contact Centre, and overall were positive about the promptness of ASIC staff in answering their query (57), receiving assistance that met their needs (52) and the knowledge and professionalism of the ASIC client contact centre staff (54).

Figure 3.3

CLIENT CONTACT CENTRE



Note: These questions were only asked of the 492 respondents who indicated that they had used the Client Contact Centre in the last two years.
 Source: ASIC Stakeholder Survey 2010

3.4 Regulatory staff

Around 33 per cent of respondents indicated that they had dealings with ASIC’s regulatory staff in the last two years. Their responses (see Figure 3.4) show:

“It would also be useful for ASIC to employ more ex industry people and to better provide for their retention as most of the current crop while eager have very little field experience. With respect, ASIC must understand the industry if it is going to effectively regulate it.”

“ASIC needs more commercially savvy and engaged employees. Progress has been made by employing people with markets knowledge, however, I suspect many will leave once the economy picks up. The only way to keep such people is to match private sector salaries.”

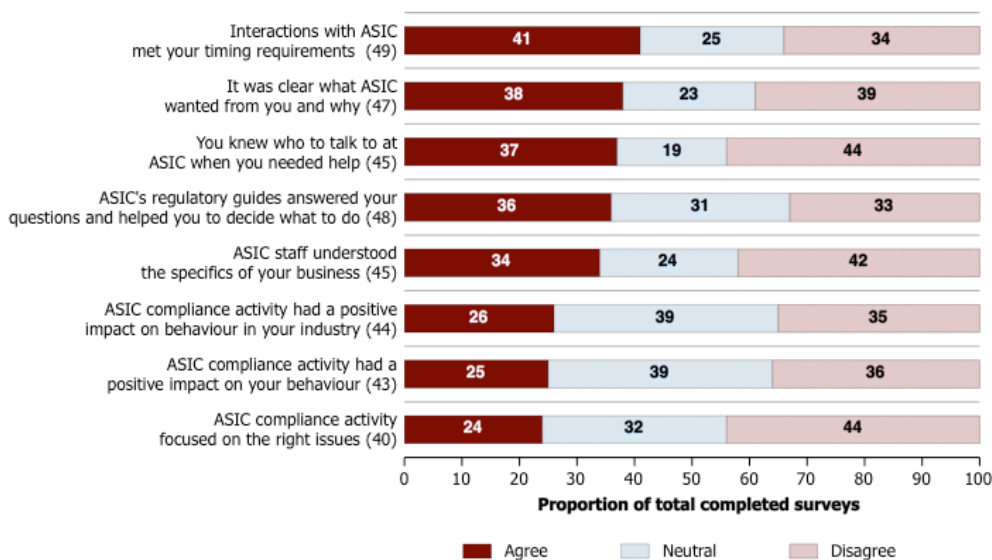
“In terms of approachability – HIGH tick, very easy to talk to and get answers from quickly. From an Australian approach to regulation –you got to do right thing, but we don’t have to do it in an authoritarian matter. They’ve got that mix really quite well in my observation.”

“In rating the regulators, APRA comes out ahead of ASIC but the gap has been now narrowing over the last few years. APRA has a much closer understanding of the sensitivities of the business than ASIC does. APRA is very focussed on institutions and has to be close to its entities. ASIC does not have that focus but is improving.”

- there was more agreement than disagreement for the propositions that ‘interactions with ASIC met your timing requirements’ (49) and ‘ASIC’s regulatory guides answered your questions and helped you decide what to do’ (48);
- the majority of respondents were neutral about the extent to which ASIC’s compliance activity had a positive impact on their industry (44) or on their behaviour (43);
- respondents were generally more negative about other aspects of dealing with regulatory staff, such as ‘it was clear what ASIC wanted from you and why’ (47), ‘you knew who to talk to at ASIC when you needed help’ (45), ‘ASIC staff understood the specifics of your business’ (45) and ‘ASIC compliance activity focused on the right issues’ (40).

Figure 3.4

VIEWS ABOUT REGULATORY STAFF



Note: These questions were only asked of the 505 respondents who indicated that they had dealt with ASIC’s regulatory staff in the last two years.

Source: ASIC Stakeholder Survey 2010

Post-survey interviews with industry and consumer representative bodies were generally more positive than the survey results. The stakeholders consulted noted that more resources were needed for monitoring and enforcing compliance, but that ASIC was doing well given the wide scope of its task. A representative of one of the consumer bodies noted that this was an area in which ASIC could learn from the Australian Competition and Consumer Commission (ACCC). This was based on the perception that the ACCC communicated its successful enforcement activities to the media, and therefore the public was not only made aware of its failures. This was supported in the post-survey interviews by the fact that stakeholders could name specific instances of high-profile collapses or ASIC’s unsuccessful prosecutions, but not any of ASIC’s successful prosecutions.

Many of the individual stakeholders consulted said that they viewed that ASIC staff was generally very professional in their conduct. These stakeholders often noted that many of the staff involved in market supervision activities in the ASX had moved across to ASIC when these regulatory responsibilities had been moved.

A few stakeholders noted that in some cases relationship managers on key issues were establishing themselves and that this was facilitating better communication and probably better regulatory outcomes. These stakeholders asked if ASIC would consider developing key relationship managers for some major institutions and businesses. While noting that circumstances are different, the regulatory teams approach used by APRA appeared to be effective. Some of the other stakeholders consulted noted that ASIC was already providing relationship managers or key contact officers and that this had significantly improved their relationship with ASIC.

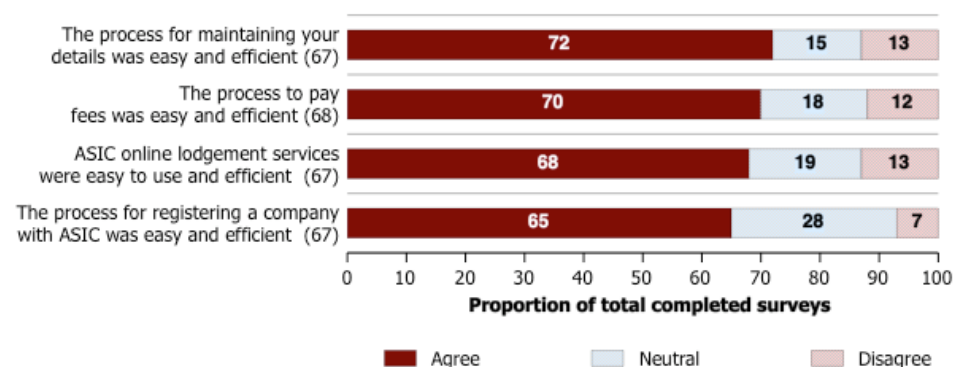
3.5 Lodging documents

“A win is a win on a regulator, a win on something that doesn’t matter isn’t a win. Just because they get someone to reissue a set of financial statements that has a changed category – big deal, you know what I mean. If they could keep focusing attention on big issues, and I think they are progressing towards that, that’s a great thing for them to do.”

Around 44 per cent of respondents indicated that they had lodged a document with ASIC in the last two years, including having registered a company. Respondents’ views on document lodgement were overwhelmingly positive, with strong agreement with all of the statements tested (see Figure 3.5). This was supported by the post-survey interviews, however, a few of the industry bodies consulted noted that ASIC did not appear to have the tools to extract data from the lodged documents. As a result, ASIC holds files that contain potentially useful data that are not readily accessible for analysis.

Figure 3.5

LODGING DOCUMENTS



Note: These questions were only asked of the 674 respondents who indicated that they had lodged a document with ASIC in the last two years.

Source: ASIC Stakeholder Survey 2010

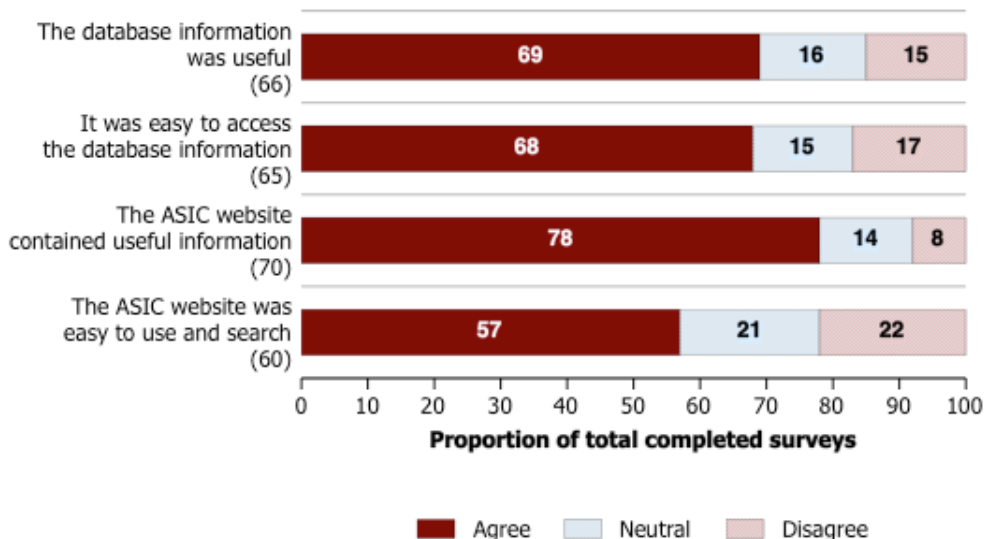
3.6 ASIC website and databases

“ASIC could be more proactive in advising the community (through the various media forums) of its considerable website information for a range of clients.”

A relatively high proportion of respondents had searched the ASIC databases (64 per cent) and/or searched the ASIC website for information (66 per cent). Those that had were positive both about the usefulness of the information held and the ease of access of that information as shown in 0

“On searching AFSL reps I would like an option to search under the first name of the rep. Would be much quicker especially when searching under the surname Smith.”

ASIC WEBSITE AND DATABASES



Note: These questions were only asked of the 987 respondents who indicated that they had searched ASIC's databases, and the 1018 respondents who indicated that they had used the ASIC website, in the last two years.

Source: ASIC Stakeholder Survey 2010

3.7 Key points

- Survey respondents are extremely positive about the ASIC website and the databases, and responses indicate a high level of usage of these products.
- Stakeholders are positive about the Client Contact Centre and the document lodgement areas within ASIC.
- Stakeholder perceptions of regulatory staff are mixed, with overall neutral scores. At the same time, there is a recognition that ASIC has improved its understanding of the markets and the people that it regulates.
- The complaints handling area has emerged as a weak area — both from the responses to the survey and from the post-survey interviews. As noted by some of the representative bodies consulted, poor performance in complaints handling has implications for stakeholders' perceptions of ASIC's performance and willingness of smaller players to participate in the market.

Chapter 4

Different stakeholder group views

Different stakeholders have different views about ASIC's performance. This can reflect whether they are businesses or consumers, the size of businesses, as well as factors such as whether they have frequent interactions with ASIC or not. This chapter analyses and reports on the differences in stakeholder views where they are statistically significant.

4.1 Groups of stakeholders in the Stakeholder Survey 2010

Survey respondents were asked to provide information about themselves on:

- the nature of their interactions with ASIC;
- the frequency of their interactions with ASIC;
- their location; and
- the financial products that they owned (consumer stakeholders only) or the size of their business (business stakeholders only).

This allows for the comparison of stakeholder perceptions of ASIC's performance across different cohorts — described in detail in section A.4 of Appendix A.

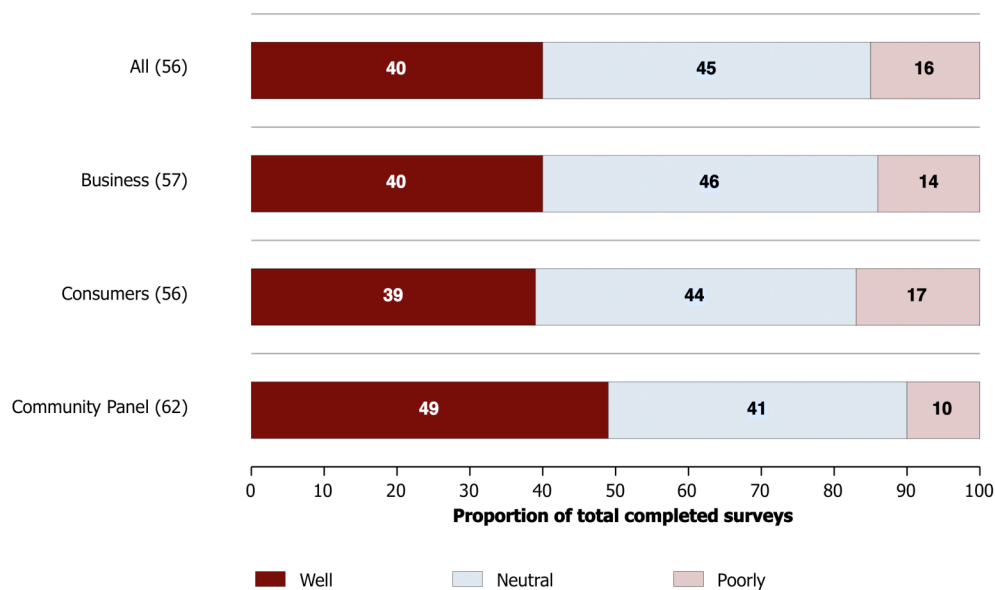
4.2 Analysis across cohorts

Analysis of the survey results across these cohorts found that there was generally a lot of commonality in the responses to the questions. For example, most cohorts indicated that ASIC had performed well in managing the implications of the global financial turmoil, with scores consistently better than neutral. This is reflected in Figure 4.1, which shows the mean scores within cohorts grouped by the type of their interaction with ASIC, compared to the average score for the entire survey sample for this indicator, and that:

- the sample on average ('All') agreed that ASIC had managed the international and domestic implications of the global financial crisis well (56);
- respondents who identified as interacting with ASIC as consumers or retail investors ('Consumers') also agreed (56);
- respondents who did *not* identify as having a consumer or retail investor interaction with ASIC ('Business') were slightly more positive (57); and
- respondents who were randomly selected through the market research panel ('Community Panel') — and who represent business *and* consumer stakeholders who do not have regular interactions with ASIC but who are affected by the outcomes of ASIC's work — were significantly more positive compared to the rest of the sample (62), with nearly half of the cohort agreeing that ASIC had performed well compared to only 10 per cent who disagreed.

This pattern was observed in the responses to most of the survey questions.

Figure 4.1

ASIC'S MANAGEMENT OF THE IMPLICATIONS OF THE GLOBAL FINANCIAL CRISIS

Source: ASIC Stakeholder Survey 2010

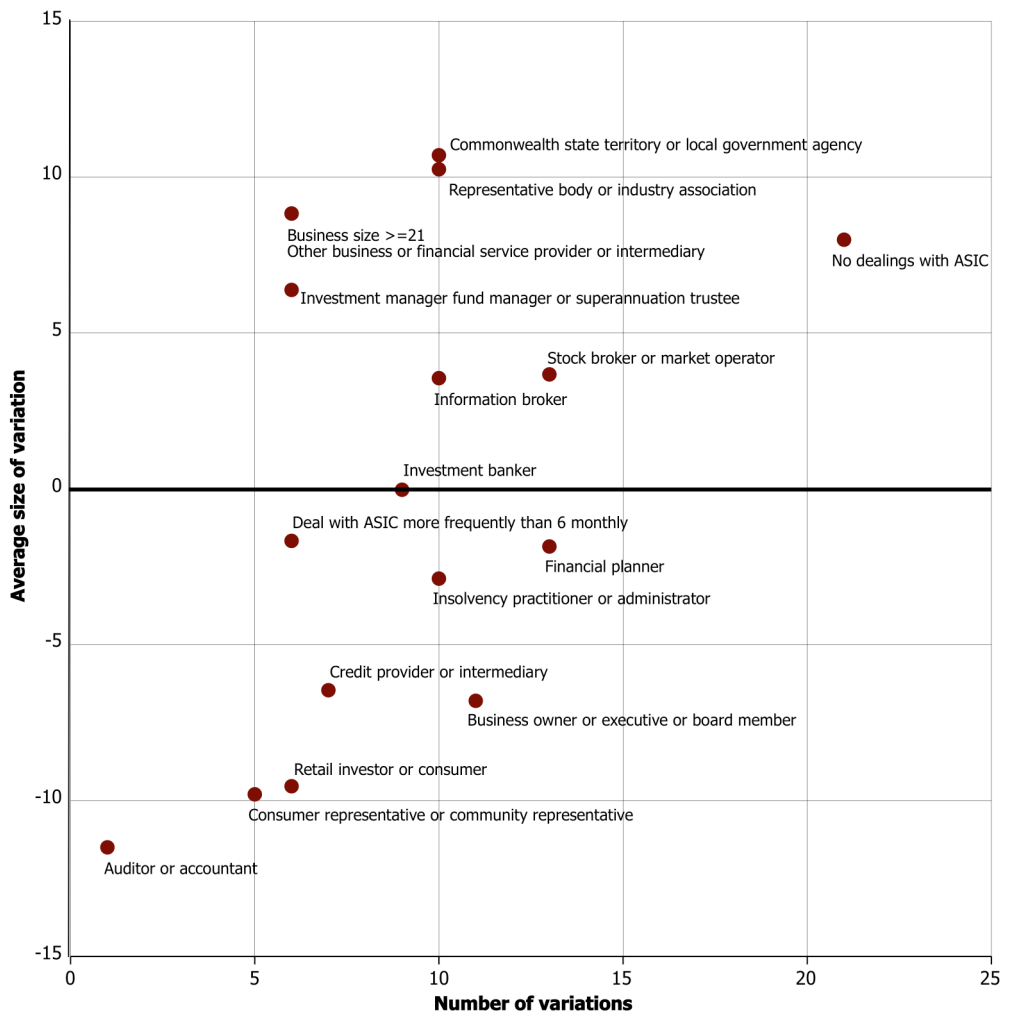
There was a little more variation in the responses when the respondents were categorised in more detailed cohorts. Figure 4.2 shows the detailed cohorts plotted according to the number of times the average score for a cohort was statistically significantly different to the average score for all respondents outside of that cohort, against the average size of the variation. For example:

- For respondents who identified as ‘auditor or accountant’, there was only one statistically significant variation compared to respondents who were not auditors or accountants for only one question. The size of the variation was a difference in the average scores for the two groups of -11.5 points — this means that auditors and accountants were more likely to disagree with the statement (in this case, ‘ASIC was prompt in confirming receipt of your complaint’) than the average respondent who was not an auditor or an accountant.
- On the opposite side of the spectrum, respondents who reported having ‘no dealings with ASIC’ over the last two years had the greatest number of variations, with 21 instances in which the average score for this cohort was statistically significantly different to respondents who reported having interactions with ASIC. In addition, the size of the average variation was +8.0 points, which means that respondents who reported no interactions with ASIC were more positive about ASIC’s performance than respondents who did interact with ASIC.
- Respondents who identified as ‘investment banker’ held views that were statistically significantly different to non-investment bankers on nine instances, however, the average magnitude of the variation was close to zero, implying that investment bankers were more positive in relation to some questions and more negative in relation to others than non-investment bankers.

- ‘Financial planner’ and ‘stock broker’ both had 13 instances in which the average score inside the cohort was statistically significantly different to the average score outside the cohort, however, financial planners were more likely to be negative (-1.9 points) while stock brokers were more likely to be positive (+3.7 points)

Figure 4.2

VARIATION ACROSS COHORTS — FREQUENCY AND MAGNITUDE



Source: ASIC Stakeholder Survey 2010

Note: ‘Variation’ refers to variations that are statistically significant.

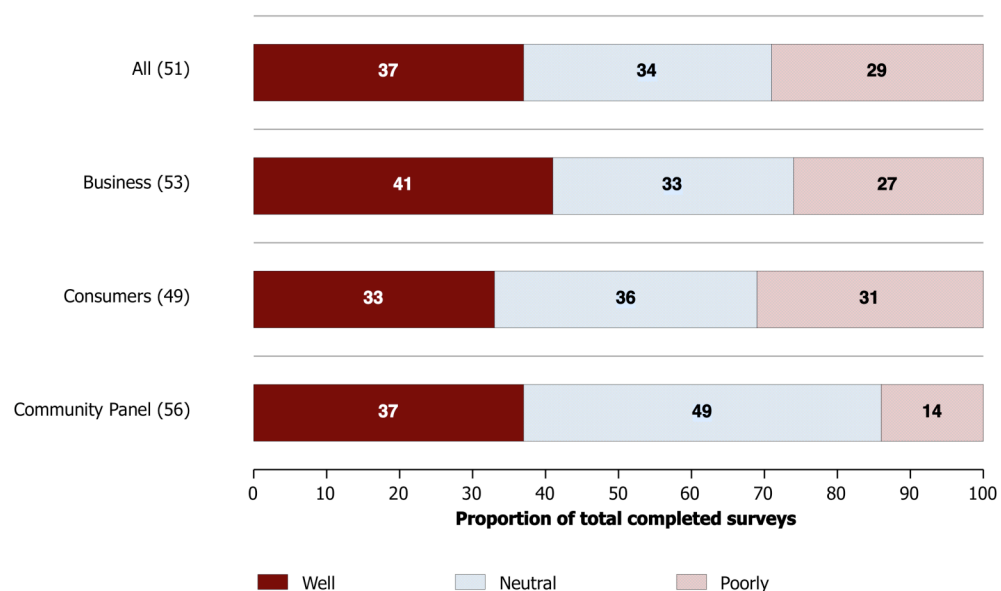
Figure 4.2 also shows that the average magnitude of the variation for some of the individual cohorts was considerable. For example:

- respondents who identified as ‘retail investor or consumer’, ‘consumer representative or community representative’, ‘business owner or executive or board member’ or ‘credit provider or intermediary’ were more likely to be negative about ASIC’s performance, with an average variation of more than 5 points lower than those outside those cohorts; and

- respondents who were in a ‘Commonwealth state, territory or local government agency’, ‘representative body or industry association’, ‘other business or financial service provider or intermediary’ or medium and large business (‘business size ≥ 21 ’), or who had reported having no dealings with ASIC were more likely to be positive about ASIC’s performance, with an average variation of more than 5 points higher than those outside these cohorts.

Figure 4.3 shows the variation in responses across the broad stakeholder types in relation to the question ‘overall how well has ASIC performed’. The scores are roughly similar across the four groups, however, consumers are more likely to think that ASIC has performed poorly (31 per cent) than the sample on average (29 per cent) or than business stakeholders (27 per cent), while only 14 per cent of the community panel perceived ASIC to have performed poorly. At the same time, nearly half of the community panel were neutral as to how ASIC had performed overall, resulting in a more positive score (56) compared to the sample as a whole (51).

Figure 4.3

ASIC’S OVERALL PERFORMANCE

Source: ASIC Stakeholder Survey 2010

“Their biggest challenge continues to be retail investor education. There is always a danger in being too much of a consumer advocate, driven by motives and the need to protect individuals. If they do this it can drive them into a paternalistic mode and industry needs to talk them away from that.”

In analysing the responses to all of the questions, three clear patterns emerged. The first was that responses tended to vary depending on whether the respondent identified as a ‘consumer or retail investor’ or not. The second was that responses varied depending on whether the respondent worked for a large or a small organisation. The third was that responses varied depending on whether the respondent had had interactions with ASIC, or not. This is evident to some extent in the responses within these cohorts to the question ‘overall, how do you think ASIC has performed’:

- As shown in Figure 4.2, respondents who identified as ‘consumers or retail investors’ (756 respondents) generally were more negative than respondents who had not (795 respondents).

"I believe it is a credit to ASIC that I have not had to contact them."

- stakeholders working in medium and large firms (476 respondents in firms with 21 employees or more) were more positive about ASIC's performance than stakeholders in small firms or the self-employed (568 respondents). For example, respondents from medium and large firms were positive about ASIC's overall performance (53), while those in smaller firms and the self-employed were sub-neutral (48); and
- stakeholders who had had no interactions with ASIC in the last two years (446 respondents) were more likely to view ASIC as having performed well (54) than respondents who had interacted with ASIC (49, from 1105 respondents). This cohort is representative of the ordinary tax-payer who is not directly affected by ASIC's regulations and determinations and who has not sought ASIC to take action, or for assistance. However, they are still impacted by ASIC's outcomes. They have a significantly more positive perspective of ASIC than those that have had recent dealings and most other stakeholders.

4.3 Key points

The analysis of the survey responses across the respondent cohorts reveals that overall, there was a lot of commonality in the responses across cohorts. Respondents were more likely to agree that ASIC had performed well if they:

- did *not* identify as a consumer or retail investor; and/or
- worked in a medium or large organisation; and/or
- had little or no interaction with ASIC in the last two years.

Examining the cohorts in detail revealed that:

- respondents who identified as 'business owner, executive or board member' or 'financial planner' were more likely to be negative, demonstrated by the frequency of statistically significant variations and the average magnitude of these variations being negative;
- respondents who identified as having had no dealings with ASIC, or as a 'stock broker or market operator' were generally more positive about more questions.

Chapter 5

Priorities for the future

Stakeholders were asked for their views on what ASIC should focus on over the next three to five years. This chapter discusses the strategic priorities that stakeholders felt that ASIC should devote more effort to, as well as the results from the qualitative discussions on future priorities and changes within the organisation itself.

5.1 Future focus

Respondents were asked their views on whether ASIC needed to focus more or less on individual priorities over the next three to five years, with the results shown in Figure 5.1. In general, stakeholders want ASIC to focus more on the priorities against which they had rated ASIC’s performance over the last two years as sub-neutral (as shown in Figure 2.2) and vice versa. For example:

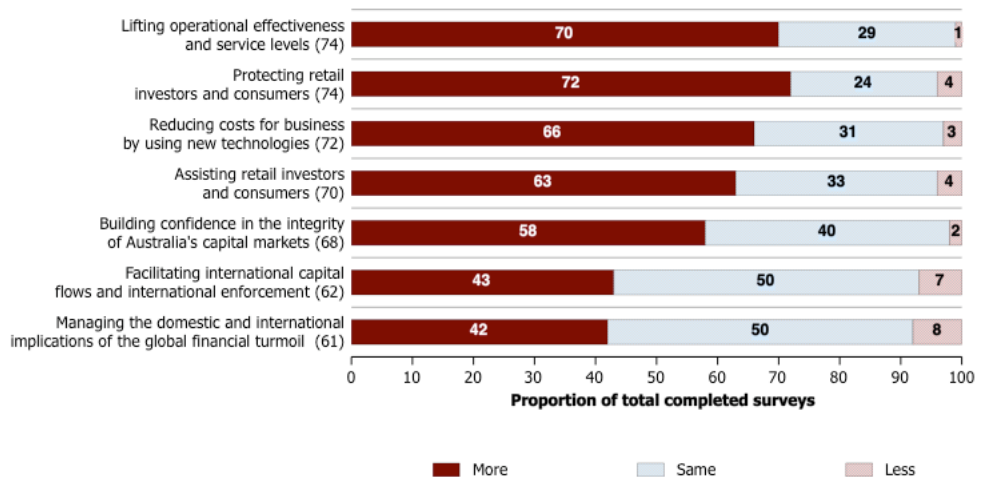
- stakeholders indicated that over the last two years, ASIC had performed well in ‘managing the...implications of the global financial turmoil’ (in Figure 2.2), and that ASIC did not need a strong focus on this over the next three to five years (in Figure 5.1); and
- 72 per cent of respondents indicated that ASIC should focus more on ‘protecting retail investors and consumers’ (74), which in other responses appears to be perceived to have been ASIC’s weakest area over the past two years (45, as shown in Figure 2.2).

“New and Complex Products — ASIC’s view is, if you don’t understand it, don’t invest in it. Disgraceful! Markets are complex and investment products require a level of complexity that is more than basic. Retail investors have an extremely poor level of understanding and in most cases do not understand the very basics.”

Only a small proportion of respondents indicate that ASIC should focus *less* on any of its individual priorities — overall, the majority view is either to do more, or that the current effort is sufficient. The areas where there is slightly more support for a reduced focus are in relation to ‘facilitating international capital flows and international enforcement’ and ‘managing the...implications of the global financial turmoil’.

Figure 5.1

OVER THE NEXT THREE TO FIVE YEARS ASIC SHOULD FOCUS ON:



“ASIC needs to address its presentation. Tony’s speech on their forward agenda is an articulation of what they intend doing. From an industry and a transparency point of view we want to see these things flowing in a logical way.”

Source: ASIC Stakeholder Survey 2010

The post-survey interviews with industry and consumer representative bodies revealed a variety of views on what ASIC should focus on in the next three to five years. In general, almost all of the individual stakeholders consulted viewed that the current statement of priorities probably reflected what ASIC ought to continue to focus on.

“Educate investing public about risk and the fact that it cannot be eliminated.”

Some industry stakeholders suggested that if there were any changes in priorities this ought to be a matter of changing the emphasis or balance between goals. Some thought that they could see that given recent market circumstances and the spate of business failures that possibly too much attention may be paid to consumer protection. The sense of danger here is that there may be a limit in what can be achieved in terms of protecting consumers from the unavoidable risks in the financial economy. The alternative seems to be to raise clarity about the harder to communicate goal of removing barriers to making informed choices about risky investment.

Variation across cohorts

Overall, there was little variation between respondent cohorts in relation to which of its priorities ASIC should focus on in the next three to five years. Mean scores across the individual cohorts were:

- uniformly high for ‘reducing costs for business by using new technologies’ (67 and above) and for ‘lifting operational effectiveness and service levels’ (70 and above); and
- roughly similar for ‘managing the domestic and international implications of the global financial turmoil’ (54 and above).

For ASIC’s other strategic priorities, there were only minor variations in one or two respondent cohorts at a time, such as:

- information brokers being less likely than the average respondent to want ASIC to focus more on assisting retail investors and consumers (59, compared to 70) and building confidence in the integrity of Australia’s capital markets (59, compared to 68) — likely reflecting the fact that information brokers are generally more positive about ASIC’s current performance in this regard;
- credit providers or intermediaries wanting ASIC to focus less on protecting retail investors and consumers than the average respondent (66, compared to 74); and
- investment bankers wanting ASIC to focus more on facilitating international capital flows and enforcement than the average respondent (73, compared to 62) — likely reflecting their negative view of ASIC’s current performance in this regard — which was the opposite of insolvency practitioners and administrators (54, compared to 62).

5.2 Organisational change

“ASIC has undertaken serious positive change within the last 2 years...The introduction to the commission of former commercial lawyers or investment bankers is also positive. The creation of a chief legal officer position is also a positive development. But these changes need to permeate the bowels of ASIC as well.”

“ASIC should delegate more to commissioners within ASIC. The governance group are the decision makers as well as the governance — that needs to be looked at thoroughly. The decisions are made by one person at the end of the day, which is not good governance.”

“Very broad priorities. There is nothing in there about working with industry and having open dialogue with the industry, or working with the industry to produce guidance and guidelines (particularly in the financial services industry)”.

“ASIC has been an organisation that due to government reform has been placed under enormous pressure that is not probably always appreciated by everybody on the outside.”

“New and emerging issues — one of the biggest challenges that ASIC has. Nobody has a silver bullet on this no regulator in the world has the answer to this. UK regulator was being touted as the best and now they’re being pulled apart because of their failures.”

The post-survey interviews in 2010 revealed that both industry and consumer representative bodies felt that ASIC had made considerable progress in engaging with stakeholders and developing a stronger understanding of markets and products in the last 2 years. In particular, several industry bodies consulted said that they noted that ASIC had recruited externally and filled senior positions by appointing people external to ASIC, bringing in knowledge of markets. As discussed in Box 1.1, one of the goals that ASIC set for itself as part of the restructure was stronger and more targeted engagement with its stakeholders. The feedback from stakeholders in relation to the performance of ASIC’s regulatory staff indicated that it was felt that a lot more could be done in this regard, with ASIC continuing to recruit from the markets that it regulates.

Some individual stakeholders said that the most important statement about the future focus of ASIC would be made in terms of raising clarity about leadership succession. This point was often raised in terms of the view that the current leadership had been very successful in transforming the culture of ASIC. This in turn underpinned a perspective that, in general, ASIC was doing well. These stakeholders often reflected that the best thing that ASIC could do when making preparations for the future would be to confirm how the underlying culture could be continued. Some stakeholders said that indicating a succession plan would provide helpful guidance about cultural continuity. From this, it was implied that the positive changes that stakeholders could see needed to flow down through the ASIC and become part of its culture, rather than having change being driven solely from the top.

A small number of stakeholders commented that ASIC appeared to be reluctant to engage industry bodies (particularly bodies committed to maintaining their industry’s reputation and professional standards) as ‘co-regulators’ or partners in the regulatory process. Stakeholders that held this view contended that sometimes it seemed that ASIC was berating a whole profession rather than fully utilising the capacity of the profession to work with the regulator to combat wrongdoing. This was particularly the case where bodies felt that they had a role to play in improving the integrity of their profession, and demonstrating that professionalism to build confidence in Australia’s capital markets.

Some stakeholders drew attention to the central role of training within the industry (and within the regulatory bodies) about market rules and compliance requirements. Many of the industry, professional and consumer bodies consulted are involved in various training activities and some drew attention to quasi and co-regulatory roles that can be played through training courses with regulatory support (and funding).

Stakeholders also pointed to the improvements to consultative arrangements as facilitating the identification of new and emerging issues. The post-survey interviews generally demonstrated a positive outlook on the extent to which ASIC had become more forward looking in examining issues and assessing risks. Some stakeholders noted that there was still room for improvement — such as the co-regulatory arrangements with industry bodies — however, even these stakeholders acknowledged that ASIC was in a much stronger position to identify new and emerging issues than it was prior to the restructure.

“Having millions of alert public members on the lookout for scams and misconduct is an enormous resource as compared to ASIC’s internal compliance programs, so ASIC should not do anything to make members of the public think that complaining to ASIC is pointless.”

One of the weaknesses in relation to identifying new and emerging issues was the operation of the complaints handling area. Both the responses to the survey and the follow-up interviews with industry and consumer bodies indicated that this was an area of concern. In particular, several bodies noted that the complaints handling area was one of the ways in which ASIC could monitor the concerns of market players and activities that might require closer attention than they were currently receiving.

5.3 Key points

- Comments and feedback suggest that stakeholders recognise the contribution of the improved expertise and knowledge of ASIC’s staff — this is particularly associated with recent external recruitment and senior appointments from outside of ASIC.
- Stakeholder views on what ASIC should focus on in the future emphasise protecting consumers and retail investors and improving service levels and operational effectiveness — areas in which they believe ASIC has performed relatively less well over the last two years.
- Overall, stakeholders recognise the positive steps ASIC has taken to change from a ‘lawyer-ly’ culture to a more outward looking, market oriented approach, however, those consulted in the post-survey interviews felt that these changes were restricted to senior levels within ASIC, that the change had yet to flow throughout the organisation and that this was a critical next step.

Appendix A

Survey methodology

A.1 Aims

The survey was designed to obtain the views of ASIC's external stakeholders about a range of issues and about ASIC's performance.

A.2 Survey design

Instrument

The full version of the 2010 survey instrument is provided in Appendix B. It was used to collect responses from all categories of stakeholder. It was designed by combining the business and consumer stakeholder survey instruments used in 2008, in order to allow for comparisons across common questions.

This combined instrument was then restructured to align stakeholders' perceptions of aspects of ASIC's performance against the strategic priority that those aspects are associated with. As a result, some new questions were introduced into the 2010 survey (for example, stakeholder perceptions on ASIC's management of the implications of the global financial turmoil). For the same reason, some of the questions that were asked in 2008 were determined to no longer be relevant in 2010.

The Australian Bureau of Statistic's Statistical Clearing House cleared the survey instrument at the preliminary, scoping stage after judging that the instrument did not create undue additional respondent burden on businesses. An additional consideration was the fact that participation in the survey was voluntary, since participants responded to a web pop-up or to a request to participate in the 2010 survey.

Sample

There are a number of categories of stakeholder that interact with ASIC or are affected by ASIC's actions:

- people and entities regulated by ASIC and industry bodies representing them;
- users of the services provided by ASIC's public information program;
- investors and consumers of financial services and bodies representing consumer interests;
- those who advise people and entities ASIC regulators (such as legal and accounting services); and
- government and government agencies that interact with ASIC.

There is an additional category of stakeholders who are affected by the outcomes of ASIC's roles and functions but who may not consider themselves as having any interaction with ASIC. This cohort is called 'community stakeholders'.

A.3 Survey administration

The ASIC Stakeholder Survey 2010 (the '2010 survey') was in the field for four weeks from Wednesday 8 September 2010 to Thursday 7 October 2010. The survey was administered as an online instrument and respondents were identified in one of the following five ways:

- Visitors to ASIC's website (<http://www.asic.gov.au>) were directed to the survey instrument either via a pop-up that was scheduled to trigger every five seconds² or through the link on the homepage;
- Visitors to ASIC's 'financial tips and safety checks' website (<http://www.fido.gov.au>) were directed to the survey instrument either via a pop-up that was scheduled to trigger every five seconds or through the link on the homepage;
- Selected stakeholders from ASIC's database of contacts were invited to participate in the survey and directly emailed a link to the survey instrument;
- The stakeholders in the above group were asked to forward notification of the survey to people they knew who may have wished to comment or provide feedback. In the case of some of the industry and consumer representative bodies, stakeholders were asked to distribute the invitation to their members and/or include a link to the instrument on their websites;
- Community stakeholders were identified using an on-line market research panel maintained by I-view. Individuals on the panel were randomly selected into the survey sample if they had heard of ASIC. Around 74 per cent of panel respondents indicated that they had had no interaction with ASIC in the last two years.

A.4 Survey responses

Source

The 2010 survey collected 1551 completed responses from external stakeholders, compared to 930 in 2008. Table A.1 shows the breakdown of respondents across the ways in which they were identified in 2010.

² The pop-ups were managed by ASIC to appear on the website every 5 seconds, irrespective of when any user entered the site. If a user entered the website or navigated to another page on the website on the 5th second, they would be invited to complete the survey. If user did not navigate to a new page on the ASIC or FIDO website on the 5th second, then the pop-up was scheduled to appear subsequently at the 10th second, the 15th second and so on until they had received the invitation.

Table A.1

SURVEY RESPONSES

Stakeholder group	Respondents 2010	Respondents 2008
ASIC	637	453
Invitation	324	290
FIDO Website	84	187
Community panel	506	n.a.
Total external	1551	930
ASIC staff	n.a.	320
Total respondents	1551	1250

Type and frequency of interaction with ASIC

The analysis in Chapter 4 split the respondents into broad cohorts. Since all respondents completed the same survey instrument, they were asked to identify the nature of their interaction with ASIC. Table A.2 shows the number of responses received from broad cohort types.

Table A.2

RESPONDENTS BY TYPE OF INTERACTION WITH ASIC, 2010

Cohort	Definition	Responses
Consumers 2010	All respondents who identified as a 'consumer or retail investor'.	756
Business 2010	All respondents who did <i>not</i> identify as a 'consumer or retail investor'.	795
Community Panel	All respondents who were approached through the market research panel. Includes consumer and business stakeholders.	506

Table A.3 shows the proportions of total responses disaggregated across the more detailed types of interactions with ASIC. As the types of interaction with ASIC are not mutually exclusive, there is some overlap between the respondents that fall into each category.

Table A.3

PROPORTION OF RESPONDENTS BY TYPE OF INTERACTION WITH ASIC, 2010

Cohort	Including Panel	Excluding Panel
Business owner or executive or board member	36%	45%
Auditor or accountant	13%	18%
Insolvency practitioner or administrator	3%	4%
Investment manager fund manager or superannuation trustee	8%	10%
Investment banker	2%	3%
Financial planner	7%	9%
Information broker	2%	2%
Stock broker or market operator	4%	6%
Other business or financial service provider or intermediary	16%	22%
Credit provider or intermediary	6%	8%
Representative body or industry association	6%	8%
Commonwealth state territory or local government agency	5%	6%
Consumer representative or community representative	10%	6%
Retail investor or consumer	49%	38%

The other breakdown of interest was the frequency of respondents' interactions with ASIC, as shown in Table A.4. The panel had a much higher proportion of respondents who had had no dealings with ASIC in the last two years (74 per cent) compared to the sample on average (29 per cent).

Table A.4

PROPORTION OF RESPONDENTS BY FREQUENCY OF INTERACTION WITH ASIC, 2010

Cohort	Including Panel	Excluding Panel
More than once a month	27%	40%
Between once a month to once every six months	22%	31%
Between once every six months to once a year	11%	12%
Between once a year to once every two years	12%	9%
No dealings with ASIC	29%	7%

Other

The following breakdowns have not been systematically analysed, but are shown here to demonstrate that the survey achieved good representation across location, business size and products owned by consumers and retail investors.

Table A.5

PROPORTION OF RESPONDENTS BY BUSINESS SIZE, 2010

Cohort	Including Panel	Excluding Panel
More than 200	26%	19%
21 to 200	17%	12%
1 to 20	32%	26%
No employees	11%	11%
<i>Not applicable</i>	14%	33%

Note: This question was only asked of respondents who identified as interacting with ASIC as business stakeholders.

Table A.6

PROPORTION OF RESPONDENTS BY LOCATION, 2010

Cohort	Including Panel	Excluding Panel
New South Wales	40%	42%
Victoria	26%	26%
Queensland	14%	14%
South Australia	6%	4%
Western Australia	8%	7%
Tasmania	2%	2%
Northern Territory	1%	2%
Australian Capital Territory	2%	2%
Overseas	1%	1%

Table A.7

PROPORTION OF RESPONDENTS BY PRODUCTS OWNED, 2010

Cohort	Including Panel	Excluding Panel
Bank accounts	96%	93%
Credit cards and or personal loan	87%	90%
Mortgage	47%	60%
Insurance	81%	81%
Self managed superannuation fund	23%	32%
Other superannuation fund	58%	62%
Securities (stocks and shares)	61%	74%
Derivatives (e.g. options CFDs or futures)	7%	12%
Managed funds	38%	49%

Note: Cohorts are not mutually exclusive. This question was only asked of respondents who identified as interacting with ASIC as consumers or retail investors.

Table A.8

PROPORTION OF RESPONDENTS BY LICENSES HELD, 2010

Cohort	Including Panel	Excluding Panel
Australian Financial Services License	35%	39%
Credit provider or intermediary	20%	22%

Note: This question was only asked of respondents who identified as interacting with ASIC as business stakeholders.

A.5 Interpretation of survey results

Means

Respondents were invited to answer closed questions according to a five-point scale. For example, the first question asked respondents how they rated ASIC's overall performance — very well, well, neutral, poorly or very poorly. Another question asked respondents the extent to which they agreed or disagreed with the proposition that ASIC's performance had improved over the last two years, with options for 'strongly agree', 'agree', 'neutral', 'disagree' and 'strongly disagree'. There was no allowance for a 'don't know' or 'not applicable' response. For most questions, however, respondents were permitted to navigate to the next question if they had no opinion or did not feel qualified to respond.

The mean score for each of the questions was calculated by assigning points from one to five for each of the answers (that is, one for 'very poorly' or 'strongly disagree' through to five for 'very well' to 'strongly disagree') and calculating the simple average across the total number of responses. These means were then converted into a score out of 100 using the following formula:

$$\text{SCORE} = (\text{MEAN} - 1) \times 25$$

This allows for the comparison of means across cohorts. Converting the scores from being out of five to being out of 100 makes statistically significant differences more visible without requiring decimal points to be displayed (for example, with the sample size for the 2010 survey, 4.8 is statistically significantly different than 5, which can be more readily seen as the difference between 95 and 100). The scores can be interpreted as 100 for ‘strongly agree’ or ‘very well’, 75 for ‘agree’ or ‘well’ and so on down to 0 for ‘strongly disagree’ or ‘very poorly’.³

Table A.9 shows the relative standard errors for each of the main cohorts analysed in this report. They can be interpreted in the following way:

37 per cent of respondents to the survey indicated that they felt that ASIC was performing well or very well. This means that if 100 samples of 1551 respondents were taken from the Australian population, 95 of those samples (assuming a 95 per cent confidence level) would have a proportion of respondents who agreed or strongly agreed that fell between 34.5 per cent and 39.5 per cent (2.5 on either side of 37).

Table A.9

RELATIVE STANDARD ERRORS

Cohort	Responses	RSE
All 2010	1551	2.5
Business 2010	795	3.5
Consumers 2010	756	3.6
Panel	506	4.5

Relative standard errors calculated based on an infinite population, and a 95 per cent confidence level.

Bar charts

The responses are also presented in bar charts to show the distribution of responses across those who agreed, disagreed or were neutral. The visual presentation simplifies the scores to a three-point scale for ease of analysis and interpretation. For example, responses to the question about overall performance can be divided into three categories — the percentage who think ASIC has performed well overall (which includes all ‘very well’ and ‘well’ responses), the percentage whose views were neutral, and the percentage who think ASIC’s overall performance is poor (which includes all ‘very poor’ and ‘poor’ responses).

Comparisons across cohorts

The calculation of mean scores also allow for the effective and reliable comparison of responses to common questions across stakeholder groups. Depending on the cohort, a difference of two to five points or more when comparing means indicates a statistical difference in views at the 95 per cent confidence level.

³ Only valid responses were used to analyse results. This means percentages were calculated relative to the total number of responses to a question and ‘non-responses’ were not assigned a value or used to calculate mean scores.

A.6 Comparisons between 2008 and 2010

The Allen Consulting Group undertook a survey of ASIC's external stakeholders and ASIC's staff in 2008. There are many similarities between the way in which the 2010 survey was designed and the 2008 survey. At the same time, there are a number of significant differences between the approaches used in 2008 and 2010 and as a result, care should be taken in making comparisons between the results obtained in the different years. A summary of the major differences is shown in Table A.10.

Table A.10

DIFFERENCES BETWEEN 2010 AND 2008 METHODOLOGIES

	2010 Survey	2008 Survey
Coverage	Internal stakeholders not included — ASIC staff not surveyed.	External stakeholder perceptions compared with those of ASIC staff.
Instrument	Single survey instrument.	Separate surveys for business, consumer and staff stakeholders.
Focus	ASIC's performance over the last two years	ASIC's performance
Target frame	All categories of stakeholder identified through all sources.	Identification through unique sources: <ul style="list-style-type: none"> • Business stakeholders identified through ASIC website and invitation; • Consumer stakeholders identified through FIDO website; and • ASIC staff identified through internal email invitation.
Sample frame	Inclusion of a randomly selected community panel.	Respondents identified only through the ASIC and FIDO websites and invitations.
Administration	Survey in the field from early September to early October 2010.	Survey in the field from late January to late February 2008.
Sample size	Large sample size (1551 external): <ul style="list-style-type: none"> • 756 consumer stakeholders; • 795 business stakeholders; and • 506 community stakeholders. 	Smaller sample size (930 external): <ul style="list-style-type: none"> • 187 consumer stakeholders; • 743 business stakeholders; and • no community stakeholders.

Given the differences in the identification of the sample and the nature of the exercise, this survey report has not presented or discussed direct comparisons between the results obtained in 2008 and in 2010.

Appendix B

Survey instrument

B.1 Introduction

ASIC Stakeholder Survey

The Australian Securities and Investments Commission (ASIC) has commissioned the Allen Consulting Group to undertake a survey of its stakeholders.

The purpose of this survey is to obtain your views about ASIC's performance. In early 2008, ASIC undertook a significant review of its structure and operations, so ASIC is particularly interested in your views of how its performance has changed over the last two years, and what you think the key issues for ASIC will be over the next three to five years.

Please contact the Allen Consulting Group at asic_survey@allenconsult.com.au if you are having trouble completing this survey.

About ASIC

ASIC is Australia's corporate, market and financial services regulator. It is responsible for registering and regulating all companies and for licensing and monitoring financial services markets and businesses in Australia. ASIC makes information available to the public about Australia's 1.5 million companies, financial services licensees and other professionals registered with ASIC. ASIC also provides information to help consumers and investors understand their rights and responsibilities and to better understand financial markets and products.

Confidentiality

The Allen Consulting Group is conducting this survey for ASIC. The Allen Consulting Group is an independent consulting firm, and data will be collected on an independent, secure server. All responses to the survey will be collected and managed by I-view, who are bound by the principles of the Australian Market and Social Research Society's Code of Professional Behaviour. For more information, see the privacy statement.

Completing the survey

This survey will take approximately 15 mins to complete. We would like to remind you that there are no right or wrong answers - it's your own thoughts and opinions that matter. Any comments you make will not be linked to you personally, but will be reported as a group. Please take your time in completing this questionnaire thoroughly. For most questions, you will only need to click in a tick box with your mouse. Other questions will require you to type in a response or a value.

Please read each question and follow the instructions to record your reply.

Please DO NOT USE the 'Back' and 'Forward' buttons in the browser. Instead, please use the buttons at the bottom of each screen.

B.2 Overall

Overall, how well do you think ASIC has performed? (Options: very poorly, poorly, neutral, well, very well)

How much do you agree or disagree that, over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC has demonstrated an improved understanding of the markets and the people it regulates*
- *ASIC has been clear about what it is doing and why*
- *ASIC has been good at identifying and dealing with emerging problems*

- *ASIC has become more forward looking in examining issues and assessing risks*
- *ASIC has provided good value for the taxpayer dollar*
- *ASIC's performance has compared well with that of regulators in other countries that have similar responsibilities*
- *The integrity of Australia's capital markets has compared well with other countries*

Overall, how much do you agree or disagree that ASIC's performance has improved over the last two years? (Options: strongly disagree, disagree, neutral, agree, strongly agree)

How well do you think ASIC has performed on its key priorities over the last two years: (Options: very poorly, poorly, neutral, well, very well)

- *Assisting retail investors and consumers*
- *Protecting retail investors and consumers*
- *Building confidence in the integrity of Australia's capital markets*
- *Facilitating international capital flows and international enforcement*
- *Managing the domestic and international implications of the global financial turmoil*
- *Lifting operational effectiveness and service levels*
- *Reducing costs for business by using new technologies*

B.3 Dealing with people who don't comply with the law (enforcement)

Overall, how much do you agree or disagree that currently: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *Fraud, dishonesty and misconduct are likely to be found and punished.*
- *ASIC picks the right issues to investigate*
- *ASIC concentrates on easy targets for enforcement action*
- *ASIC is consistent and fair in the way it takes enforcement action*
- *ASIC concentrates too much on high profile cases*
- *ASIC is too cautious about taking enforcement action*
- *ASIC concentrates too much on small cases*
- *ASIC communicates clearly about why it takes action*
- *ASIC makes a real difference in producing the right behaviour through enforcement action*
- *ASIC seeks sanctions that are proportionate to the misconduct*

- *ASIC focuses too much on punishment and not enough on prevention*

B.4 Helping consumers and retail investors

Overall, how much do you agree or disagree that currently: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *Australian financial services providers and intermediaries (e.g. fund managers, financial planners, investment banks) are honest and operate with integrity*
- *Australian credit providers and intermediaries (e.g. banks, credit unions, finance companies) are honest and operate with integrity*
- *Australian financial market operators (e.g. ASX) operate their markets in a fair, orderly and transparent way*
- *Retail investors and consumers get reliable information when they buy financial products*
- *Retail investors and consumers have access to advice that meets their needs*
- *Retail investors and consumers make informed decisions when buying financial products*
- *Retail investors and consumers have confidence in the financial system*

Overall, how much do you agree or disagree that over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC concentrated on the areas where the risk to retail investors and consumers was greatest*
- *ASIC was good at stopping misleading advertising of financial products and services*
- *ASIC understood the needs of retail investors and consumers*
- *ASIC communicated well with retail investors and consumers*
- *ASIC helped retail investors recover money they had lost*
- *ASIC achieved more effective product disclosure for retail investors and consumers*
- *ASIC helped retail investors and consumers get access to financial advice*

Overall, how much do you agree or disagree that over the last two years, ASIC has done more to help consumers with: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *Planning for retirement, including understanding superannuation*
- *Making sound investments*
- *Understanding new and complex products*
- *Comparing financial products they are interested in*

- *Avoiding financial scams*
- *Making better financial decisions*

Have you used the FIDO website (ASIC's 'financial tips and safety checks' website) over the last two years? (Yes/No)

Based on your use of the FIDO website, how much do you agree or disagree that: (Options strongly disagree, disagree, neutral, agree, strongly agree)

- *The FIDO website provides useful information for retail investors and consumers*
- *It is easy to find information on the FIDO website*
- *The information provided on the FIDO website is easy to understand*
- *Interactive tools (e.g. ASIC Superannuation Calculator) on the FIDO website are useful and help you make decisions*

B.5 Building confidence in the integrity of Australia's capital markets

Overall, how much do you agree or disagree that currently: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *Companies' financial reports are reliable and trustworthy*
- *Australian companies are honest and operate with integrity*
- *Listed companies provide reliable and timely information to investors and the market*
- *ASIC has the skills and systems to effectively supervise real-time trading on Australia's markets (e.g. the ASX)*
- *Australian capital markets are free from insider trading and other market abuses*

Overall, how much do you agree or disagree that over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC has done enough to maintain confidence in the integrity of Australia's capital markets*
- *ASIC has enforced timely and accurate market disclosure by listed entities*
- *ASIC has done a good job at prosecuting market abuses such as insider trading and market manipulation*
- *ASIC has increased its use of economic analysis and market information when setting policies and priorities*
- *ASIC has improved how it communicates with business*

How much do you agree or disagree that ASIC's oversight of the following has improved over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *Accountants*
- *Auditors*
- *Liquidators and insolvency professionals*
- *Investment banks*
- *Fund managers*
- *Credit rating agencies*
- *Derivative issuers (e.g. Contract For Difference (CFD) providers)*
- *Stockbrokers*
- *Superannuation funds*
- *Financial planners and advisers*
- *Company boards and executives*
- *Credit providers or intermediaries*
- *Insurers*
- *Deposit takers*

B.6 Facilitating international capital flows and international enforcement

Overall, how much do you agree or disagree that currently: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *Australia's corporate and financial services regulatory system is internationally respected*
- *Australian capital markets are internationally competitive*

How much do you agree or disagree that over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC has reduced regulatory barriers to international investments*

B.7 Managing the domestic and international implications of the global financial turmoil

Overall, how much do you agree or disagree that over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC did a good job of responding to the Global Financial Crisis (GFC)*
- *ASIC worked well with other regulators in managing the impact of the GFC*

B.8 Lifting operational effectiveness and service levels

Overall, how much do you agree or disagree that over the last two years: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC has helped small business to understand their obligations*
- *ASIC has improved services by using new technologies and processes*
- *ASIC staff have been knowledgeable and professional*
- *ASIC has reduced regulatory red tape*

Complaints to ASIC

Have you made a complaint to ASIC about a company or an individual over the last two years? (Options: Yes/ No)

Based on your experience in making a complaint to ASIC about a company or an individual, how much do you agree or disagree that: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *The process for making a complaint was easy and efficient*
- *ASIC was prompt in confirming receipt of your complaint*
- *ASIC provided you with information that helped you with your complaint*
- *You were satisfied with the service you received from ASIC*
- *You were satisfied with the length of time it took ASIC to respond to your complaint*
- *You would complain to ASIC in the future if necessary*

Contact with the ASIC client contact centre

Have you contacted the ASIC client contact centre over the last two years? (Options: Yes/ No)

Based on your experience with the ASIC client contact centre, how much do you agree or disagree that: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *The assistance you received met your needs*
- *ASIC client contact centre staff were knowledgeable and professional*
- *ASIC client contact centre staff were prompt in answering in your query*

Dealing with ASIC regulatory staff

Have you dealt with ASIC on a regulatory issue related to your business over the last two years? (Options: Yes/ No) (Regulatory issues include licensing, registration, compliance, enforcement and policy)

Based on your dealings with ASIC on regulatory issues, how much do you agree or disagree that: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *ASIC staff understood the specifics of your business*
- *You knew who to talk to at ASIC when you needed help*
- *It was clear what ASIC wanted from you and why*
- *Interactions with ASIC met your timing requirements*
- *ASIC's regulatory guides answered your questions and helped you to decide what to do*
- *ASIC compliance activity focused on the right issues*
- *ASIC compliance activity had a positive impact on your behaviour*
- *ASIC compliance activity had a positive impact on behaviour in your industry*

Registering a company, or lodging some other document, with ASIC

Have you registered a company, or lodged some other document, with ASIC over the last two years? (Options: Yes/ No)

Based on your experience lodging a document with ASIC, how much do you agree or disagree that: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *The process for registering a company with ASIC was easy and efficient*
- *The process for maintaining your details was easy and efficient*
- *ASIC online lodgement services were easy to use and efficient*
- *The process to pay fees was easy and efficient*

Searched for information in ASIC's databases

Have you searched for information in ASIC's databases over the last two years? (Options: Yes/ No) (ASIC's databases include: companies; AFSL businesses, credit register, phone scams blacklist, lodged prospectuses, managed investment schemes, unclaimed monies, National Names Index and banned people)

Based on your usage of ASIC's databases, how much do you agree or disagree that: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *It was easy to access the information*
- *The database information was useful*

Used ASIC's website

Have you used the ASIC website (excluding databases) over the last two years? (Options: Yes/ No)

Based on your usage of the ASIC website, how much do you agree or disagree that: (Options: strongly disagree, disagree, neutral, agree, strongly agree)

- *The ASIC website contained useful information*
- *The ASIC website was easy to use and search*

B.9 Future focus

Over the next three to five years, you would like ASIC to focus on: (Options: a lot less, less, about the same, more, a lot more)

- *Assisting retail investors and consumers*
- *Protecting retail investors and consumers*
- *Building confidence in the integrity of Australia's capital markets*
- *Facilitating international capital flows and international enforcement*
- *Managing the domestic and international implications of the global financial turmoil*
- *Lifting operational effectiveness and service levels*
- *Reducing costs for business by using new technologies*

What do you see as the three most important issues for ASIC to address over the next three to five years?

- *Issue 1*
- *Issue 2*
- *Issue 3*

B.10 About you

You interact with ASIC as a(n) (select all that apply):

- *business owner or executive or board member*
- *auditor or accountant*
- *insolvency practitioner or administrator*
- *investment manager, fund manager or superannuation trustee*
- *investment banker*
- *financial planner*
- *information broker*
- *stock broker or market operator*
- *other business or financial service provider or intermediary*

- *credit provider or intermediary*
- *representative body or industry association*
- *Commonwealth, state/territory or local government agency*
- *consumer representative or community representative*
- *retail investor or consumer*

Where do you live? (select one only)

- *New South Wales*
- *Victoria*
- *Queensland*
- *South Australia*
- *Western Australia*
- *Tasmania*
- *Northern Territory*
- *Australian Capital Territory*
- *Overseas*

How frequent are your dealings with ASIC? (select one only)

- *More than once a month*
- *Between once a month to once every six months*
- *Between once every six months to once a year*
- *Between once a year to once every two years*
- *No dealings with ASIC*

How many staff does your company employ in Australia? (select one only)

- *No employees*
- *1 to 20*
- *21 to 200*
- *More than 200*

Are you, or is your business: (Options Yes/No)

- *the holder of an Australian Financial Services License; OR*

- *the representative of an Australian Financial Services License holder?*

Are you, or is your business: (Options Yes/No)

- *a licensed credit provider or intermediary; OR*
- *registered to become a licensed credit provider or intermediary; OR*
- *a representative of a licensed credit provider or intermediary; OR*
- *a representative of someone who has registered to become a licensed credit provider or intermediary?*

What products do you own: (select all that apply)

- *Bank accounts*
- *Credit cards and or personal loan*
- *Mortgage*
- *Insurance*
- *Self managed superannuation fund*
- *Other superannuation fund*
- *Securities (stocks and shares)*
- *Derivatives (eg options, CFDs or futures)*
- *Managed funds*

B.11 Thank you

Thank you for your help with the survey. If you have any other comments, please enter them below.

Appendix C

Qualitative interviews

Table C.1

STAKEHOLDERS CONSULTED

Organisation	Representatives
Australian Financial Counselling and Credit Reform Association	Fiona Guthrie, Executive Director
Australian Shareholders' Association	Stuart Wilson, CEO
Consumer Action Law Centre	Carolyn Bond, CEO
Insolvency Practitioners Association of Australia	Denise North, CEO
Association of Super Funds Australia	Pauline Vamos, CEO
Australian Bankers' Association Inc	Diane Tate, Policy Director
Australian Financial Markets Association	Duncan Fairweather, Executive Director David Lynch, Head of Policy and Markets David Love, Director of Policy
Stockbrokers Association of Australia	David Horsfield, Managing Director and CEO
Financial Planning Association of Australia	Mark Rental CEO, Deen Sanders, Dante De Gori, John Bacon
Certified Practising Accountants	Mark Shying, Senior Policy Adviser Gary Pflugrath, Policy Adviser Audit and Assurance Denis Pratt, General Manager Professional Standards
Group of 100	Peter Lewis, National President
Australian Institute of Company Directors	John Colvin, CEO
Chartered Secretaries Australia	Tim Sheehy, CEO Judith Fox, Director of Policy

C.1 Discussion guide

This consultancy

ASIC has commissioned the Allen Consulting Group to undertake a survey of its external stakeholders (the 2010 survey). The purpose of the survey is to test stakeholders' views on ASIC's performance over the past two years and the key issues for the organisation over the next three to five years.

Context for the 2010 survey

Since the ASIC stakeholder survey in early 2008, ASIC has undergone a restructure designed to bring it closer to the markets and people that it regulates, and set itself a clear set of priorities to focus on (shown below). ASIC's responsibilities have also expanded with the taking over of market supervision and oversight of credit providers in 2010.

In addition there have also been significant external events over the past two years including the Global Financial Crisis, the continuing turmoil in the USA and in Europe and the overall resilience of the Australian economy.

Strategic priorities

ASIC's current strategic priorities are:

- assisting and protecting retail investors and consumers in the financial economy;
- building confidence in the integrity of Australia's capital markets;
- facilitating international capital flows and international enforcement;
- managing the domestic and international implications of the global financial turmoil;
- lifting operational effectiveness and service levels for all ASIC stakeholders; and
- improving services and reduce costs by using new technologies and processes.

Future focus

The purpose of the 2010 survey is to obtain stakeholder views on ASIC's performance over the last two years as well as to inform ASIC's priorities over the next three to five years.

Issues for discussion

The following are a number of the issues we would like to discuss in order to explore stakeholders' perceptions of ASIC.

ASIC and its environment

ASIC's responsibilities have expanded since 2008 — which of these are your members or subscribers most likely to be aware of, or affected by?

Which of ASIC's internal changes are most likely to affect your members' or subscribers' perceptions of ASIC's performance over the last two years?

What external factors are most likely to affect your members' or subscribers' perceptions of ASIC's performance over the last two years?

Are some categories of your members or subscribers disproportionately affected by the internal and external changes discussed?

ASIC's priorities — current

How has ASIC performed against its priorities?

- *Has ASIC assisted and protected retail investors and consumers in the financial economy?*
- *Has ASIC built confidence in the integrity of Australia's capital markets?*
- *Has ASIC facilitated international capital flows and international enforcement?*
- *Has ASIC managed the domestic and international implications of the global financial turmoil?*
- *Has ASIC lifted operational effectiveness and service levels for all ASIC stakeholders?*
- *Has ASIC improved services and reduced costs by using new technologies and processes?*

Does ASIC have the right priorities?

Has ASIC allocated its resources appropriately across each of the priorities?

ASIC's priorities — future

Does ASIC need to reconsider its priorities for the next three to five years?

Can you suggest specific actions ASIC could take to address the definition and achievement of their priorities?