ASIC
Australian Securities & Investments Commission

Annual Report 2021–22

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Australian Securities
and Investments Commission

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Chair

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14 October 2022

The Hon. Jim Chalmers MP
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Treasurer

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2022.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), section 46 of the *Public Governance, Performance and Accountability Act 2013*, the Public Governance, Performance and Accountability Rule 2014 and Resource Management Guide No. 135 *Annual reports for non-corporate Commonwealth entities*, published by the Department of Finance.

Yours faithfully

J Longo

Joseph Longo
Chair

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ASIC's role

Chair's report

On behalf of my fellow Commissioners, I am pleased to present this annual report for 2021–22. I would also like to take this opportunity to thank outgoing Commissioner Cathie Armour for her valued contributions to ASIC's work over the last nine years.

Since I became Chair of ASIC, I have made it clear that I want ASIC to be an ambitious and confident regulator. This means setting clear priorities, acting with courage, communicating what we do and why, and embracing change.

It was a challenging year for global markets and the Australian economy and financial services sector. Global and domestic economic indicators moved and continue to move dramatically, and financial markets are being transformed by technological innovation, the impact of climate risk, and ongoing pandemic-related disruptions.

This year we started to shift our emphasis from helping Australian businesses and consumers recover from the immediate economic impact of the COVID-19 pandemic, to addressing the regulatory and consumer protection issues arising in the changed economic environment.

Against this background, ASIC maintained its commitment to supporting market integrity and tackling the areas of greatest harm to consumers and investors.

We continue to be a strong and targeted law enforcement agency, and an active litigator against misconduct. Now that the majority of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission) recommendations for legislative reform have been enacted, including the product intervention power, design and distribution obligations, reform of breach reporting requirements, the hawking prohibition and the deferred sales model for add-on insurance, we have a stronger regulatory framework and more powers to support our enforcement activities. We are committed to using our full, expanded regulatory toolkit to take action against misconduct and reduce the risk of harm to consumers.

Key outcomes achieved this year included:

- $113 million in penalties imposed on Westpac for widespread compliance failures
- judgment against RI Advice Group, establishing that failure to manage cyber security risks is a breach of licence obligations
- disrupting 'pump and dump' activity in listed stocks to limit the potential for harm to consumers as a result of market manipulation with charges laid against Gabriel Govinda
- the extension of product intervention orders for contracts for difference
- filing our final civil proceeding arising from the Financial Services Royal Commission.

These actions were informed by the strategic priorities in our *Corporate Plan 2021–25 – Focus 2021–22*, namely:

- promoting economic recovery, including through better and more efficient regulation
- reducing the risk of harm to consumers exposed to poor product governance and design, as well as increased scam activity
- supporting enhanced cyber resilience and cyber security among our regulated population
- driving industry readiness and compliance with standards set by law reform initiatives.

We also progressed a range of work to strengthen our organisational capability, ensuring that it effectively supports our front-line regulatory work.

Last year, we commissioned an independent review of ASIC's infrastructure. We have implemented key recommendations, including appointing a Chief Operating Officer and Executive Director Operations, reviewing internal service level standards for our operations functions, and updating our technology service delivery model. In order to be an effective regulator that serves and advances the public interest, we need to be accountable and performance-focused.

ASIC is committed to a digital future. A key part of our organisational change agenda is our digital transformation program, which will be a focus over multiple years and is fundamental to ASIC becoming a leading digitally enabled, data-informed regulator.

We made significant progress this year, especially in relation to data collection, storage and analysis, but there is more to do. Our digital and data strategy sets out our plans to further improve our capabilities, including in data analytics, artificial intelligence, and machine learning. Ultimately, this will transform the way ASIC works.

Regulatory efficiency also remains a priority for ASIC. This year we established a dedicated unit to coordinate work across ASIC on how we administer the law from a functional perspective, to make it easier for business to get things done. The first tranche of initiatives is under way, and focuses on the development of regulatory guidance, the use of our information-gathering powers, and enhancing stakeholder engagement and user experience when interacting with ASIC.

During the year, the newly established Financial Regulator Assessment Authority (FRAA) undertook its first assessment of ASIC's effectiveness and capability. The FRAA found that ASIC is effective and capable in the areas reviewed. ASIC has several initiatives underway that align to the FRAA's recommendations. We will continue to work closely and collaboratively with the FRAA as we implement its findings in our future work.

Looking ahead

The longer-term strategic priorities set out in our *Corporate Plan 2022–26 – Focus 2022–23* will guide our work over the next four years.

As part of delivering on our external strategic priorities, we will focus on core strategic projects, including:

- disrupting and combating scam activity, in collaboration with other Government agencies
- enforcing compliance with product design and distribution obligations
- driving continued improvement in climate-related and sustainability disclosure and governance
- implementing the new breach reporting reforms, to promote greater transparency and consistency
- driving active cyber risk management and operational resilience practices
- prioritising consumer protection in relation to crypto-assets
- working with the Australian Prudential Regulation Authority (APRA) on joint implementation of the upcoming Financial Accountability Regime.

We will focus on the areas of greatest harm, use technology to optimise our work, and clearly communicate what we do and why, as we continue to confidently play our role to support the Australian economy, serve the community and advance the public interest.

Joseph Longo
Chair

1.1 ASIC's role and responsibilities

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

Our vision

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

Our regulatory purpose

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

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

Our legislative responsibilities

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

It requires that ASIC strive to:

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

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

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

We also administer parts of the following legislation:

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

Our regulatory approach

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

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

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

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

ASIC Corporate Plan

Our *Corporate Plan 2021–25 – Focus 2021–22* (Corporate Plan) outlined our regulatory priorities and the actions we plan to take over the next four years. These are based on monitoring and analysis of our operating environment, identification of threats and behaviours that lead to harm, and prioritisation of those harms that need to be addressed.

See pages 38–41 for more detail on our Corporate Plan priorities.

Chapter 2 sets out our achievements against the qualitative and quantitative measures identified in our Corporate Plan.

1.2 ASIC's structure and management

ASIC governance

ASIC's governance and accountability structures are consistent with ASIC being an independent Commonwealth agency that is a statutory body corporate. They reflect the legislative framework within which ASIC operates. ASIC's Chair, Joseph Longo, is the accountable authority under section 9A of the ASIC Act and has held this position since 1 June 2021.

ASIC's Commission has a non-executive board structure. There is a separation between the roles of the Commissioners and the roles of the executives. Commissioners apply a whole-of-ASIC lens to everything that they do, and executives inform the Commission through their specialist lenses. When the Commission deliberates and makes a decision, it considers the various other areas of ASIC's work. This prioritises consistency in ASIC's enforcement and regulatory decisions.

ASIC's Chief Operating Officer (COO) is responsible for non-regulatory decision making and the operational performance of ASIC. The COO enhances ASIC's governance by enabling the Commission to focus on strategic matters, external engagement and communication.

External oversight

ASIC is accountable to Parliament through the following parliamentary committees:

- Parliamentary Joint Committee on Corporations and Financial Services (PJC)
- Senate Standing Committees on Economics
- House of Representatives Standing Committee on Economics
- other parliamentary committees and inquiries as required.

In March 2022, a report by the PJC inquiring into ASIC's governance framework concluded that our current framework is adequate and fit for purpose.

In October 2021, the Senate referred matters relating to the collapse of the Sterling Income Trust to the Senate Economics References Committee for inquiry and report. The final report was released in February 2022 and ASIC is now considering the findings and recommendations, in particular the two directed at ASIC.[1]

1 Recommendation 3, that ASIC investigate and, if appropriate, commence legal proceedings against Australian financial services licence holders (current and former) that are alleged to have breached section 917B of the Corporations Act but have not consented to participate in relevant Australian Financial Complaints Authority (AFCA) processes, and recommendation 11, that ASIC develop a framework to promote greater awareness and understanding among retail investors and financial consumers in relation to buying financial products and services.

The Financial Regulator Assessment Authority (FRAA), established under the *Financial Regulator Assessment Authority Act 2021*, adds to ASIC's governance mechanisms. Its role is to assess and report on the effectiveness and capability of ASIC and APRA every two years.

The first FRAA assessment of ASIC focused on ASIC's effectiveness and capability in strategic prioritisation, planning and decision making, and our surveillance and licensing functions. The FRAA also examined ASIC's use of data and technology in each of these focus areas. The report detailing the FRAA's first assessment was released in August 2022. The FRAA found that ASIC is effective and capable in the areas reviewed. ASIC has several initiatives underway that align to the FRAA's recommendations. We will continue to implement the FRAA's findings in our future work.

We are under the jurisdiction of the Australian Commission for Law Enforcement Integrity. This Commission investigates corruption issues involving staff members and former staff members of organisations that fall under its jurisdiction.

> Further information about ASIC's governance and the role of the Commission is set out in the Appendices on pages 208–209.

ASIC organisational structure

Australian Securities and Investments Commission

Chair: Joseph Longo

Deputy Chairs: Karen Chester, Sarah Court

Commissioners: Danielle Press, Sean Hughes, Cathie Armour[1]

Chair and Accountable Authority
Joseph Longo

Chief Operating Officer
Warren Day

Office of the Chair
Chief of Staff: Louise Macaulay

Strategy
- Behavioural Research and Policy
- International
- Strategic Intelligence
- Strategic Policy

Financial Services and Wealth
- Credit and Banking
- Financial Advisers
- Institutional Supervision
- Insurers
- Investment Managers
- Licensing
- Superannuation

Office of Enforcement

Financial Services Enforcement
- Financial Services Enforcement
- Wealth Management Enforcement

Markets Enforcement
- Corporations and Corporate Governance
- Enforcement WA
- Markets Enforcement

Markets
- Chief Accountant
- Corporations
- Governance
- Market Infrastructure
- Market Supervision
- Registered Liquidators and Financial Reporting and Audit

Chief Legal Office
- Deputy General Counsel
- Commission Counsel
- Delegates Panel
- Special Counsel

Operations
- Corporate Services
- Data and Analytics CDAO
- Digital Transformation
- Information Technology
- Regulatory Systems and Improvement
- Specialist Services

Communications
- Chief Communications Officer
- Corporate Affairs
- Consumer Insights and Communications

- Senior Executive Advisor to COO
- Finance
- People and Development
- Chief Risk Office
- Internal Audit
- M&BR Office of the Whistleblower and CIU
- Small Business Engagement and Compliance
- Registry Interactions and Services

1 Cathie Armour ceased her role as an ASIC Comissioner on 2 June 2022.

ASIC Commissioners

Joseph Longo

Chair

Joseph Longo commenced as ASIC Chair on 1 June 2021.

Sarah Court

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

Karen Chester

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

Sean Hughes

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

Danielle Press

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

Cathie Armour

Cathie Armour ceased her role as an ASIC Commissioner on 2 June 2022.

She commenced as an ASIC Commissioner on 3 June 2013.

ASIC Executive Committee

Chair Commission

Joseph Longo

Executive Director Financial Services Enforcement

Tim Mullaly

Executive Director Financial Services and Wealth

Joanna Bird

General Counsel

Chris Savundra

Executive Director Markets Enforcement

Sharon Concisom

Executive Director Markets

Greg Yanco

Chief Operating Officer

Warren Day

Executive Director Operations

Zak Hammer

Executive Director Strategy

Greg Kirk

ASIC Executive Committee members as at 30 June 2022.
The above list does not reflect standing attendees.

Surveillance and supervisory teams

ASIC's surveillance and supervisory teams and who they regulate

Markets

Greg Yanco – Executive Director

Chief Accountant

Doug Niven – Chief Accountant

Corporations

Claire LaBouchardiere and Rachel Howitt – Senior Executive Leaders

- Unlisted public companies: 24,036
- Listed companies (excluding listed schemes): 1,841

Registered Liquidators
Financial Reporting
Audit

Thea Eszenyi – Senior Executive Leader

- Registered company auditors: 3,441
- Entities required to produce financial reports: 29,420
- Registered SMSF auditors: 5,173
- Registered liquidators: 646
- External administrators and controllerships: 4,924

Market Infrastructure

Nathan Bourne – Senior Executive Leader

- Licensed domestic and overseas financial markets: 51
- Exempt markets: 3
- Licensed domestic and overseas clearing and settlement facilities: 7
- Exempt clearing and settlement facilities: 2
- Derivative trade repositories: 1
- Credit rating agencies: 6
- Benchmark administrators: 2

Market Supervision

Calissa Aldridge – Senior Executive Leader

- Large securities exchange participants: 63
- Large futures exchange participants: 36
- Securities dealers: 1,183
- Corporate advisers: 560
- OTC traders: 333
- Retail OTC derivative issuers: 115
- Wholesale electricity dealers: 1,619

Governance

Kim Demarte – Senior Executive Leader

The Governance team has a broad range of stakeholders given its various focuses on the governance practices of Australia's larger entities and licensees, preparing to implement the new Financial Accountability Regime and overseeing the whistleblower policy requirements applicable to public companies, large proprietary companies and superannuation trustees.

Financial Services and Wealth

Joanna Bird – Executive Director

Credit and Banking

Tim Gough – Senior Executive Leader

- Authorised deposit-taking institutions: 139
- Australian credit licensees: 4,720
- Credit representative: 39,711
- Non-cash payment facility providers: 613
- Trustee companies: 11

Financial Advisers

Leah Sciacca – Senior Executive Leader

- Financial advisers: 16,621
- AFS licensees licensed to provide personal advice: 4,112
- AFS licensees licensed to provide general advice only: 1,049

Insurers

Rhys Bollen – Senior Executive Leader

- General insurers: 54
- Life insurers: 23
- Friendly societies: 11
- Insurance product distributors: 3,476
- Risk management product providers: 77*
- Claims handling and settling services providers: 314**

* 42 of the 77 providers are unique to this subsector.
** 62 of the 314 providers are unique to this subsector.

Investment Managers

Kate Metz – Senior Executive Leader

- Responsible entities: 420
- Registered managed investment schemes: 3,656
- Wholesale trustees: 1,791
- MDA operators: 230
- IDPS operators: 76
- Custodial service providers: 1,250
- Foreign financial services providers: 1,003
- Total assets: $2,724.7 billion

Licensing

Peng Lee – Senior Executive Leader

- AFS licence: 6,288
- Australian credit licence: 4,720
- Registered company auditors: 3,441
- Registered SMSF auditors: 5,173

Superannuation

Jane Eccleston – Senior Executive Leader

- Superannuation trustees: 90
- Total assets: $2,422 billion

Institutional Supervision

Suneeta Sidhu – Chief Supervisory Officer

Entities subject to supervision:

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

Office of Enforcement

FINANCIAL SERVICES ENFORCEMENT

Tim Mullaly – Executive Director

Financial Services Enforcement

Melissa Smith – Senior Executive Leader

Wealth Management Enforcement – Major Financial Institutions

David McGuinness – Senior Executive Leader

Wealth Management Enforcement

Marita Hogan – Senior Executive Leader

MARKETS ENFORCEMENT

Sharon Concisom – Executive Director

Corporations and Corporate Governance

Brendan Caridi – Senior Executive Leader

Enforcement Western Australia and Criminal Intelligence Unit

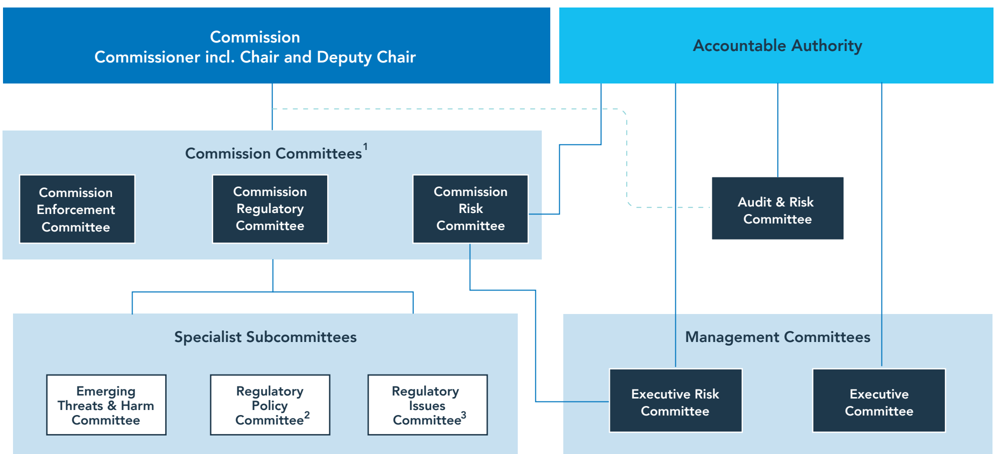
Wendy Endebrock-Brown – Senior Executive Leader

Markets Enforcement

Molly Choucair – Senior Executive Leader

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

ASIC governance structure



1 The Commission Steering Committee was removed from ASIC's Governance Framework in September 2021.

The following changes occurred outside the reporting period, prior to the tabling of the annual report:

2 The Regulatory Policy Committee was removed from ASIC's Governance Framework. It will continue to function at the executive level as a sounding board forum.

3 The Regulatory Issues Committee has been disbanded.

Commission meetings

Commission meetings are convened by ASIC's Chair under section 103 of the ASIC Act. They are scheduled weekly.

Commission Committees

Commission Committees are decision-making committees and comprise the full Commission and other standing attendees. There are three Commission Committees:

- **Commission Enforcement Committee:** makes strategic and/or significant enforcement decisions (including in relation to the conduct, strategy and focus of major matters and enforcement policies) and oversees ASIC's enforcement and litigation work.
- **Commission Regulatory Committee:** makes strategic and/or significant decisions relating to regulatory policy, law reform, applications for relief, policy frameworks and reports and oversees ASIC's regulatory activities and functions.
- **Commission Risk Committee:** considers all types of risk of a strategic and/or significant nature that affect ASIC, our regulated population, Australia's financial system and Australian consumers. This Committee is responsible for setting and monitoring ASIC's risk management framework and risk appetite. The Committee monitors ASIC risk by reviewing and challenging whether material risks have been identified, ensuring that risk remediation plans are in place and challenging whether adequate resources have been deployed to appropriately manage risks.

Specialist subcommittees

Specialist subcommittees support the Commission Committees and provide oversight and guidance in preparing matters for decision by the Commission. The subcommittees consist of two or three Commissioners and standing attendees. There are three subcommittees:

- **Emerging Threats and Harm Committee:** identifies, considers and provides advice on the management of emerging risks and strategic risks within ASIC's regulated population or the areas we regulate.
- **Regulatory Policy Committee:** considers submissions recommending new or revised regulatory policy, law reform and novel applications for relief from the laws administered by ASIC.
- **Regulatory Issues Committee:** considers matters generated by the surveillance and supervisory work undertaken by ASIC's regulatory teams.

Governance Committees

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

- **Commission Risk Committee:** (as set out above).
- **Audit and Risk Committee:** operates independently of management in accordance with Terms of Reference approved by the accountable authority. The Committee provides independent assurance to the ASIC Chair on ASIC's financial and performance reporting responsibilities, risk oversight and management, and system of internal control.

Management Committees

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

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

Regional Commissioners

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

Australian Capital Territory

Laura Higgins[1]

- Commenced as Regional Commissioner in May 2019.

New South Wales

Mark Adams

- Commenced as Regional Commissioner in November 2021.

Northern Territory

Duncan Poulson

- Commenced as Regional Commissioner in February 2006.

Queensland

Amanda Zeller

- Commenced as Regional Commissioner in May 2019.

South Australia

Melissa Smith[2]

- Commenced as Regional Commissioner in June 2015.

Tasmania

Chris Green

- Commenced as Regional Commissioner in November 2013.

Victoria

John Wallace[3]

- Commenced as Regional Commissioner in November 2021.

Western Australia

Rhian Richards

- Commenced as Regional Commissioner in November 2021.

The following changes occurred outside the reporting period, prior to tabling of the annual report:

1 Peter Dunlop was appointed Regional Commissioner for the Australian Capital Territory in August 2022.

2 Natasha Haslam was appointed Regional Commissioner for South Australia in August 2022.

3 Warren Day was appointed Acting Regional Commissioner for Victoria in August 2022.

1.3 Key projects

ASIC has progressed or completed a number of key projects this year, including changes to our organisation to improve the way we work, engagement with other agencies on important inquiries, and working with the Government to implement important law reforms.

Promoting better regulation

In November 2021, ASIC established a Regulatory Efficiency Unit (REU) to promote better regulation by making it easier for businesses to fulfil their regulatory requirements effectively. The REU seeks to minimise the cost and burden of regulatory requirements, reduce the impost on industry, and drive better compliance while ensuring that consumer protections remain strong.

The REU initially consulted with industry in March 2022, with the aim of identifying initiatives that can improve the efficiency of ASIC's interactions with our regulated population. More than 70 stakeholders responded to identify some of the key themes and challenges that businesses face when dealing with ASIC.

Implementation of proposed initiatives will begin this financial year.

Infrastructure Review

In June 2021, ASIC engaged PwC to review ASIC's infrastructure and assess how key aspects of our corporate support functions operate as part of our commitment to ensure efficient and effective regulation. The focus of the review centred on ASIC's operations group encompassing Finance, People and Development, IT, Data and Analytics, Specialist Services, and Corporate Services.

The recommendations from the high-level review of our operations group were received and considered by ASIC's Chair and Commission in July 2021. The Commission agreed with the direction of the recommendations and endorsed an implementation program. This program is being actioned in stages and integrates the PwC recommendations along with existing program initiatives and ASIC priorities.

Recommendations relating to governance and accountability, and to ASIC's service offering, were considered an early priority and were implemented within three months of the program commencement. Governance and accountability measures include confirming the role of the Chief Operating Officer and establishing an Executive Director Operations, as well as clearly communicating the split of accountabilities between the accountable authority, the Commission, and the organisation. Improvements to ASIC's service offering include establishing service level standards for internal stakeholders, and creating a customer service charter. Other recommendations across ASIC relating to strategy, planning and performance, capability and capacity, and information and technology systems require a longer-term program of work that is currently being progressed.

ASIC's engagement with the ALRC on its inquiry into corporations and financial services law

The Australian Law Reform Commission (ALRC) has been considering the potential simplification of laws that regulate financial services in Australia. In November 2021, the ALRC released *Financial Services Legislation: Interim Report A* (Interim Report A), which included suggested reforms to improve the navigability and reduce the complexity of the corporations and financial services legislation.

ASIC welcomes all of the ALRC's recommendations in Interim Report A. We have been providing support to the ALRC, including through the establishment of a working group. ASIC's Chair has also joined the Advisory Committee for the ALRC Review to help provide regular feedback from ASIC as the ALRC continues its work.

Supporting Government legislative reform

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

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

This year, a raft of significant law reforms following on from Financial Services Royal Commission recommendations commenced or were progressed. Key Government reforms we worked on included the design and distribution obligations, breach reporting, hawking, the deferred sales model for add-on insurance and the Financial Accountability Regime. These reforms have created a stronger regulatory framework and more powers to support our enforcement activities.

Design and distribution obligations

The design and distribution obligations commenced in October 2021. Their introduction supports ASIC's strategic priority of reducing the risk of harm to consumers. The obligations require financial product firms to develop products that meet the needs of the consumers in their target market, and to direct distribution to that target market. ASIC has engaged extensively with industry during implementation and in the initial stages of this reform.

Reportable situations reforms

Breach reporting (now called reportable situations) reforms commenced on 1 October 2021 to improve the consistency, clarity and timeliness of reporting across the industry. Australian financial services (AFS) licensees must now lodge reports about reportable situations to ASIC through the ASIC Regulatory Portal. The changes in reporting obligations have resulted in a more expansive reporting regime for AFS licensees and also clearer reporting obligations.

In September 2021, ASIC released regulatory guidance to help credit and AFS licensees meet the new breach reporting obligations (Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees*).

Hawking reforms

Reforms to restrict the unsolicited selling of financial products came into effect in October 2021. The hawking reforms are designed to tackle consumer harms arising from consumers being approached with unwanted products through cold-calls or other unsolicited contact.

Ahead of the commencement of the new law, ASIC published updated regulatory guidance to assist industry in meeting its obligations (Regulatory Guide 38 *The hawking prohibition*).

Deferred sales model for add-on insurance

The deferred sales model, which introduces a mandatory four-day pause between the sale of a principal product or service and the sale of add-on insurance, commenced in October 2021. The Royal Commission found numerous issues in the add-on insurance market, including poor-value products, unfair sales practices and outcomes, and worse claims outcomes than in other insurance markets.

ASIC released a new regulatory guide (Regulatory Guide 275 *The deferred sales model for add-on insurance*) and final customer information requirements as part of our work to implement the new deferred sales model.

Financial Accountability Regime

The Financial Accountability Regime (FAR), subject to it being passed by the Australian Parliament, will extend the Banking Executive Accountability Regime to a wider range of entities and provide for the joint administration of the FAR between APRA and ASIC. It aims to improve the risk and governance cultures of entities in the banking, superannuation and insurance sectors. ASIC and APRA have worked together closely to provide technical and policy input to Treasury and will continue to develop systems and guidance to facilitate a smooth transition and implementation of the FAR.

Final Financial Services Royal Commission proceeding filed

This reporting period marked the filing of ASIC's last civil proceeding stemming from the Financial Services Royal Commission.

All of ASIC's Royal Commission investigations are now complete, with seven proceedings still before the courts. In total, ASIC brought 24 civil and criminal cases based on matters raised at the Financial Services Royal Commission (with one additional criminal matter currently under consideration by the Commonwealth Director of Public Prosecutions (CDPP)).

As at 30 June 2022, the total penalties and fines imposed in proceedings brought by ASIC arising out of the Financial Services Royal Commission amounted to more than $138 million.

1.4 Financial summary

Outcomes

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

Revenue for the Commonwealth

In 2021–22, ASIC raised $1,676 million for the Commonwealth in fees, charges and supervisory cost recovery levies, an increase of 11% from the 2020–21 year.

Revenue, appropriations and expenditure

In 2021–22, ASIC received approximately $422 million in appropriation revenue from the Government, including $65 million for the Enforcement Special Account (ESA), representing a $15 million or 3% decrease compared with 2020–21.

ASIC received approximately $68 million of own-source revenue[1] in 2021–22, $27 million higher than the previous year. The increase in own-source revenue mainly relates to:

- higher court cost recoveries for enforcement matters – these recoveries are unpredictable and vary from year to year
- the reimbursement of operating and capital expenditure incurred by ASIC on Government programs funded directly by other Australian Government entities – most of this received funding was for capital expenditure.

The decrease in total expenses is consistent with the decrease in appropriation, noting that lease liability principal payments are not included in this total.

The increase in the 2021–22 surplus is primarily driven by the revenue variances mentioned above.

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

Table 1.4.1 Revenue, appropriations and expenditure

	2021–22 ($'000s)	2020–21 ($'000s)	Change ($'000s)	Percentage change
Revenues from Government (incl. ESA)	**422,001**	437,092	(15,091)	(3%)
Own-source revenue	**67,873**	40,598	27,275	67%
Total revenue	**489,874**	477,690	12,184	3%
Total expenses (incl. depreciation and amortisation, net of gains)	**465,760**	492,107	(26,347)	(5%)
Surplus/(Deficit)	**24,114**	(14,417)	38,531	(267%)

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

	2021–22 ($'000s)	2020–21 ($'000s)
Operating expenses (incl. depreciation and amortisation, net of gains)		
Total expenses (net of gains)	**465,760**	492,107
Annual change on previous year	**(5%)**	0%
Fees and charges (incl. industry funding) raised for the Commonwealth		
Total	**1,675,771**	1,512,563
Annual change on previous year	**11%**	11%

2

ASIC’s annual performance statement

Chair’s statement

I, Joseph Longo, as the accountable authority of ASIC, present the 2021–22 annual performance statement of ASIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, the annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

Our purpose

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

2.1 Performance objectives

ASIC’s performance reporting in 2021–22 was guided by our Corporate Plan and our 2021–22 Portfolio Budget Statement, which set out our objectives and targets related to investor and consumer trust and confidence, and fair and efficient markets.

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

We aim to do this by:

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

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

2.2 Key results

Table 2.2.1 sets out our key results for 2021–22 across our supervision, surveillance, enforcement, guidance and education work.

The number of supervisory, surveillance and enforcement actions we undertake, the value of fines imposed, the number of people convicted, and the length of their sentences vary from year to year. The variations depend on factors such as the severity of breaches of the law and the complexity of the investigations we undertake. They also reflect the ongoing impact of the COVID-19 pandemic, which meant that close and continuous monitoring onsite supervisory work was not possible for a large portion of 2021.

Table 2.2.1 Key results

Outcome	Total 2021–22	Total 2020–21
Surveillance		
Surveillances completed[1,2]	**Over 1,040**	Over 1,080
Instances of potentially misleading or deceptive promotional material withdrawn or amended	**61**	59
Interim stop orders and final stop orders	**18**	13
Enforcement		
Investigations		
Investigations commenced[3]	**107**	110
Criminal actions		
Criminal litigation completed	**37**	29
Criminal litigation completed successfully (as a percentage)	**89%**	100%

1 This includes over 10 surveillances involving an onsite presence.
2 The number of surveillances completed measures surveillance activity by entity or related entities (such as companies, partnerships, licensed or unlicensed entities and individuals), by disclosure document (submitted by entity or entities) or by transaction (by entity or entities). These surveillance activities may arise from reports of misconduct, breach reports or as part of a larger surveillance project examining a thematic or industry-wide issue (i.e. a project may comprise a number of surveillances).
3 Investigations for these purposes meet the definition in section 13 of the ASIC Act and section 247 of the National Credit Act.

Outcome	Total 2021–22	Total 2020–21
New criminal litigation commenced	**50**	53
Average time to complete an investigation (in months)	**24**	28
Average time to a criminal court decision (in months)	**14**	12
Average total time to complete an investigation and reach a court decision (in months)	**43**	40
Criminal outcomes		
Number of people/companies convicted[4]	**33**	29
Custodial sentences (including fully suspended)	**13**	10
Noncustodial sentences/fines	**20**	19
Total dollar value of fines	**$2.1m**[5]	$151,100
Total dollar value of reparation orders	**–**	$1.8m
Total dollar value of pecuniary penalties	**$102,175**	–
Civil action		
Civil litigation completed	**61**	46
Civil litigation completed successfully (as a percentage)	**100%**	93%
New civil litigation commenced	**75**	83
Average time to complete an investigation (in months)	**19**	13
Average time to a civil court decision (in months)	**17**	13
Average total time to complete an investigation and reach a court decision (in months)	**33**	26
Civil outcomes		
Total dollar value of civil penalties	**$229.9m**	$189.4m

4 This includes seven successful criminal actions without a conviction recorded.

5 The increase in fines arising from criminal actions is attributed to a fine of $1.71 million imposed on Avanteos Investments Ltd. The former subsidiary of Commonwealth Bank was convicted and penalised for failing to update defective disclosure statements, resulting in deceased consumers being charged fees after their death when Avanteos had no lawful authority to do so.

Outcome	Total 2021–22	Total 2020–21
Administrative actions and outcomes[6]		
Action taken against auditors	**59**	49
Action taken against liquidators	**3**	–
People disqualified or removed from directing companies[7]	**58**	49
People/Companies removed, restricted or banned from providing financial services	**39**	49
People/Companies removed, restricted or banned from providing credit services[8]	**18**	46
Licence conditions imposed on ASX	**3**	–
Court enforceable undertakings		
Court enforceable undertakings accepted	**1**	3
Compensation or remediation agreed in court enforceable undertakings[9]	**–**	$9.1m
Infringement notices[10]		
Total number of infringement notices issued	**3**	3
Total dollar value of infringement notices	**$136,890**	$392,000
Summary prosecutions		
Summary prosecutions for strict liability offences	**181**	224
Total value of fines and costs	**$1,019,106**	$669,906

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

7 This includes one disqualification arising from civil proceedings, where the court ordered that the defendant be disqualified from directing companies.

8 This includes two instances where the court imposed injunctions on the individuals restraining them from engaging in credit activity.

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

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

Outcome	Total 2021–22	Total 2020–21
Applications for relief from the Corporations Act		
Relief applications		
Relief applications received	**1,361**	948
Relief applications approved	**1,084**	755
Relief applications refused or withdrawn	**374**	238
Relief applications in progress	**127**	168
Licensing and professional registration activities		
Administrative decisions		
Licensing and registration applications received	**1,655**	2,075
Licensing and registration applications approved	**1,596**	1,159
Licensing and registration applications refused or withdrawn	**439**	410
Licensing and registration applications in progress	**819**	1,146
AFS licences, including limited AFS licences (new and variations)		
Applications approved	**1,178**	776
Applications refused/withdrawn	**277**	270
Licences cancelled/suspended	**314**	308
Applications in progress	**559**	873
Australian credit licences (new and variations)		
Applications approved	**267**	219
Applications refused/withdrawn	**139**	114
Licences cancelled/suspended	**224**	278
Applications in progress	**180**	260
Registered auditors – registered company auditors, authorised audit company and SMSF auditors		
Applications approved	**151**	164
Applications refused/withdrawn	**23**	26

Outcome	Total 2021–22	Total 2020–21
Licences cancelled/suspended	**607**	546
Applications in progress	**80**	13
Registered liquidators		
Liquidators registered by ASIC	**21**	31
Registration committees convened during the year	**25**	37
Outcome of registration committee convened during the year		
Applications for registration approved by committee	**17**	27
Applications for registration refused by committee	**7**	8
Committee matters in progress – registration application yet to be determined	**1**	2
Stakeholder engagement		
Meetings with industry groups and other stakeholders	**Over 1,900**	Over 2,100
Consultation and guidance		
Consultation papers published	**20**	14
Industry reports published	**37**	28
New or revised regulatory guides published	**41**	36
New or revised information sheets	**59**	50
Legislative instruments made, amended and repealed	**58**	54
Education		
Users visiting ASIC's Moneysmart website[11]	**11.0m**	11.0m
Average number of users to the Moneysmart website per month	**1.0m**	1.0m
Number of users who have used a Moneysmart online tool	**5.3m**	4.6m
Average number of users using a Moneysmart tool per month	**494,998**	440,764

11 The number of people visiting the Moneysmart website includes users from around the world. Of the 11 million users, 10 million (91%) were from Australia, using an Australian IP address.

2.3 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. Table 2.3.1 sets out our performance against the key measures outlined in the Service Charter for the 2021–22 financial year.

Table 2.3.1 ASIC Service Charter performance 2021–22

Service	Measure	Target	Result
When you contact us			
General telephone queries	We aim to answer telephone queries on the spot	80%	89.8%
General email queries	We aim to reply to email queries within three business days	90%	99.5%
Give reasonable assistance			
Searching company, business name or other data online	We aim to ensure that our online search service is available between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	100%
Lodging company, business name or other data online	We aim to ensure that you can lodge registration forms and other information online between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.9%
When you do business with us			
Registering a company or business name online	We aim to register the company or business name within one business day of receiving a complete application	90%	99.3%
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application	90%	96.6%

Service	Measure	Target	Result
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within seven business days	90%	100.0%
Updating company, business name or other ASIC register information online	For applications lodged online – enter critical information and status changes to company or business name registers within one business day	90%	99.9%
Updating company, business name or other ASIC register information via paper application	For paper applications lodged by mail – enter critical information and status changes to company or business name registers within five business days	90%	99.9%
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	89%
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances	100%	100%
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 73% Varied: 67%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: 91% Varied: 89%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 82% Varied: 75%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 91% Varied: 87%
Applying for relief	We aim to give an in-principle decision within 28 days of receiving all necessary information and fees for applications for relief from the Corporations Act	70%	72%

Service	Measure	Target	Result
	We aim to give an in-principle decision within 90 days of receiving all necessary information and fees for applications for relief from the Corporations Act	90%	88%
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or individual, ASIC aims to respond within 28 days of receiving all relevant information	70%	65%
When you have complaints about us			
About ASIC officers, services or actions	We aim to resolve a complaint within 28 days	70%	91%

2.4 Analysis: Implementing our performance objectives

This year our work aligned with the priorities outlined in the Corporate Plan published in August 2021. The Corporate Plan is consistent with ASIC's Statement of Intent published in August 2021 in response to the Australian Government's Statement of Expectations.

These priorities are summarised on pages 38–41.

Measuring our performance

In evaluating our work, we combine quantitative and qualitative indicators to provide a narrative about our approach, as detailed in our Corporate Plan. We measure both:

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

Our regulatory tools discussed in this chapter include:

- enforcement
- supervision
- surveillance
- licensing
- guidance.

Our regulatory tools also include education and engagement with stakeholders, our regulated population and other Government agencies, which are discussed in Chapter 4. For most of the issues in our remit, we use a combination of our tools to achieve outcomes for consumers and investors.

We produce regular reports about the volume and results of our activities, including periodic regulatory and enforcement updates, monthly market integrity updates, and regular updates about corporate insolvency and corporate finance.

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

ASIC Corporate Plan priorities

In 2021–22, our work was guided by four strategic priorities and planned key actions identified in our Corporate Plan. These priorities targeted the most significant threats and harms in our regulatory environment.

We committed in our Corporate Plan to engage in a range of supervisory and enforcement activities under each priority to identify and act against wrongdoing, employing the full scope of our regulatory toolkit in a targeted and proportionate way to enforce the law. Below are listed some of the key actions we identified under each priority in our Corporate Plan, with cross-references to examples of related work completed in this reporting period. Further examples are set out by sector in Chapter 3.

Priority 1: Promoting economic recovery

We have supported economic recovery by focusing on efficient regulation, facilitating innovation, and targeting regulatory and enforcement action to areas of greatest harm.

Key actions driven by this priority in 2021–22 included:

- addressing and influencing lender responses to borrowers experiencing financial difficulty – see financial hardship information on page 69
- liaising with, and reducing the regulatory burden on, industry in complying with the new corporate collective investment vehicles regime – see page 60
- engaging with industry on impediments to industry's ability to deliver good quality and affordable personal advice, including through issuing Consultation Paper 332 *Promoting access to affordable advice for consumers* – see page 76
- providing up-to-date and relevant information on the Moneysmart website that is designed to be a starting point for consumers and investors when making financial decisions – for information on Moneysmart see page 131–132
- combating illegal phoenix activity – for information on the Phoenix Taskforce see page 107 and for case studies on Richard Ludwig and Enrico Pucci see pages 127–128
- identifying and taking appropriate regulatory action against high-risk registered liquidators – see the Amanda Young case study on page 99
- identifying manipulative and insider trading through surveillance of securities, derivatives and wholesale markets (e.g. fixed income, currencies and commodities (FICC) markets) – see the Dylan Rands case study on page 81, and the information on insider trading data analytics on page 89
- supporting and contributing to the ALRC review of the Corporations Act, which is tasked with facilitating a more adaptive, efficient and navigable legislative framework – see page 23.

Priority 2: Reducing risk of harm to consumers

We have worked to reduce the potential risk of harm to consumers through addressing poor product governance and design, as well as the increase of investment scam activity in what was a low-yield environment.

Key actions driven by this priority in 2021–22 included:

- finalising investigations and the filing of court proceedings relating to referrals and case studies arising from the Financial Services Royal Commission – see the summary on page 24, and the Aware FS 'fees for no service' case study on page 50
- investigating and taking enforcement action against widespread governance failures – see the Westpac case study on pages 46–47
- taking enforcement action to address consumer harm caused by inadequate fee disclosure – see the NAB case study on page 55
- raising investor awareness of potential harms associated with retail investor scams by undertaking education, communications and social media campaigns – see the Cash FX Group case study on page 58
- taking enforcement action to deter general insurance pricing misconduct – see the IAG case study on page 73
- monitoring and taking action against unlawful social media advice and influence on retail investment decisions – see the financial influencers case study on page 91
- improving outcomes for Australian consumers who purchase insurance, including by taking enforcement action against misleading and deceptive conduct in the sale of travel insurance – see the Allianz and AWP travel insurance case study on page 52
- addressing poor debt collection practices – see the debt management example on page 62 and the landlord insurers case study on page 72
- undertaking outreach and stakeholder engagement activities to understand current issues for First Nations consumers of financial services and provide trusted information, including through the IOP Helpline – for more information on the IOP Helpline, see page 106
- quickly intervening to detect and deter social media led 'pump and dump' trading activity that can lead to consumer losses and undermined market integrity – for more information on how ASIC used a multi-pronged early intervention approach to quickly disrupt this type of activity see page 90
- reviewing and updating the ePayments Code to clarify and enhance protections for consumers – see the case study on page 70
- taking action where entities fail to ensure advice given is in the consumer's best interests – see the Ultiqa case study on page 78
- pursuing enforcement action where entities attempt to avoid important consumer protection provisions by carefully structured credit arrangements – see the Cigno case study on page 71.

Priority 3: Enhanced cyber resilience and cyber security

We have aligned our approach with the whole-of-government commitment to mitigate cyber security risks among ASIC's regulated population.

Key actions driven by this priority in 2021–22 included:

- investigating and taking enforcement action against instances of failure to adequately manage cyber risks – see the RI Advice case study on page 48
- taking proactive and disruptive enforcement action against perpetrators of egregious cybercrime and other conduct facilitated by digitalisation – see the case study on the Serious Financial Crime Taskforce and Operation Birks on page 108
- providing guidance to industry as part of ASIC-wide campaigns, and engaging with other regulators, agencies and industry on cyber resilience – for more information, including on the publication of Report 716 *Cyber resilience*, see page 87
- implementing new market integrity rules for market operators and participants, to promote technological and operational resilience – see the ASX Limited (ASX) outage example on page 86 and for more information on the rules, see page 92
- supervising ASX's program to replace its critical cash equities clearing and settlement system (CHESS) – for more information, see page 87.

Priority 4: Driving industry readiness and compliance with standards set by law reform initiatives

This includes the Financial Accountability Regime, reforms in superannuation and insurance, changes to breach reporting requirements, and the design and distribution obligations.

Key actions driven by this priority in 2021–22 included:

- collaborating with APRA to establish administrative and business processes and procedures for implementation of the Financial Accountability Regime – for more information see page 24
- engaging with stakeholders and providing guidance on the design and distribution obligations reforms – for more information on the reforms see page 23, and for a case study on our review of target market determinations see page 101
- using new penalty powers for failures to report breaches to ASIC – see the Statewide Super case study on page 49
- reviewing whistleblower programs to establish how entities have responded to the whistleblower regime introduced in 2019 – for more information on the whistleblower review, see page 57
- taking enforcement action as the superannuation conduct regulator, including acting to prevent the unlawful early release of superannuation – see the case study on former financial adviser Ahmed Saad on page 79
- monitoring the implementation of the Your Future, Your Super reforms, taking enforcement action where warranted – see the MySuper case study on page 85.

Strengthening our capabilities to support our vision

Data and analytics

In 2021–22, we successfully completed the first year of the *ASIC Data Strategy 2021–26*, uplifting ASIC's data and analytics capabilities and executing initiatives to improve efficacy in ASIC's regulatory work.

An example of material developments in the last year is the continued investment in our Data Lake platform.

ASIC's Data Lake is our core data management platform for all new data initiatives. It allows storage and processing of data and provides ASIC with access to the latest analytic tools, including operationalisation of Natural Language Processing (NLP) solutions.

ASIC has implemented two NLP solutions: Prospectus and Registered Liquidators. These algorithms process large volumes of textual documents to identify key words, patterns and sentiments which are then presented to ASIC regulatory professionals, along with a risk recommendation for consideration. This saves ASIC regulatory professionals from having to manually review all documents, allowing them instead to focus on assessment decisions and detailed review of higher risk matters, improved data availability and accessibility through recurrent data collections.

ASIC has completed industry consultation and the technology build for the internal dispute resolution data collection (internal customer complaints data from ASIC-regulated financial services organisations). The solution has been successfully tested with selected financial services organisations and regulatory guidance has now been provided to industry, with the collection scheduled to commence from February 2023.

This new data, especially when combined with existing ASIC data, will be a powerful tool for helping ASIC identify threats and prevent or address harms. ASIC is partnering with peer agencies and industry to enhance and develop recurrent data collections across our regulatory remit, with a goal to maximise the use of data across Government, minimise industry burden and the need for ad hoc collections, and help better focus our regulatory efforts.

For everything we do in the data and analytics space, we remain committed to maintaining high standards for privacy, information security, data governance and ethical use.

Continuous improvement of our regulatory systems

ASIC continues to deliver enhancements to regulatory systems for our stakeholders and team members.

Users of the Market Entity Compliance System Portal have transitioned to the ASIC Regulatory Portal, reducing the number of portals and usernames required for stakeholders to interact with us. All transactions relating to market participants and related licences are now available in the same modernised portal that is used for breach reporting and industry funding. New functionality, including smart transactions, which pre-populate submissions based on data previously provided, and the ability to pay online and self-manage authorisations, are now available.

By simplifying the way that we interact with our case management systems, we can develop a consistent way of recording and reporting on our work. This enables us to reduce manual tasks, resulting in quicker regulatory outcomes such as key ASIC decisions, regulatory guidance and advice, and the commencement of litigation proceedings.

Digital transformation

We have invested in our digital capability to ensure that we are better at identifying and responding to misconduct in the sectors we regulate. Further, as new and emerging technologies, products and innovations such as cryptocurrencies and digital autonomous organisations emerge, ASIC has the capability to ensure that we can meet the challenges that they present to our regulatory framework, the industries we regulate and the Australian public. We have set an ambitious vision to become a leading digitally enabled, data informed regulator. To achieve our vision, we have developed a Digital Strategy that will transform the way we work internally and the way in which we regulate and interact with our regulated population. Our strategy builds on our regulatory systems transformation and focuses on using digital technologies to increase our regulatory effectiveness, promote compliance and facilitate innovation.

Our regulatory activities

Enforcement

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

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

As a priority, we target cases of high deterrence value and those involving egregious harm or misconduct, particularly towards vulnerable consumers. This year, our focus included:

- serious misconduct that harms confidence in markets, business and the economy or exacerbates consumer hardship

- poor product design and governance, mis-selling, and failure to comply with conflict of interest requirements and disclosure obligations
- perpetrators of egregious digital and other financial sector scams
- failure to adequately manage cyber risks that harm consumers
- failure to implement new standards set by law reform initiatives.

Criminal convictions

In 2021–22, as a result of our investigations, 33 people were convicted of criminal offences, with 13 of those people receiving custodial sentences (including fully suspended sentences).

Civil actions

In 2021–22, we completed 61 civil actions, covering issues such as unlicensed financial advice, fees for no service breaches, overcharged interest, misleading and deceptive conduct, unconscionable conduct, continuous disclosure contraventions, false and misleading advertising, failure to comply with the best interests duty, failure to report breaches to ASIC in the time required by law and related obligations under the Corporations Act.

Of these actions, 100% were successful. The total value of penalties for these civil court cases was $229.9 million.

Protective actions

We banned, removed or restricted 39 people or companies from providing financial services, and 18 people or companies from providing credit services.

We disqualified or removed 58 people from directing companies.

Corrective actions

We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. There were 61 instances of potentially misleading or deceptive promotional material withdrawn or amended in 2021–22.

Infringement notices

In 2021–22, we issued two infringement notices against Maritime Super Pty Ltd and received a total of $26,640 in payments pursuant to those infringement notices.

The Markets Disciplinary Panel issued one infringement notice to a market participant, specifying a total of $110,250 in penalties for alleged breaches of the market integrity rules.

Court enforceable undertakings

Court enforceable undertakings are a flexible tool that ASIC can accept to achieve improved compliance with the law and encourage a culture of compliance.

ASIC accepted one court enforceable undertaking in 2021–22.

We monitor all active court enforceable undertakings to ensure that each undertaking they contain has been met.

There are currently 14 court enforceable undertakings accepted by ASIC that remain active and that we are monitoring.

Helping protect small business

Where necessary, we take action against companies, directors and other officeholders who fail in their duties. By doing so, ASIC works to create a level playing field. This year, we recorded 262 small business-related outcomes.

Table 2.4.1 Small business enforcement outcomes by misconduct and remedy type

Misconduct type	Criminal	Administrative	Total (misconduct)
Action against persons or companies	197	64	**261**

Of the actions summarised in Table 2.4.1:

- 163 convictions relate to individuals who failed to assist registered liquidators, one of which one received a custodial sentence
- 18 convictions relate to companies that failed to lodge annual financial reports with ASIC
- 16 relate to criminal convictions prosecuted by the CDPP, of which three received custodial sentences
- 56 persons were disqualified from managing corporations, of which eight related to illegal phoenix activity
- 9 Australian credit licences were cancelled or suspended.

As at 1 July 2022, ASIC had 86 small business-related criminal cases underway against persons or companies.

Unfair contract terms in small business loan contracts

Following ASIC court action, several terms in some Bank of Queensland (BoQ) small business contracts were declared unfair in August 2021.

The following terms were declared unfair:

- unilateral variation clauses which allowed BoQ to vary the terms and conditions of their contracts without giving borrowers advance notice or an opportunity to exit the contract without penalty
- event of default clauses which allowed BoQ to unilaterally determine whether a default has occurred as well as call defaults based on events that do not present any material risk to BoQ and without giving borrowers an opportunity to address the issue
- indemnification clauses which allowed BoQ to make a claim against a borrower for losses caused by BoQ's mistake, error or negligence
- conclusive evidence clauses which meant that if BoQ issued a certificate stating an amount owing by a borrower, that amount would be assumed to be correct unless the customer could prove otherwise.

The unfair terms were declared void from the start of the contracts, and the court ordered that the unfair terms be replaced with new, fair terms agreed by the parties.

ASIC also takes action to combat illegal phoenix activity. Of the 65 administrative actions in Table 2.4.1, eight involved disqualification of directors where we found, in part, that the directors engaged in illegal phoenix activity. ASIC is committed to using our regulatory tools of engagement, surveillance and enforcement to identify, disrupt and take action against persons who engage in illegal phoenix activity.

Enforcement examples

Westpac – Six proceedings and a combined $113 million penalty

On 30 November 2021, ASIC launched an unprecedented six civil penalty proceedings against Westpac businesses. ASIC's proceedings demonstrated widespread compliance failures across multiple Westpac businesses and covered its banking, superannuation and wealth management brands, as well as Westpac's former general insurance business. The failures occurred over the course of 13 years and affected more than 70,000 customers.

The six proceedings concerned:

- **Fees for no service – deceased customers:** over a 10-year period, Westpac and related entities within the Westpac group charged over $10 million in advice fees to over 11,000 deceased customers for financial advice services that were not provided.
- **General insurance:** Westpac distributed duplicate insurance policies to over 7,000 customers for the same property at the same time, including 3,899 customers since 30 November 2015, causing customers to pay for two (or more) insurance policies where they had no need for the additional policies. Westpac also issued insurance policies to 329 customers who had not consented to entering into an insurance policy.
- **Insurance in superannuation:** Westpac subsidiary BT Funds Management charged members insurance premiums that included commission payments, despite commissions having been banned under the Future of Financial Advice reforms. Some members also paid commissions to financial advisers via their premiums even though they had elected to have the financial adviser component removed from their account. Over 9,900 BT Funds Management members were affected.
- **Inadequate fee disclosure:** Westpac, Securitor and Magnitude (advice businesses) charged ongoing contribution fees for financial advice to retail customers without disclosing, or properly disclosing, those fees. It is estimated that over eight years, at least 25,000 customer accounts were charged at least $10.6 million in fees that were not disclosed, or not properly disclosed.
- **Deregistered company accounts:** Westpac allowed approximately 21,000 deregistered company accounts, holding approximately $120 million in funds, to remain open and continued to charge fees on those accounts. Westpac allowed funds to be withdrawn from the accounts that should have been remitted to ASIC or the Commonwealth. Justice Beach found that Westpac knew its systems were inadequate, did not fix those systems in a timely fashion, and benefited from its own conduct.

- **Debt onsale:** Westpac sold consumer credit card and flexi-loan debt to debt purchasers with incorrect interest rates. These interest rates were higher than Westpac was contractually allowed to charge on at least part of the debts, resulting in more than 16,000 customers, who were likely to be in financial distress, being overcharged interest.

Westpac admitted to the allegations in all six proceedings and will remediate approximately $80 million to customers.

In April 2022, the Federal Court ordered that Westpac pay penalties amounting to $113 million for these widespread compliance failures.

The common aspects across these matters were poor systems, poor processes and poor governance, suggesting a historically poor compliance culture within Westpac at relevant times. Justice Beach noted that Westpac's misconduct was serious, and in one of the cases commented that Westpac and the related entities 'utterly failed to address the issues systematically'.

ASIC brought these actions to underline the importance of having the appropriate systems and processes to ensure that customers are treated fairly.

Court finds AFSL holder breached its licence obligations by failing to adequately manage cyber security risks

In an Australian first, following ASIC action, AFS licensee RI Advice Group Pty Ltd (RI Advice) was found in May 2022 to have breached its licence obligations when it failed to have adequate risk management systems to manage cyber security risk.

ASIC commenced the case in August 2020 after nine cyber security incidents occurred at authorised representatives of RI Advice between June 2014 and May 2020. In one of the incidents, an unknown malicious actor obtained unauthorised access to an authorised representative's file server from December 2017 to April 2018 before being detected. This resulted in the potential compromise of confidential and sensitive personal information of several thousand clients and other persons.

The Federal Court found that, from 15 May 2018 to 5 August 2021, RI Advice did not have documentation, controls and risk management systems that were adequate to manage cyber security risk across its authorised representative network and therefore breached its licence obligations to act efficiently, honestly and fairly, and to have adequate risk management systems. The court ordered RI Advice to engage a cyber security expert to identify what, if any, further documentation and controls in respect of cyber security and cyber resilience are necessary for RI Advice to implement to adequately manage risk across its network of authorised representatives.

When handing down judgment, Justice Rofe made it clear that cyber security should be front of mind for all AFS licensees, stating: 'Cyber security risk forms a significant risk connected with the conduct of the business and provision of financial services. It is not possible to reduce cyber security risk to zero, but it is possible to materially reduce cyber security risk through adequate cyber security documentation and controls to an acceptable level.'

In bringing this court action, ASIC has made it clear that AFS licensees must ensure that their cyber security systems, policies and procedures are adequate to manage cyber security risk.

This result aligns with our strategic priority of supporting enhanced cyber resilience and cyber security among ASIC's regulated population, in line with the whole-of-government commitment to mitigating cyber security risks.

New breach reporting penalties: Statewide Superannuation $4 million fine

In the first civil case brought by ASIC using new penalty powers for failures to report breaches to ASIC, combined penalties of $4 million were imposed on Statewide Superannuation Pty Ltd (Statewide) for providing members with misleading information regarding their insurance and failing to report the breach to us in the time required by law.

Statewide made over 14,000 misleading communications with at least 7,000 of its members, telling them they had insurance cover when they did not. Statewide also overcharged more than $2.5 million in insurance premiums to members who no longer held insurance as part of their superannuation accounts. This led to the real risk that fund members may have found themselves without insurance when they needed it.

When it discovered these issues, Statewide failed to report them to ASIC within 10 days, as then required by law. Breach reporting is integral to board oversight and risk management by licensees, and financial services companies have strict obligations to report contraventions of the law to ASIC.

Statewide was also ordered to undertake a remediation program, to identify the members who were overcharged and remediate them in full, and to have an independent expert review and report on the remediation program.

Aware Financial Services Australia fined $20 million for charging fees for no service

Following ASIC action arising from the Financial Services Royal Commission, in February 2022 Aware Financial Services Australia Limited (Aware FS), formerly State Super Financial Services Australia Limited, was issued with a $20 million penalty for charging over 25,000 customers fees for financial services it did not provide.

Between 21 August 2014 and 30 June 2018, Aware FS charged approximately 25,300 customers a total of $50 million in fees for advice services included as part of the superannuation product offered by Aware FS, which at that time was also a superannuation trustee. However, Aware FS did not provide the promised services.

By charging fees for no service and failing to have internal procedures, measures and controls in place to monitor compliance, Aware FS breached its obligations as an AFS licence holder to act efficiently, honestly and fairly and to comply with financial services laws.

Aware FS's conduct was the subject of a Financial Services Royal Commission case study. The civil penalty handed down in this matter is another outcome arising from a number of fees for no service cases brought by ASIC.

Rio Tinto continuous disclosure breaches

In March 2022, following proceedings brought by ASIC, Rio Tinto Limited (Rio Tinto) was ordered to pay a penalty of $750,000 for contravening its continuous disclosure obligations.

ASIC's investigation found that between December 2012 and January 2013, Rio Tinto failed to disclose material information to ASX, which included that mining assets held by Rio Tinto Coal Mozambique (RTCM) were no longer economically viable as long-life, large-scale, tier-one coking coal resources.

In December 2010, Rio Group announced a takeover offer for then ASX-listed Riversdale Mining Limited (Riversdale), which was completed in August 2011 and cost over US$4 billion. Following the acquisition, Rio Tinto delisted Riversdale and renamed its assets to RTCM. On 17 January 2013, Rio Group announced that it expected to recognise a non-cash impairment charge of approximately US$14 billion (post-tax) in its 2012 full year results, which included approximately US$3 billion relating to RTCM.

The penalty orders were made by consent after ASIC and Rio Tinto agreed to resolve the proceedings and filed joint penalty submissions. Rio Tinto was ordered to pay ASIC's costs of the proceeding.

This result aligns with ASIC's enforcement priority to take action to address serious market misconduct to maintain trust and integrity in the financial system. ASIC worked on the matter in partnership with the US Securities and Exchange Commission and the UK Financial Conduct Authority.

ASIC action against misleading sales of travel insurance leads to $1.5 million in penalties

Following an ASIC investigation, the Federal Court found that Allianz Australia Insurance Ltd (Allianz) and AWP Australia Pty Ltd (AWP) engaged in misleading and deceptive conduct when selling travel insurance by failing to correctly state how premiums were calculated and by allowing insurance to be sold to ineligible customers.

Allianz and AWP also breached their financial services licence obligations by:

- Allianz failing to correctly disclose how premiums were calculated in product disclosure statements so that consumers were not given accurate information on the travel insurance they were purchasing
- Allianz and AWP failing to prevent the sale of insurance on Expedia websites to consumers who were ineligible to make claims under the policies
- Allianz and AWP failing to prevent Expedia websites from misusing a quote from the Department of Foreign Affairs and Trade about the importance of purchasing travel insurance.

Allianz and AWP were ordered to pay penalties of $1.5 million.

ASIC action against auditor misconduct leads to first ever criminal conviction of Halifax auditor, Robert James Evett

In August 2021, following an ASIC investigation, former auditors of Halifax Investment Services Pty Ltd (Halifax) – Robert James Evett and EC Audit (formerly Bentleys NSW Audit Pty Ltd) – were convicted and ordered to pay fines of $10,000 and $40,000 respectively for failing to conduct audits in accordance with auditing standards. Mr Evett and EC Audit are the first auditors in Australia to face criminal prosecution and be convicted under section 989CA of the Corporations Act.

The breaches of the auditing standards included that EC Audit failed to understand Halifax's business and failed to design appropriate tests to identify material misstatements in the accounts, and that Mr Evett failed to take responsibility for the overall conduct of the audits. In delivering the sentence, the court noted expert evidence that had the audits of the financial statements been conducted in accordance with auditing standards, the material misstatements would have been detected and Halifax would have been required to cease trading until sufficient capital was raised. Mr Evett's auditor's registration was cancelled in September 2021, following an application by ASIC to the Companies Auditors Disciplinary Board.

ASIC brought this action because of the important role that auditors play as gatekeepers to the market, ensuring that financial reports are free from misstatements.

This result aligns with ASIC's enforcement priority to take action to address serious misconduct and to hold gatekeepers to account so as to maintain trust and integrity in the financial system. The matter was prosecuted by the CDPP after a referral from ASIC.

GetSwift – ASIC action for continuous disclosure, misleading and deceptive conduct and directors' duties contraventions

ASIC was successful in bringing action against GetSwift Ltd (GetSwift) and its directors for continuous disclosure, misleading and deceptive conduct, and directors' duties contraventions, with judgment handed down on 10 November 2021. Significantly, this was the first time ASIC has succeeded in establishing, on a contested basis, that the directors were knowingly concerned in the continuous disclosure contraventions of the company.

ASIC brought the proceedings against GetSwift and two of its directors, Bane Hunter, then executive chairman and chief executive officer, and Joel Macdonald, then managing director, in February 2019. In March 2019, ASIC joined GetSwift's former director and general counsel, Brett Eagle, as a co-defendant to the proceeding.

In 2017, GetSwift made ASX announcements about agreements with clients, including Amazon, the Commonwealth Bank of Australia and Yum Brands, for the use of its software-as-a-service platform. However, these clients were only trialling, or contemplating a trial of, the GetSwift platform and the agreements. At the time of the announcements, these trials were not revenue generating. Over the period of the announcements, GetSwift's share price rose almost 800%. GetSwift also raised $100 million in capital from institutional investors, including $75 million in December 2017 when the company's share price was close to its peak.

In his judgment, Justice Lee said that the evidence before him revealed 'what might be described as a public-relations-driven approach to corporate disclosure on behalf of those wielding power within the company, motivated by a desire to make regular announcements of successful entry into agreements with a number of national and multinational enterprise clients.'

NAB $18.5 million penalty for misleading fee disclosures

Following ASIC action, in August 2021 National Australia Bank Limited (NAB) was ordered to pay an $18.5 million penalty for failures relating to misleading fee disclosure statements.

NAB contravened its obligations as an Australian financial services licence holder to act efficiently, honestly and fairly by failing to have procedures and systems in place to provide timely and effective fee disclosure statements.

NAB breached the law on numerous occasions when it:

- charged fees for personal advice without giving customers compliant fee disclosure statements
- failed to provide fee disclosure statements to clients within the time required
- made false or misleading representations to clients in fee disclosure statements about the amount clients had paid for services and the services which clients had received.

NAB's system failures resulted in significant fee disclosure failures over an extended period, causing harm to customers as the inaccurate information meant they could not make informed decisions about the financial services for which they were paying.

NAB's penalty was the first penalty imposed for fee disclosure statement failures under the Corporations Act.

Supervision and surveillance

ASIC's supervision and surveillance work is core to our statutory mandate to monitor and promote market integrity and consumer protection in the Australian financial system. It seeks to influence behavioural change and prevent harm resulting from poor corporate systems and conduct.

For more information on supervision and surveillance activities undertaken in 2021–22 see Chapter 3, beginning on page 67.

Sector-based and issue-based surveillance

In 2021–22, we completed:

- over 240 surveillances in the deposit-taking and credit, financial advice, investment management and superannuation sectors to ensure that financial services providers complied with their conduct obligations
- over 760 surveillances in the corporations, market infrastructure and market intermediaries sectors.

Through our surveillance, we identified and addressed 516 cases of failures, or potential failures, to comply with regulatory obligations.

Institutional supervision

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

During 2021–22, we focused on the implementation of the design and distribution obligations in major financial institutions, and reviewing the effectiveness of the internal audit functions of the Big 4 banks – see pages 101–102.

Governance supervision

ASIC works to improve customer and investor outcomes by uplifting the governance practices of, and implementing governance-related reforms affecting, a broad spectrum of entities that ASIC regulates.

In 2021–22, our key governance focus areas were:

- driving ASIC's preparation to implement and jointly administer with APRA the proposed Financial Accountability Regime. For more information on the Financial Accountability Regime, see page 24
- engaging with firms on the findings from our review of whistleblower policies of a sample of regulated entities and publishing an open letter providing information about our review to improve policy standards. For a case study reporting on the outcomes of this work, see page 57
- reviewing whistleblower programs from a sample of regulated entities to understand how these entities are handling whistleblower disclosures, using information from disclosures and to address issues or misconduct or change their operations, as well as the level of board and executive oversight of whistleblower programs.

Whistleblower policy review

Through our work reviewing a sample of 102 whistleblower policies, we sought to establish how entities have responded to the whistleblower regime introduced in 2019.

We were concerned that the majority of policies appeared not to include all the information required by the Corporations Act – such as information about the legal protections available to whistleblowers. We published a widely cited open letter to CEOs of entities subject to the whistleblower policy requirements, calling on them to review their policies to ensure that they are up to date and comply with the law.

We also directly engaged with a sample of the entities to provide targeted feedback about aspects of their policies and to seek improvements to address potential deficiencies. All of these companies made changes to improve their whistleblower policies, such as:

- clearly articulating how, and to whom, a disclosure that qualifies for the legal protections for whistleblowers can be made
- describing the legal rights and remedies on which whistleblowers can rely if they make a qualifying disclosure.

Public outcomes of our supervision and surveillance work

ASIC publishes the results of our supervision and surveillance work.

Our reports advance good consumer outcomes and change behaviour by driving improved practices across a sector or market.

In 2021–22, we released 37 supervision, surveillance or review reports, including on issues such as:

- observations on how ASX and key stakeholders were impacted by and responded to the outage in November 2020, and expectations to support the resilience and robustness of the Australian equity market (Report 708 *ASIC's expectations for industry in responding to a market outage* (REP 708))
- key trends from self-assessment surveys completed by financial markets firms, highlighting existing good practices and areas for improvement (Report 716 *Cyber resilience of firms in Australia's financial markets: 2020–21* (REP 716))
- industry feedback on new market integrity rules aimed at promoting the technological and operational resilience of securities and futures market operators and their market participants (Report 719 *Response to submissions on CP 314 Market integrity rules for technological and operational resilience* (REP 719))

- the findings of our review into superannuation trustee communications and our expectations for future communications about performance (Report 729 *Review of trustee communications about the MySuper performance test* (REP 729)).

Misconduct reports from the public

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

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

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

For more information on misconduct and reportable situations, see pages 231–235.

Suspicious investment 'opportunity' from Cash FX Group

In October 2021, ASIC issued an alert not to transfer money to a suspicious investment opportunity from Cash FX Group which operates the website cashfxgroup.com.

Cash FX Group advertised its own trading platform and promoted itself through social media. However, it appeared to be running as a multi-level marketing company, relying on new members to recruit others through social media. Cash FX Group, which is not licensed to provide financial services in Australia, claimed that investors could earn over 20% per month – too good to be true – and accepted payment in crypto-assets (or cryptocurrencies), which do not offer consumers the same protection as they would receive if they paid by other means.

Along with ASIC's alert, warnings have been published by regulators in Panama, the United Kingdom, Norway, New Zealand, the Bahamas, Canada, Jersey and British Columbia.

ASIC continues to engage with other Australian regulators on scams.

Licensing

ASIC assesses applications for AFS licences and credit licences. We also assess applications for registered company and self-managed superannuation fund (SMSF) auditors and supported the committee that assesses the registration of liquidator applications. We use a risk-based approach to assessment, devoting most resources to complex and higher risk applications to ensure that only suitable persons and organisations are licensed or registered.

In 2021–22, ASIC finalised 2,399 applications in relation to AFS licences and credit licences, including applications for licences, cancellations and suspensions. We approved 1,178 AFS licences and 267 credit licences. We cancelled or suspended 314 AFS licences and 224 credit licences, the majority of which related to licensees voluntarily applying for licence suspension or cancellation. During the reporting period, 251 AFS licence and credit licence applications were voluntarily withdrawn, mostly after we completed our assessment and informed applicants that they were unlikely to meet the statutory requirements to obtain a new or varied licence. We refused to accept 165 applications for lodgement, mainly due to material deficiencies in the information provided, with no assessed applications being refused in 2021–22.

We assessed 781 applications relating to auditor registrations, cancellations or suspensions (company auditor, authorised audit company and SMSF auditor). Of these, 151 were approved, 20 were withdrawn, 3 were refused and 607 were cancelled or suspended.

Insurance claims handling and settling services – Legislative licensing reforms

Legislative reforms commencing on 1 January 2021 made insurance claims handling and settling services (insurance claims handling) a new financial service. The law granted transitioning insurance claims handling providers six months to obtain an AFS licence, provided they applied to ASIC by 30 June 2021. Failure to obtain a licence by 31 December 2021 would result in these participants having to cease providing such services.

ASIC received 301 transitioning insurance claims handling applications (65 new and 236 variation applications). This represented a 30% increase compared to ASIC's recent historical average annual AFS licence application volume. As the transitional relief ceased on 31 December 2021, ASIC prioritised the assessment of these applicants to meet the transitional deadline.

ASIC successfully assessed all transitional applicants within the six-month transition period through the re-prioritisation of other licensing application-related activities. This had an impact on our ability to complete some licence applications and our Service Charter timeframes (see pages 34–36).

Licensing intermediaries seeking to provide services in relation to corporate collective investment vehicles – Legislative licensing reforms

On 1 July 2022, legislation creating a new type of investment vehicle, the corporate collective investment vehicle (CCIV), commenced. A CCIV is an alternative to using trust-based managed investment schemes. An AFS licensee is authorised to act as a corporate director, to operate the business and conduct the affairs of the CCIV.

In 2021–22, ASIC offered 172 AFS licensees – which already held authorisations to provide financial product advice and/or deal in managed investment schemes – an ASIC-initiated variation to their AFS licence to authorise them to provide the same services in relation to securities in a CCIV. This approach was taken because there are many similarities between CCIVs and managed investment schemes.

Of these AFS licensees, a total of 103 accepted ASIC's offer. The ASIC-initiated variation removed the regulatory cost of licensees having to apply to ASIC to vary their licences. The AFS licensees avoided paying an application fee and spending time and resources preparing a variation application.

Licence application – Compliance and fit and proper officer concerns

ASIC raised concerns about an applicant's poor compliance culture, after receiving their application for a new AFS licence seeking to provide financial product advice via a financial product comparison website. After we communicated our concerns, the applicant withdrew its application rather than have the application determined by us.

ASIC became aware that the applicant and an associated entity were the subject of an investigation and subsequent determination by another Commonwealth regulatory authority, which the applicant failed to disclose to ASIC in its AFS licence application. That determination related to breaches of laws in the other regulatory authority's jurisdiction, involving unlawful marketing and poor compliance systems, processes and procedures. The applicant had failed to respond to warnings from the regulatory authority and had failed to implement changes to address compliance breaches and consumer harm. The applicant's lack of appropriate action demonstrated a poor compliance culture.

In light of this, ASIC:

- was satisfied that there was an omission of a material matter from the AFS licence application
- was not satisfied that it had no reason to believe that the director was not fit and proper to perform one or more functions as an officer of an entity that would provide financial services under an AFS licence if a licence were granted
- was not satisfied that it had no reason to believe that the applicant is likely to contravene the obligations that will apply under section 912A of the Corporations Act if an AFS licence is granted.

Debt management services – Statutory withdrawal of a licence application

ASIC sought additional information from an applicant for a new debt management services licence during our assessment of the application. When the applicant failed to respond to ASIC's requests, ASIC notified the applicant that its application was taken to be withdrawn under subsection 37(7) of the National Credit Act given its failure to provide information requested by ASIC under subsection 37(4) of the Act.

While the applicant could re-apply in the future, the result was that the applicant had to immediately cease providing debt management services.

From 1 July 2021, providers of debt management services must hold an Australian credit licence authorising them to provide debt management services.

Transitional relief permitted existing providers to continue to provide debt management services without a licence authorisation if an existing provider had lodged a credit licence application or variation application with ASIC by 30 June 2021, until such time as the application was withdrawn, refused or granted. We received 84 debt management services licence applications before 1 July 2021.

Guidance

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

We do this to enhance industry participants' understanding of their legal obligations and how to meet them. Our feedback reports provide transparency about ASIC consultation.

In 2021–22, we published 20 consultation papers, 41 new or revised regulatory guides and 59 new or revised information sheets.

For a complete list of the publications issued, see our website at **www.asic.gov.au/regulatory-resources/**.

2.5 Registry services and outcomes

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

In April 2021, ASIC Registry staff and functions moved to the Australian Business Registry Services (ABRS) within the Australian Taxation Office (ATO) through a machinery of government (MoG) change. The Commissioner of Taxation was appointed as Registrar to assist ASIC in the performance of registry functions. ASIC has delegated our registry functions to the Registrar and to the ABRS staff as a transitional arrangement. At a later stage, the Registrar will assume primary responsibility for the registry functions under law. ASIC's Registry Interactions and Services team was established to manage ASIC's relationship with the ABRS.

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

ASIC's registers

The ASIC registers are the official source of information for business names, companies and financial professionals registered to operate in Australia.

They are a critical part of Australia's economic infrastructure.

The Registry is responsible for the administration of ASIC registers, including the two largest registers of companies and business names, and a range of professional and other registers.

The registry aims to:

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

Table 2.5.1: ASIC's registers

Outcome	Total 2021–22	Total 2020–21
Total companies registered	**3.09m**	2.92m
New companies registered	**292,166**	279,853
Total business names registered	**2.54m**	2.4m
New business names registered	**421,607**	460,409
Calls and online inquiries responded to by our Customer Contact Centre	**523,858**	599,377
Registry lodgements	**3.25m**	3.13m
Percentage of registry lodgements online	**94.3%**	94%
Number of searches of ASIC registers	**265.8m**	219.2m

Performance overview

Registry received almost 3.2 million lodgements during the 2021–22 financial year, with over 94% processed online without manual intervention. The most common lodgement made was '*Change to company details*' (Form 484) with one million received. We also answered 523,000 inquiries through our Customer Contact Centre.

Business registration

Registry helped facilitate the registration of 714,000 new businesses, comprising 292,000 companies and 422,000 business names.

Throughout 2021–22, Registry promoted the use of the Australian Government Business Registration Service, launched in June 2018 and available through **business.gov.au**. In total, 99.3% of applications to register a company or business name are now made online.

The cost of registering a business name is $39 for one year and $92 for three years.

Increased use of online channels

Over 94% of the almost three million lodgements received were submitted online, while the volume of lodgements submitted by mail decreased 3%. Similarly, telephone calls coming into our Customer Contact Centre decreased 4%, while inquiries submitted through our website increased 31%.

Analysis of key registry outcomes

Key outcomes achieved by ASIC's registry in 2021–22 are set out below.

Modernising business registers

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

Over the course of this year, ASIC has continued supporting Treasury and the ATO with the modernisation of Australian business registers. The MBR program, implemented by the ATO, has established the ABRS with a view to streamline registry interactions with Government. The ABRS will bring together the 31 in-scope ASIC registers, including the ABR. In the 2020–21 year, the Commissioner of Taxation was appointed as Registrar under relevant legislation. The Registrar's role is to lead and implement the MBR program and perform statutory registry functions and exercise registry powers as a delegate of ASIC. Our registry staff moved to the ATO to assist the Registrar, through an MoG change. At a later date, the Registrar will assume primary responsibility for the registry functions under law.

Impacts of the COVID-19 pandemic

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

ASIC supported impacted businesses through initiatives such as fee waivers.

Natural disaster relief

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

2.6 Unclaimed money

ASIC is responsible for the administration of unclaimed money from authorised deposit-taking institutions, under section 69 of the Banking Act; life insurance companies and benefit fund friendly societies, under section 216 of the Life Insurance Act; and companies with unclaimed money/property, under various sections of the Corporations Act.

ASIC's register of unclaimed money is publicly available, and claims are processed within 28 days of receiving all necessary claim documentation. We have paid claimants interest on unclaimed money from 1 July 2013. Interest rates are held on the ASIC Moneysmart webpage.

During 2021–22, ASIC received $289 million in unclaimed money compared to the $295.3 million received in 2020–21. We paid in claims and interest a total of $109.7 million in 2021–22, compared with $86.8 million the previous year.

Table 2.6.1 Amount paid to owners of unclaimed money

	2021–22 ($)			
Claims by type	**Principal**	**Interest**	**Total**	**2020–21 ($)**
Company	33,193,057	1,145,353	34,338,410	29,256,020
Banking	63,617,153	2,358,623	65,975,776	52,587,691
Life insurance	9,155,595	268,314	9,423,909	4,959,741
Total	**105,965,805**	**3,772,290**	**109,738,095**	**86,803,452**

	2021–22 ($)			
Claims by type	**Principal**	**Interest**	**Total**	**2020–21 ($)**
Deregistered company trust money	2,531,694	N/A	2,531,694	1,586,529

3

ASIC's achievements by sector

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

Industry funding

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

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

In June 2022, ASIC published for comment indicative industry levies for 2021–22 in a consultation Cost Recovery Implementation Statement (CRIS). ASIC will take into account stakeholder feedback in preparing the final CRIS, which will be published on our website.

3.1 Deposit-taking and credit

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

We use the full suite of our regulatory tools to promote fairness and professionalism in this sector, in order to bring about sound consumer outcomes. ASIC's work in this sector during 2021–22 included engaging with lenders about their approach to consumers experiencing financial hardship and reviewing and updating the ePayments Code.

Addressing financial hardship – ASIC surveillance and influence

In 2021, ASIC continued to engage with lenders about their approach to those impacted by COVID-19, including as a result of further lockdowns. ASIC has encouraged lenders to continue to work with consumers who are struggling with their repayments to find appropriate solutions.

During the pandemic, many lenders closely examined and, in many cases, improved their processes and practices for responding to consumers experiencing financial difficulties:

- some lenders made hardship assistance more accessible to consumers and streamlined hardship assessments
- many lenders took steps to improve communications about hardship assistance and upskill their staff to have better conversations with consumers
- some lenders sought to improve consumer outcomes by using data analytics, including to identify consumers who may be at greater risk of experiencing financial difficulties.

We were pleased to see lenders rethinking and modifying their financial hardship processes in response to the pandemic. Importantly, we have strongly encouraged lenders to embed these improved practices into their existing hardship activities.

Reviewing and updating the ePayments Code

ASIC updated the ePayments code to clarify and enhance several important protections for consumers. The changes strengthen the Code's protections by removing ambiguity and, where appropriate, expanding protections.

The ePayments Code is a voluntary industry Code administered by ASIC to which most banks, credit unions and building societies subscribe. The Code provides consumer protections in relation to electronic payments, including ATM, EFTPOS, credit and debit card transactions, online payments, and internet and mobile banking. The Code also sets out a process for customers to get help from their financial institution in retrieving funds they have mistakenly paid to the wrong person.

ASIC has extended the Code to cover payments made using the New Payments Platform. We have also expanded the process subscribers use to seek a return of a mistaken internet payment to now include partial returns where the full amount of the payment is unavailable. Additionally, ASIC has updated the Code's compliance monitoring and data collection requirements, unauthorised transactions framework and complaints handling obligations.

This followed a comprehensive consultation process with subscribers, consumer groups, industry associations and other stakeholders that culminated in Report 718 *Response to submissions on CP 341 Review of the ePayments Code: Further consultation*.

The requirement to be a 'fit and proper' person

During ASIC's assessment of a debt management services application, we discovered that the sole nominated responsible manager of the applicant had been removed from the roll of Australian Legal Practitioners in 1997 and had been refused re-admission on 7 May 2021. A court considering the decision to refuse re-admission determined that during the past four years, the individual continued to act unlawfully, inconsistently with professional standards, or dishonestly on various occasions across various roles.

While the conduct did not arise in relation to the provision of financial services or credit activities, ASIC considered such conduct was relevant to the fit and proper person test for an officer of an applicant. ASIC was not satisfied that the nominated responsible manager was a fit and proper person to perform one or more functions as an officer of an applicant seeking to provide debt management services under a credit licence.

After ASIC communicated our concerns, the applicant withdrew its application.

Taking action against predatory lenders

ASIC has taken action in the Federal Court against lenders alleging they have attempted to structure their businesses in a way that seeks to bypass the National Credit Act and National Credit Code. The National Credit Act and Code impose important obligations to protect consumers, including caps on fees and interest rates.

On 28 June 2022, ASIC was successful in its appeal before the Full Federal Court against Cigno Pty Ltd and BHF Solutions Pty Ltd. Cigno and BHF Solutions operated a lending model purporting to rely on an exemption in the National Credit Code and claimed they did not require an Australian credit licence that would have provided their consumers with important consumer protections such as the caps on fees and interest rates. The lender, BHF Solutions, provided the credit and charged a fee under the credit contract to consumers. However, Cigno, under a composite services agreement, separately charged very high fees to arrange and manage the credit. These fees, combined with the lender's fees, exceeded the prescribed maximum charge allowed in order to be exempt from holding a credit licence. In some instances, the combined fees meant consumers paid an annual percentage rate of about 800% on the loan.

On 11 April 2022, ASIC commenced separate actions in relation to two separate business models involving financially vulnerable consumers which ASIC is concerned are designed to avoid consumer protections, including the 48% annual cost rate cap under the National Credit Act. The cost rate cap is the maximum that can be charged under a credit contract, taking into account fees and charges and the timing of repayments. In our action against Rent 4 Keeps Pty Ltd and Darranda Pty Ltd, it is alleged that one consumer used Centrelink payments to pay almost $2,500 for a fridge which retailed at $365, and another paid $1,200 for a mobile phone which retailed for just $249. Similarly, in its action against Layaway Depot Pty Ltd, ASIC alleges that some customers paid $780 for a Bluetooth speaker which retailed for $200 and $1,200 for a mobile phone which retailed for just $249.

On 7 June 2022, ASIC commenced action against Sunshine Loans Pty Ltd, which is alleged to have collected $320,000 in prohibited fees from consumers in relation to small amount credit contracts. The National Credit Code limits the fees that may be charged under these loans to an establishment fee, monthly fees and default fees. Sunshine Loans allegedly charged consumers the maximum amount of those fees, and then sought to charge consumers additional fees in the form of repayment amendment or rescheduling fees.

3.2 Insurance

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

This year, ASIC's work in insurance focused on implementing new law reforms and providing relief where needed, working with industry to improve practices, supervising large-scale remediation programs and investigating general insurance pricing practices.

Collaborative intervention – Landlord insurance debt recovery practices

ASIC works with the industry stakeholders we regulate to improve industry practices and to protect consumers. During 2021–22, we continued our collaborative approach in responding to concerns that some landlord insurance providers were inappropriately pursuing uninsured tenants in attempting to recover the cost of repairs to residential properties following damage and the acceptance of landlord insurance claims.

Consumer advocates raised concerns with ASIC about the debt recovery practices by certain landlord insurers, and their representatives, including concerns about insurers:

- pursuing uninsured tenants to recover costs for accidental or unintentional property damage
- failing to provide an adequate explanation, and include evidence, about why the tenant was liable for the damage
- taking advantage of the tenant's vulnerability by coercing tenants into paying for the insurer's costs of the insurance claim.

ASIC took proactive steps to understand industry practices and the concerns raised by consumer advocates, engaging with key stakeholders to prevent consumer harm and improve industry practices. We:

- engaged with the Insurance Council of Australia and its member insurers and communicated ASIC's expectations for fair and reasonable conduct when insurers pursue recovery action against uninsured tenants
- wrote to individual insurers identified in complaints and obtained commitments that they would improve their processes and procedures when deciding to take, and when pursuing, recovery actions to meet ASIC's expectations
- engaged with our co-regulator, the Australian Competition and Consumer Commission (ACCC), on matters of jurisdictional overlap to ensure a united approach to concerns involving debt recovery practices.

Large-scale remediation – Failure to honour promised discounts

During the financial year, ASIC continued to supervise large-scale remediation programs to ensure that they are complete, thorough and robust, and that affected consumers receive their full entitlements. This included supervising remediation programs by Insurance Australia Group Limited (IAG) where over $420 million is expected to be paid to customers with approximately four million policies to fulfil insurance premium discounts which had not been delivered to customers in full as promised from at least 1 July 2012.

The promised discounts included multi-policy discounts and no claims bonus discounts on home and motor insurance policies.

As at 30 June 2022, IAG had paid over $200 million (refunds of insurance premiums paid plus taxes, charges and interest) as a result of its failure to fully honour the promised discounts.

General insurance pricing practices and misleading representations about discounts

In addition to supervising remediation, in October 2021, ASIC filed civil penalty proceedings against Insurance Australia Limited (IAL) in the Federal Court. ASIC alleges that IAL engaged in misleading or deceptive conduct and made false or misleading representations to some NRMA Insurance customers by stating that customers were eligible for certain discounts on renewal of their home and motor insurance policies and then failing to apply those discounts.

ASIC is concerned about pricing practices across the general insurance industry. In October 2021, we called on all general insurers to review their pricing systems and controls as a matter of priority (see Media Release 21–270MR *ASIC launches Federal Court action and calls on general insurers to review pricing practices*). ASIC has been monitoring pricing reviews being conducted by 11 general insurers, which will result in improvements to disclosure, governance, monitoring and supervision, and IT systems and the simplification of insurance products and promises.

Black Saturday Bushfires Review

ASIC reviewed the claims handling practices of general insurers in the aftermath of the 2019–20 bushfires. We assessed claims-level data for 8,801 residential property claims from 12 insurers to monitor their performance and to identify whether insurer conduct met expectations ahead of the commencement of the reforms making insurance claims handling a financial service on 1 January 2022.

ASIC identified good practices and some areas for improvement. Good practices included:

- proactively contacting consumers in affected areas
- paying the maximum temporary accommodation benefit at the outset of claims assessed as total losses
- making product design changes to broaden policy coverage effectively making these policy changes retrospective.

Areas for improvement included:

- some policies include debris removal as part of the sum insured rather than as an additional benefit
- some consumers had used up all their temporary accommodation benefit
- improvements were needed to the quality, accuracy and reliability of claims information recorded.

We engaged with each insurer to discuss findings and areas for improvement. We benchmarked the performance of insurers by key metrics relative to their peers. Insurers responded positively to feedback which provided them with valuable insights regarding their claims handling practices.

ASIC issued a media release publicly outlining the findings of the review and highlighting the actions insurers must take to manage claims efficiently, honestly and fairly in future disasters.

Implementing reforms to claims handling and settling services

This year, ASIC continued to focus on implementing the remaining reforms arising from the Financial Services Royal Commission, including the significant reform to regulate insurance claims handling and settling services as a 'financial service' under the Corporations Act.

Following the passing of the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020*, certain persons providing claims handling and settling services must now hold an AFS licence, and comply with general licensee and new claims handling disclosure obligations, under the Corporations Act. The obligations commenced on 1 January 2022, and require insurance claims to be handled 'efficiently, honestly and fairly'.

On 8 February 2022, ASIC made a legislative instrument that allows insurers to give emergency payments of up to $5,000 to consumers in certain circumstances without first giving them a Cash Settlement Fact Sheet (CSFS). A CSFS is a written document that insurers must provide to consumers when they are offered a cash settlement, setting out the options available to settle their claim. ASIC's relief recognises that the obligation to provide a written CSFS at the time of the cash settlement offer may, in urgent or emergency situations, create an unnecessary delay in the consumer receiving a cash payout to meet their needs.

The relief was granted following an application for relief from the Insurance Council of Australia. ASIC consulted with various industry, consumer and Government stakeholders before deciding to grant the relief. Following provision of the relief, insurers were able to apply a streamlined process for emergency payments to insured consumers impacted by catastrophic events such as the severe weather and flooding in south-east Queensland and northern New South Wales.

Overall, ASIC received 15 applications for relief during the financial year in relation to the claims handling and settling services reforms.

3.3 Financial advice

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

In 2021–22, ASIC focused on engaging with industry on impediments to industry's ability to deliver good quality and affordable personal advice, facilitating registration for financial advisers and administering the financial adviser exam, and taking administrative action against licensees who fail to maintain Australian Financial Complaints Authority (AFCA) membership.

Practical guidance developed to enhance access to advice

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

On 17 November 2020, ASIC issued Consultation Paper 332 *Promoting access to affordable advice for consumers* to seek industry's ideas about how to improve access to quality advice in Australia. We received an unprecedented 466 submissions – including 242 from financial advisers – and we conducted several roundtable discussions.

During the reporting period, to address key issues raised by industry in the consultation, including requests for shorter, simpler and more user-friendly regulatory guidance, ASIC delivered:

- a new dedicated and centralised Financial Advice webpage to make it easier for advice licensees and advisers to find ASIC guidance relevant to the financial advice industry
- the publication of three example records of advice (ROAs) and practical guidance via Information Sheet 266 *FAQs: Records of Advice*, comprising frequently asked questions about ROAs
- practical guidance and an example statement of advice for limited advice in Information Sheet 267 *Tips for giving limited advice*.

Financial Advisers Register Review project

A requirement for financial advisers to pass a financial adviser exam was introduced as part of the professional standards for financial advisers in March 2017. Following passage of the *Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021*, ASIC began administering the exam from 1 January 2022.

In early April 2022, ASIC commenced the Financial Advisers Register Review project to ensure that the Financial Advisers Register accurately reflects the correct status of financial advisers who were prohibited from providing personal advice to retail clients on relevant financial products because they did not pass the financial adviser exam by 1 January 2022, or otherwise do not qualify for an extension of time to pass the exam.

As at 30 June 2022, the Financial Advisers Register includes details for 16,620 active financial advisers. AFS licensees must ensure that details about their financial advisers on the Register are correct in accordance with their obligations under the Act. An accurate Financial Advisers Register is integral to ensuring that the public can reference accurate and up-to-date records when making decisions about whether to engage an adviser.

As part of the project in this financial year, ASIC wrote to 491 AFS licensees to update 793 advisers' records to reflect a ceased authorisation status on the Financial Advisers Register or provide proof of their having passed the financial adviser exam, or their eligibility for the exam extension.

As at 30 June 2022, 432 AFS licensees had updated the Financial Advisers Register to change the authorisation status of 696 advisers to 'ceased' after receiving correspondence from ASIC.

Advice licensees who fail to maintain AFCA membership

ASIC takes administrative action to cancel the AFS licence of licensees where they do not comply with the obligation to be a member of the external dispute resolution scheme operated by AFCA. This is a crucial consumer protection requirement in the Australian financial services law regime. During 2021–22, our work in this space has resulted in:

- seven licensees complying with their obligations and obtaining AFCA membership after receiving compliance warning letters from ASIC
- four licensees voluntarily cancelling their AFS licence
- ASIC cancelling two AFS licences through administrative action.

Financial advice – Multiple failures by timeshare company Ultiqa

In May 2021, following action by ASIC, the Federal Court declared that timeshare company Ultiqa Lifestyle Promotions Ltd (Ultiqa) breached financial services laws by failing to ensure that financial advice given to consumers was in the consumers' best interests.

Timeshare schemes are complex financial products that can be difficult to understand, often involving significant long-term financial commitments that can be challenging to exit. Between October 2017 and March 2019, financial advisers acting as authorised representatives of Ultiqa advised consumers to invest in the Ultiqa Lifestyle Scheme, a timeshare scheme, even though this advice was not in the consumers' best interests nor appropriate to their circumstances.

Justice Downes found that Ultiqa's authorised representatives prioritised sales objectives and targets over their consumers' best interests, 'engaging in tactics to pressure the consumers to sign up at the presentation, including (in one instance) preventing the consumer from obtaining external advice, (in two instances) misleading the consumers by representing that the interest in the Scheme was not a time-share scheme, in generally not giving the consumers sufficient privacy and time to discuss and debate the proposed acquisition of interests in the Scheme, and by offering inducements to the consumers to sign up at the presentation.'

Consumers reported that the upfront cost of joining the scheme was between $10,000 and $25,000 with ongoing annual fees of up to $800. Most consumers who bought into the timeshare scheme took out a loan with a company related to Ultiqa to pay for their timeshare interest, and later many were unable to book holidays in their timeshares due to lack of availability.

ASIC brought this action after an investigation revealed Ultiqa's sales tactics, including a sales manual that encouraged sales agents to 'corner' consumers into investing in a timeshare scheme that many could not afford.

Former Victorian financial adviser sentenced to imprisonment for obtaining financial advantage by deception

Following an ASIC investigation and referral to the CDPP, former financial adviser Ahmed Saad was convicted by the County Court (Victoria) of one charge of obtaining financial advantage by deception and one charge of attempting to obtain financial advantage by deception.

Mr Saad was sentenced to nine months imprisonment for the first charge and a concurrent one month's imprisonment for the second charge. Mr Saad was also sentenced to an 18-month community correction order, including 100 hours of unpaid community work.

Beginning in October 2016, Mr Saad operated a scheme in which he provided his clients illegal early access to their superannuation funds. Mr Saad submitted applications for one-off advice fees to a superannuation fund in which he represented that he had provided financial services when he had not. He would then pay these funds back to clients, facilitating unlawful early release.

Between 11 November 2016 and 13 October 2017, Mr Saad obtained $1,531,925 from the superannuation fund on behalf of 168 clients, and between 11 August 2017 and 11 October 2017, he attempted to obtain a further $92,400 on behalf of 10 clients. Mr Saad indirectly benefited from the scheme by growing his client base.

The unlawful release of superannuation is a serious form of misconduct. ASIC investigated Mr Saad to deter other financial advisers from engaging in this conduct.

3.4 Investment management, superannuation and related services

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

In 2021–22, our focus in this sector was on encouraging better governance practices, challenging misleading representations, and working towards greater transparency of underperforming MySuper products.

Guidance to avoid greenwashing: Information Sheet 271

In June 2022, ASIC issued Information Sheet 271 *How to avoid greenwashing when offering or promoting sustainability-related products* (INFO 271) to help superannuation and investment funds avoid greenwashing or overstating the green credentials of their sustainability-related financial products. Alongside this publication, ASIC also released consumer guidance on environmental social governance investing.

In relation to investments, 'greenwashing' is the practice of misrepresenting the extent to which a financial product or investment strategy is environmentally friendly, sustainable or ethical. Greenwashing distorts relevant information that investors might reasonably require to make informed decisions and poses a threat to a fair and efficient financial system. The release of INFO 271 followed ASIC's review into the disclosure practices for a sample of sustainability-related superannuation and investment products. The Information Sheet lists nine questions issuers should consider when preparing PDS disclosures and promotional material for such products. INFO 271 does not create new disclosure obligations – it helps issuers navigate their existing disclosure obligations (including the prohibitions on misleading or deceptive conduct set out in the Corporations Act and ASIC Act against the growing and evolving sustainable finance landscape). INFO 271 seeks to lift disclosure standards to ensure investors have adequate and clear information to make informed investment decisions with respect to sustainability-related financial products.

While INFO 271 focuses on superannuation and investment funds, its principles can apply more broadly to all entities which offer or promote financial products that take into account sustainability-related considerations as part of their investment strategies and decision making (such as companies listed on a securities exchange or entities issuing green bonds). Given the growing investor demand for, and availability of, sustainability-related products in

Australia, greenwashing remains a priority area for ASIC and sustainability-related disclosures will continue to be monitored for misleading claims.

Investment management

ASIC takes administrative action, such as licence cancellations and suspensions and banning individuals as well as court action to protect investors and consumers and to deter misconduct. Some key outcomes in the managed investments scheme sector that ASIC achieved this year include:

- **Future Asset Management International Ltd (FAMI):** ASIC cancelled the AFS licence of FAMI (the responsible entity of three registered schemes) in November 2021 because it is in liquidation. Under the terms of the cancellation, the liquidators of FAMI could continue to transfer the schemes to a new responsible entity, investigate or preserve the assets and affairs of the schemes, and wind up the schemes until 31 May 2022.
- **Dylan Rands:** ASIC banned Mr Rands from providing financial services for five years after finding that he engaged in market manipulation while he was a dealer and portfolio manager at Regal Funds Management Pty Ltd (Regal). As part of his portfolio manager role, Mr Rands managed trading in Clearview Wealth Limited shares, which were held in several Regal funds. ASIC found that Mr Rands engaged in manipulative trading in relation to Clearview Wealth Limited shares and breached the Corporations Act. ASIC also found that Mr Rands was not adequately trained or competent to provide financial services and perform functions as an officer of an entity that carries on a financial services business.
- **PE Capital Funds Management Ltd (PECFM):** Following action by ASIC, the Federal Court ordered PECFM into liquidation after finding that the firm breached the law by operating managed investment schemes without an AFS licence and by engaging in misleading and deceptive conduct. From around 2015, PECM made misleading and deceptive statements representing that it was authorised to operate the schemes when it was not. It also made misleading and deceptive statements about how investments would be structured, telling investors they had preferential securities when they did not and, in the case of one fund, misrepresenting the investment strategy that would be used.
- **ISG Financial Services Limited (ISG):** ASIC suspended the AFS licence of ISG (the responsible entity of two registered schemes) in June 2022 until 30 September 2022 because it failed to meet statutory audit and financial reporting lodgement obligations for itself and the schemes and did not have the required professional indemnity insurance coverage in place between 14 July 2020 and 21 June 2021. Under the terms of the suspension, ISG cannot issue any new interests in the schemes until the suspension is lifted. However, it may continue to provide financial services that are necessary for, or incidental to, the day-to-day operation of the schemes.

Reviewing responsible entity governance practices

ASIC conducted a review of the governance practices of 10 large responsible entities of managed investment schemes to explore specific aspects of responsible entity governance and gain better insights. ASIC chose the responsible entities based on the total value of assets under management and the specific business models used. The responsible entities, in ASIC's review, were not selected based on risk or specific concerns. As at 30 June 2021, these responsible entities collectively managed approximately $588 billion in registered schemes.[1]

ASIC collected information from the responsible entities regarding a range of topics, including business models, board composition, performance and governance, as well as compliance committees and service provider oversight. ASIC also met with the responsible entities to discuss and obtain further information. The findings from ASIC's analysis are detailed in a January 2022 presentation titled 'Governance of responsible entities', which also summarises the relevant legal frameworks and sets out important considerations regarding governance for the responsible entities and their boards.

1 The figure of $588 billion is derived from ASIC's Industry Funds Metrics data for the 2020–21 financial year. The total amount invested excludes assets that are cross-invested in another scheme operated by the same responsible entity.

The managed funds industry plays a significant role in delivering financial outcomes for Australians. Good governance practices support sound decision making by the boards of responsible entities by ensuring that they are well informed and less susceptible to conflicts of interest. This, in turn, can optimise the capacity of responsible entities to deliver better outcomes for investors while complying with the law. ASIC seeks to promote the adoption of good governance practices by undertaking reviews of existing practices and encouraging entities to consider findings and take steps to improve.

Surveillance of misleading performance and risk representations

In March 2022, ASIC initiated a surveillance into the marketing of managed funds to identify the use of misleading performance and risk representations in promotional material. The surveillance scrutinised traditional and digital media marketing of funds, including search engine advertising, targeting retail investors and potentially unsophisticated wholesale investors, such as some retirees. ASIC was concerned that, in a relatively volatile environment, consumers seeking reliable or high returns were being misled about fund performance and risks.

The surveillance identified a range of concerning representations in fund marketing material, including:

- promoting target returns without disclosing risks or reasonable assumptions underpinning those targets
- comparing fund performance to other financial products, indices or benchmarks that have much lower risks
- using out-of-date or potentially unrepresentative past performance data
- failing to include warnings that past performance is not an indicator of future performance
- failing to balance claims about the reliability of returns with warnings about the risk of those returns.

After ASIC wrote to the responsible entities of funds in relation to our concerns, many made changes, including withdrawing or amending their marketing materials and strategies or introducing additional compliance controls.

Misleading marketing of investments as lower risk leads to $750,000 penalty

On 26 November 2021, following action by ASIC, the Federal Court found that La Trobe Financial Asset Management (La Trobe) made false or misleading representations in the marketing of the La Trobe Australian Credit Fund (the Fund). La Trobe was ordered to pay a $750,000 penalty.

La Trobe's advertising in newspapers and magazines and on websites included statements that any capital invested in the Fund would be 'stable'. ASIC claimed that this gave the impression there could be no loss of capital and that La Trobe failed to express in a sufficiently prominent manner that a person who invested in the Fund could, in fact, lose substantial amounts of capital invested. The court found that the statement that any capital invested in the Fund would be 'stable', in the sense of there being no risk of substantial loss of that capital, was a false or misleading representation.

The court also found that La Trobe made false or misleading representations that investors in its 48 Hour Account and 90 Day Account would be able to withdraw their funds between 48 hours and 90 days of providing withdrawal notice, whereas:

- La Trobe had up to 12 months to satisfy a withdrawal while the Fund was liquid
- if the Fund ceased to be liquid, investors were entitled to withdraw only when a withdrawal offer was made by La Trobe.

In his decision, Justice O'Bryan stated that 'the misleading conduct was serious and had very considerable potential to mislead the public about the characteristics of the investment options – both as to the entitlement to withdraw funds and the risk of loss of capital invested'.

Superannuation

Improving funds' governance practices

During the early stages of the COVID-19 pandemic, there were significant declines in asset values, resulting in out-of-cycle valuations for unlisted assets. We conducted a surveillance looking at the ability for directors and executives of superannuation funds with access to sensitive information about the revaluation of the funds' unlisted asset options to use this knowledge to switch investment options to minimise their losses at this time. The use of confidential information for gain by directors and executives is problematic, as it may be at the expense of other fund members and decrease confidence in the superannuation industry.

We reviewed the conflicts management frameworks of 23 superannuation trustees and we analysed trades by 127 individuals on their member accounts at superannuation funds. The individuals comprised directors and executives, as well as their related parties.

Our surveillance identified that there was a lack of appropriate oversight and control measures in relation to investment switching. Trustees did not have robust systems in place to prevent directors and senior executives from potentially misusing price-sensitive confidential information for personal gain.

We wrote to the 23 trustees outlining our concerns and requesting that they take steps to improve existing policies and procedures. In response, 19 trustees have implemented a range of changes to address our concerns (with the other four trustees merging during our surveillance), including:

- increasing board-level engagement so there is greater board oversight, input and direction
- increasing staff awareness of the policies and their obligations through greater internal communication and training
- undertaking an independent review of the trustee's broader conflicts management frameworks.

Based on the evidence obtained during our surveillance, ASIC was satisfied that no further action was warranted against any individuals in relation to the identified transactions. We communicated publicly about this work to drive better behaviour outcomes by trustees.

ASIC engaged APRA extensively in relation to this work, including on its relevance to APRA's consultation on Prudential Standard SPS 530 *Investment Governance in Superannuation*, and its ongoing work on unlisted asset valuation practices.

Greater transparency for members in relation to underperformance of their MySuper products

ASIC undertook a review of communications made to members by trustees of the 13 products that failed APRA's first annual performance tests for MySuper products under Part 6A of the SIS Act in financial year 2020–21.

The annual performance test is designed to hold trustees to account for underperformance through greater transparency and increased consequences in order to protect superannuation members and increase their retirement savings.

Under the law, where a product fails the test, transparency of performance is given to members through required website disclosure and a notice the trustee must send to members in a prescribed form. Before the results of the 2020–21 performance test were published, we wrote to trustees whose products were likely to fail to remind them of their legal obligations. After the results were known, we looked at whether trustees had sent the mandatory notice and updated their website to refer to the performance test failure as required by law. Our review did not identify significant concerns about compliance with these obligations.

We did, however, identify opportunities for improvement to communications about performance more generally. As well as mandatory disclosures, our review looked at performance test-related communications more generally to determine whether trustees were undermining the consumer protection element of the reforms by misleading their members about product performance. We had some concerns here. The notice members receive where their product fails the performance test suggests they should consider moving their money to a different superannuation product. Our review found communication practices that detract from this message. We found that six trustees did not prominently disclose the failed test on their website and seven trustees presented information in relation to the test in a way that may have caused a member to discount the importance of the test. In these cases, we contacted trustees directly for corrective changes to their website or other materials.

In June 2021, we published Report 729 *Review of trustee communications about the MySuper performance test*, in which we detailed the findings of our review and set expectations for future communications about performance.

3.5 Market infrastructure

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

ASIC's work in this sector during 2021–22 continued to focus on providers' compliance with their obligations under the financial services laws to help ensure good consumer and investor outcomes and maintain trust and integrity in Australia's financial markets.

Operational resilience: ASX outage and industry resilience

ASIC has continued our focus on ensuring market resilience this year by publishing our expectations for industry in the event of a market outage (REP 708).

We also imposed new licence conditions on ASX's Australian market licence, ASX Clear and ASX Settlement. These licence conditions require remediation of the underlying issues with ASX operations that led to the November 2020 market outage. Further, the conditions asign accountability to the ASX board and senior executives for the implementation of the remedial actions and require attestations on behalf of the ASX board that adequate controls, procedures, skills and resources are in place. ASIC is also continuing to review the circumstances of an outage of the ASX 24 derivatives trading platform that occurred on 17 March 2022.

On 10 March 2022, ASIC introduced new market integrity rules aimed at promoting the technological and operational resilience of securities and futures market operators and their market participants (see 'Market integrity rules for technological and operational resilience' on page 92).

ASIC also conducted a review of TP ICAP, a leading global markets infrastructure and data solutions provider. We reviewed TP ICAP's conflict-handling arrangements, its arrangements for monitoring and enforcing compliance with the market operating rules, and its operational resilience (including cyber resilience), systems and controls. TP ICAP's compliance with its licence obligations was generally found to be adequate, with recommendations made concerning monitoring and surveillance, as well as resilience.

CHESS replacement

ASX is undertaking a multi-year transformation program to replace its clearing and settlement system (CHESS) with a system based on distributed ledger technology. We expect ASX to replace CHESS in a safe and timely manner to ensure market stability and resiliency. Together with other Council of Financial Regulators (CFR) agencies and the ACCC, we are supervising ASX's governance of the program, stakeholder engagement, and management of key risks. This includes system development and testing, participant readiness, pricing and data access.

In November 2021, licence conditions were imposed on ASX following ASIC's investigation into the ASX trade outage. The conditions provide an additional layer of assurance with the appointment of an independent expert who will assess whether ASX's assurance program is fit for purpose, identify any shortfalls, and regularly report to ASIC. ASX's assurance program should demonstrate the readiness of ASX and industry to go-live. The new system should achieve a significant uplift in intraday and end-of-day processing performance. At a minimum, it must deliver the same technical performance CHESS meets today, while also delivering the benefits of contemporary technology.

ASIC will continue to monitor closely ASX's implementation and to engage industry as it enters key program phases.

Enhancing cyber resilience

This year, ASIC formed a new team to deliver our strategic roadmap for supervising the cyber resilience of our regulated entities, and to contribute to Government and other regulatory cyber initiatives.

ASIC engages with both Government and other regulatory agencies, including through the Council of Financial Regulators (CFR). Through the CFR Cyber Security Working Group, we have contributed to the delivery of cyber resilience programs. This work includes the development of a protocol to guide our response to cyber incidents against regulated entities with potential systemic impacts, as well as the completion of the pilot phase of the Cyber and Operational Resilience Intelligence-led Exercises.

In December 2021, ASIC published Report 716 *Cyber resilience of firms in Australia's financial markets: 2020–21*. Since 2016, we have been engaging with financial market firms and operators on their cyber resilience to understand their preparedness and to drive behavioural change. This report summarises our observations from this third, industry-specific, self-assessment program.

In this report, ASIC observed that supply chain cyber risk management continues to be a significant challenge, even for larger firms. Many responding firms indicated that they were targeting an uplift in their capability in this area in the coming 12 months.

We have also been communicating with AFS licensees about the Federal Court finding in the RI Advice matter (see page 48). We are using this case to drive behavioural change in managing cyber risk in AFS licensees.

Working with Government on crypto-asset regulation

The crypto-asset industry has evolved rapidly in recent years. A growing number of regulated and unregulated entities are now developing and marketing crypto-asset-related services to Australians. Similarly, retail and wholesale investors in Australia have an increased appetite for accessing crypto-assets and related services. Determining how crypto-assets are classified (whether they are financial products) and regulated can be a complex legal process.

ASIC has established an internal crypto-asset working group to engage with industry, coordinate matters through ASIC, build skills and knowledge, and contribute to the Government's consideration of crypto-assets. On 29 October 2021, ASIC published good practices for market operators and product issuers in admitting and operating exchange traded products (ETPs) and other investment products that provide exposure to crypto-assets (Information Sheet 225 *Crypto-assets* and Information Sheet 230 *Exchange traded products: Admission guidelines*).

Key matters covered by ASIC's good practice guide include admission and monitoring standards, custody of crypto-assets, pricing methodologies, disclosure and risk management. The first ETPs were launched on 12 May 2022.

Since the COVID-19 pandemic, crypto scams have also risen significantly to become the most reported scams in the period since 1 July 2021. In response, ASIC has used a number of strategies to combat and disrupt scams, particularly where there is a risk to Australian consumers. These strategies include consumer warnings about fake celebrity-endorsed bitcoin promotions which are actually fake websites posing as crypto trading robots or cryptocurrency 'pump and dump' scams. We have also taken enforcement action to disrupt scams and misconduct. For example, Helio Lending Pty Ltd, which offered cryptocurrency-backed loans to consumers, has been charged with falsely claiming that it held an Australian credit licence when it did not.

Inter-agency data sharing leading to advanced market data analytics

We continuously explore ways to better leverage data and advanced analytics to enhance successful regulatory business outcomes.

We are mapping our equity trade surveillance data with data from the ATO to identify insider trading rings and suspicious trading behaviour. Our algorithms identify connections between traders and family members, colleagues, neighbours and, more recently, directors of companies, and they alert us to suspicious trades. This is important because, on some estimates, insider trading and information leakage may be costing the Australian market hundreds of millions of dollars per year.

Using data in this way can lessen manual work on insider trading analysis by ASIC staff. It also reduces compliance costs for market participants – for example, ASIC notices of direction under section 912E of the Corporations Act to identify clients involved in suspicious trading. The efficient use of this cross-agency data has significantly reduced the number of notices issued for this client identification purpose.

Our specialist data analysts are currently making innovative progress with other use cases using an anonymised map of associated trading accounts and enhancing the identification of other types of serious market misconduct, such as market manipulation and possible breaches of ASIC's market integrity rules. We are developing new system tools and dashboards that leverage advanced algorithms to automatically scan the market for collusive behaviour.

3.6 Market intermediaries

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

ASIC's work in this sector during 2021–22 included a focus on market manipulation occurring via social media forums, online financial influencers, and new market integrity rules.

Pump and dump activity – ASIC action

There was a concerning trend in the second half of 2021 of social media forums being used to coordinate 'pump and dump' activity in listed stocks, which may amount to market manipulation. Some people appeared to be using online forums to blatantly entice others to pump share prices before selling their shares and hoping to take a profit.

ASIC used a multi-pronged early intervention approach to quickly disrupt the activity, working closely with stakeholders such as:

- ASX to quickly identify target companies and pause trading to disrupt the activity
- market participants, where suspicious client account activity was identified – in some cases, market participants closed client accounts
- social media platforms to close several forums after ASIC posted in the forums to deter the activity.

ASIC will act where there are threats to market integrity and investors, including taking enforcement action where appropriate and looking for new and innovative ways to disrupt concerning conduct.

Financial influencers

In the second half of 2021, ASIC undertook a review which found that many online financial influencers did not fully understand how the law applies to them and did not hold an AFS licence. In December 2021, the ASIC Young People and Money Survey found that almost one-third of young people follow at least one financial influencer on social media. Of those, 64% reported changing at least one of their financial behaviours as a result.

In March 2022, we published Information Sheet 269 *Discussing financial products and services online* (INFO 269), outlining how financial services laws apply to social media influencers and AFS licensees who use them. Using a series of practical case studies, INFO 269 highlights:

- activities where influencers may contravene the law, with examples on financial advice, dealing by arranging, and misleading or deceptive conduct
- issues for influencers to consider, including whether an AFS licence is needed and doing due diligence on people who are paying them
- that AFS licensees who use influencers should do due diligence and have appropriate risk management and compliance arrangements in place.

In response, many influencers modified their content. ASIC also ran a social media campaign (viewed by 2.4 million people) to raise awareness of the risks of consumers relying on social media to make investment decisions.

The growth of online financial discussion is changing the way retail investors access and share financial information. It is important that online content is accurate, balanced and provided in compliance with financial services laws.

Market integrity rules for technological and operational resilience

Australia's markets and their participants are facing increased technological and operational risks. In March 2022, to help safeguard the integrity and resilience of Australia's markets, ASIC introduced new market integrity rules aimed at promoting the technological and operational resilience of securities and futures market operators and participants. The rules take effect from 10 March 2023 and set minimum expectations and controls relating to:

- change management
- outsourcing
- information security
- business continuity planning
- governance and resourcing
- trading controls (market operators only).

The rules clarify and strengthen existing obligations for market operators and participants and provide greater domestic and international alignment. The International Organization of Securities Commissions (IOSCO) and regulators globally have been raising standards for the systems and controls of market operators and participants at both a jurisdictional level and through multilateral initiatives.

Together with the new rules, we published REP 719 outlining industry feedback on the impact of the proposed rules.

3.7 Corporate

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

In 2021–22, our work in this sector focused on climate-related governance and financial disclosures, the oversight of corporate finance transactions, increased scrutiny of the quality of disclosures in the operating and financial review of directors' reports, financial reporting surveillance, and implementing an NLP solution for Declarations of Independence, Relevant Relationships and Indemnities (DIRRIs) lodged by registered liquidators.

Sustainability governance and disclosure

ASIC's targeted surveillance activities, engagement with domestic and international peer regulators, and consistent reinforcement of key statutory obligations have supported continued improvement in the transparency and governance of listed companies in this area.

As international standards develop, ASIC continues to encourage listed companies to use the G20 Financial Stability Board's Taskforce on Climate-Related Financial Disclosures (TCFD) recommendations as the primary framework for voluntary climate change-related disclosures. Listed companies reporting climate-related information under the TCFD are expected to be well placed to transition to any future standard.

Examining 'net zero' statements in prospectuses

In ASIC's review of prospectuses, we have increased the scrutiny of statements being made by issuers in relation to any net zero and related sustainability commitments or the development of 'green' technologies. We believe there is increased market and investor interest in the environmental, social and corporate governance credentials of issuers.

Net zero commitments and related plans may be considered forward-looking statements, for which there must be reasonable grounds. Where there are no reasonable grounds to underpin a net zero statement that is predictive in nature, the disclosure may be misleading.

We have intervened in a number of prospectuses during the year and have required clarification or retraction of net zero and related statements. Issuers have been required to detail the plans and progress made towards their net zero targets or sustainability targets. Where plans have been largely unsubstantiated, we have required removal of the sustainability statements.

Corporate finance transactions

Ensuring that investors are given information to make informed choices in corporate control transactions

ASIC continues to intervene in corporate control transactions to prevent investor harm by improving the standard of information that entities undertaking control transactions provide to investors. Our work seeks to ensure that investors are given the information they need to make an informed choice about how to vote on, or whether to accept, an offer to acquire their securities.

This year, we reviewed the information provided to investors for a scheme of arrangement under which investors were offered a combination of cash and scrip consideration. All investors would receive the same cash consideration but could choose to receive scrip consideration in either one of two entities. Entities undertaking schemes provide investors with the board's recommendation and an independent expert's report opining on whether the scheme is in the best interests of investors. We expect that the board and the expert consider each of the alternative forms of consideration when making their recommendation or providing an opinion.

We intervened to ensure that the board and expert did not consider only one form of scrip consideration offered, and instead turned their minds to the alternative scrip consideration as well. As a result of our intervention, the expert included information about the alternative scrip consideration and the board considered this alternative in disclosing its recommendation. Our intervention ensured that investors could make an informed choice about how to vote on the scheme.

Financial reporting surveillance

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

In 2021–22, ASIC proactively reviewed 220 financial reports of listed entities and other public interest entities for years ended 30 June 2021 and later. Following our surveillance inquiries, we issued media releases about 13 entities that recognised material changes to financial information previously released to the market or made enhanced disclosure of business risks. In recent years, material changes have been made to 4% of financial reports following our reviews.

We issued media releases concerning material financial reporting changes by Jayex Technology Limited, Academies Australasia Group Limited, Mosaic Brands Limited, Earlypay Limited, Woodside Petroleum Limited, Collection House Limited, Oliver's Real Food Limited and Buddy Technologies Limited. In addition, five entities provided additional disclosure of material business risks as a result of our focus on the operating and financial review (OFR).

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

Annual reports – Operating and financial review

In ASIC's reviews of financial reports, we have increased our scrutiny of the quality of disclosures in the OFR of directors' reports. An OFR is required under the Corporations Act by all listed entities. It aims to provide information that shareholders would reasonably require to make an informed assessment of an entity's operations, financial position, business strategies and prospects for future financial years. The OFR is of particular importance to retail investors who do not have the research resources of their institutional counterparts. We believe that a high-quality OFR helps to address this imbalance and contributes to confident and well-informed market participants.

We contacted a number of entities where we considered that the OFR in their financial reports did not meet the requirements of the Corporations Act or the regulatory guide on the subject published by ASIC. Betmakers Technology Group Limited, Ashley Services Group Limited, IQ3Corp Limited, Telix Pharmaceuticals Limited and Audio Pixel Holdings Limited subsequently made disclosures on the ASX announcements platform. ASIC also presented to stakeholder groups to improve awareness of this important aspect of financial reporting. The OFR continues to be a focus of our financial reporting reviews.

Woodside Petroleum increases restoration provision by US$239 million in its annual financial report

ASIC raised concerns about the amount of the provision for restoration costs in the financial report of Woodside Petroleum Limited (now named Woodside Energy Group Limited) for the year ended 31 December 2020. Our concerns, which included the basis on which the provision was calculated and the adequacy of disclosure of that basis, originated from a review of the prior year financial report.

After ASIC raised these concerns, Woodside increased the provision by US$239 million for restoration costs on the future decommissioning of offshore oil rigs and associated infrastructure assets in its financial report for the year ended 31 December 2021. This increase is primarily due to the inclusion of costs for the removal of rigid plastic-coated pipelines.

Woodside also improved its disclosure of the basis for providing for future restoration costs. This included disclosing:

- the types of offshore and onshore infrastructure assets for which full removal has been provided
- that full removal has not been provided for certain pipelines and infrastructure, parts of offshore platform substructures, and certain subsea infrastructure, and the reasons for this
- an indication of the additional costs if certain items for which full removal has not been provided for are not exempted from full removal by the National Offshore Petroleum Safety and Environmental Management Authority.

Restoration obligations for companies in the offshore oil and gas sector can be significant and ASIC will continue to focus on the reasonableness of this provision and the adequacy of disclosures.

Audit inspections

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

In 2021–22, we proactively reviewed the audits of the financial reports of 45 listed and other public interest entities. We will publish our report on the findings from these reviews in the second quarter of 2022–23.

Findings from our previous reviews show that more needs to be done to improve audit quality (see Report 709 *Audit inspection report: 1 July 2020 to 30 June 2021* (issued November 2021)). Auditors have primary responsibility for audit quality, supported by others in the financial reporting ecosystem such as directors and audit committees.

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

- a focus on enforcement actions for auditor conduct matters
- reviewing the approach of the largest six audit firms to undertaking root cause analysis on negative findings
- increased transparency by publishing the level of adverse findings for each of the six largest audit firms.

ASIC updated Regulatory Guide 260 *Communicating findings from audit files to directors, audit committees or senior managers* to advise that, from 2022–23, we will communicate negative findings from our reviews of audit files to directors to protect the interests of investor and market confidence in the conduct of audits and the quality of financial reports.

SMSF auditors

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

In 2021–22, we removed from the register 40 auditors who were in breach of the SIS Act requirements, including Australian auditing standards. These included:

- 10 auditor registrations were cancelled for failing to lodge annual statements
- 9 auditors were disqualified for failing to comply with auditing standards, breaches of independence or fitness and proprietary
- 21 auditors voluntarily requested cancellation after concerns were raised with them by ASIC.

We also imposed conditions on the registration of 19 other auditors for non-compliance with the SIS Act and Australian auditing standards.

SMSF auditor annual statement compliance

During 2021–22, ASIC commenced a review of the compliance of SMSF auditors with their obligation to lodge annual statements as required by section 128G of the SIS Act. These statements collect important compliance information.

ASIC contacted 1,460 SMSF auditors regarding their outstanding annual statements, resulting in:

- cancelling the registration of 10 SMSF auditors, who previously had their registrations reinstated after ASIC had cancelled them, for not lodging annual statements
- 94 SMSF auditors voluntarily cancelling their registrations
- 527 SMSF auditors lodging at least one outstanding annual statement.

Companies Auditors Disciplinary Board

We will take matters involving auditor conduct to the Companies Auditors Disciplinary Board (CADB). In 2021–22, as a result of our investigations, one registered company auditor's registration was cancelled – see the case study on page 53 – and another was suspended by the CADB.

Auditor's registration suspended

Following an application by ASIC, in March 2022, the CADB suspended the registration of Jakin Leong Loke, a New South Wales-based registered company auditor.

ASIC contended that Mr Loke failed to perform his duties as an auditor adequately and properly in relation to his involvement as a member of the audit team for the 2017 audit of Big Un Ltd.

Due to ASIC's action, Mr Loke's registration as a company auditor was suspended for 12 months. Mr Loke was also required to undertake additional professional education and hire a registered company auditor, approved in advance by ASIC, as a peer reviewer to oversee the first three company audits he conducts following the resumption of his registration.

Registered liquidators

Natural Language Processing (NLP)

Registered liquidator independence underpins the public's confidence in Australia's insolvency regime. The law requires registered liquidators to lodge a copy of their DIRRIs for insolvency appointments with ASIC. There are currently approximately 5,000 DIRRIs with on average seven pages lodged in PDF form each year. It is not possible to manually assess each DIRRI for any independence concerns.

To address this challenge, ASIC developed an NLP solution which uses automation and machine learning to search all DIRRIs as they are lodged to identify independence risks. Flagged high-risk DIRRIs are then manually reviewed and surveillances commenced, if appropriate.

The benefits of the NLP solution include:

- improved timeliness – analysis is performed in near real time on lodgement of the DIRRIs by registered liquidators
- improved breadth of coverage – all DIRRIs are automatically assessed under this process and prioritised for review
- improved efficiency/effectiveness – manual review is prioritised for DIRRIs identified as bearing risk markers
- improved surveillance selection – more accurate and earlier selection of registered liquidators, pre-insolvency advisers and referring parties for further investigation and surveillance should help reduce potential harms related to registered liquidator conflicts of interest.

Former liquidator sentenced to imprisonment for dishonesty and fraud offences

In February 2022, following an investigation by ASIC, Amanda Young, a former registered liquidator, was sentenced in the District Court (NSW) to a total period of three years imprisonment to be served as an intensive corrections order in the community. This included a condition she perform 350 hours of community service. Ms Young pleaded guilty to fraud and dishonesty offences.

ASIC's investigation found that while acting as liquidator, Ms Young had transferred a total of $193,862 from two companies to her own bank account. Ms Young also attempted to disguise this misappropriation of funds when she falsified internal records and tampered with an email from a legal professional. In sentencing Ms Young, the court noted that her conduct was 'deliberate, continuing and egregious and entailed a significant degree of deception and guile, involving legal professionals in the hope it would divert the investigative gaze from the offender'.

This result aligns with ASIC's enforcement priority to take action to address serious misconduct and hold gatekeepers to account so as to maintain trust and integrity in the financial system. The matter was prosecuted by the CDPP after a referral from ASIC.

Directions power

Under the Corporations Act, registered liquidators must lodge documents with ASIC. If a document has not been lodged, ASIC has the power to direct a registered liquidator to lodge it with us. This year, we issued four directions to three liquidators.

In one of these matters, we directed a liquidator to lodge two outstanding accounts of receipts and payments, and provided two extensions. However, the documents were not lodged, and consequently we issued a direction to the liquidator to not accept further appointments under Chapter 5 of the Corporations Act.

Disciplinary committee decision

ASIC became aware of a former voluntary administrator's alleged failure to identify a threat to his independence and subsequently referred the registered liquidator, Nicholas Crouch, to a committee convened under section 40–45 of Schedule 2 to the Corporations Act to decide on his registration as a liquidator.

On 24 June 2022, the committee found that Mr Crouch:

- failed to carry out adequately and properly the duties or functions that a registered liquidator must carry out under law, by accepting an appointment as a voluntary administrator when he was not seen to be independent due to his pre-appointment dealings
- failed to exercise care and diligence in cooperating and assisting the liquidator who replaced him
- contravened provisions of the Corporations Act by failing to lodge an end of administration return with ASIC and by failing to transfer to the liquidator who replaced him all books relating to the voluntary administration that were within his possession or control.

The committee also decided that while Mr Crouch's registration should continue, he should be publicly reprimanded and ASIC should direct him not to accept any further appointments as a liquidator during the period 29 June to 31 December 2022.

3.8 Large financial institutions

Supervision of large financial institutions

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

Some of the areas of focus during 2021–22 included the implementation of regulatory reforms, such as the design and distribution obligations and the reportable situations regime in major financial institutions, and the effectiveness of the internal audit functions of the Big 4 banks. We also had a hybrid supervision model for Macquarie Group and reviewed the effectiveness of its controls to manage conflicts of interest.

Implementation of design and distribution obligations by major supervised institutions

Before the commencement of the design and distribution obligations regime, ASIC reviewed the target market determinations (TMDs) for certain credit card and loan products offered by five major financial institutions. We focused on the conduct of these institutions, given the significant number of consumers affected by their conduct, as well as the market-leading position of the institutions, which is likely to influence the practices across the broader industry.

We were able to swiftly provide feedback to the institutions in areas where our analysis indicated that the TMDs did not fully satisfy the objects of the upcoming reforms. The institutions addressed our concerns by adjusting their TMDs with key changes made, including:

› better identifying customers for whom the product would not be suitable
› more clearly articulating the needs, objectives and financial situations of target customers, rather than merely listing product attributes
› more clearly articulating the features of the product, including features that are likely to be disadvantageous
› improving the review triggers, including better linking them to known indicators of poor customer outcomes.

This initial review led to an uplift in the quality of TMDs published by these institutions before the regime commenced. Since then, the institutions have been making ongoing changes. ASIC will continue to work with industry to improve its implementation of design and distribution obligations to improve product governance arrangements across the life cycle of financial products.

The design and distribution obligations require financial services firms to adopt a consumer-centric approach to their product governance. For issuers, this includes designing products consistent with the objectives and financial needs of intended consumers, determining and articulating the target market for specific products, and specifying events and circumstances (review triggers) that would indicate that the target market or distribution conditions are no longer appropriate. Both issuers and distributors must then take 'reasonable steps' to ensure that products are reaching consumers in the defined target market. They must also monitor the specified events and circumstances to ensure that the target market remains appropriate.

Review of internal audit functions

We reviewed the effectiveness of the internal audit functions of the Big 4 banks in improving compliance with financial services laws, enhancing customer outcomes and reducing harm. Internal audit functions perform a key gatekeeper role for large financial services institutions. An effective internal audit function provides independent oversight and assurance to prevent failures in risk management, governance, internal controls, processes and systems that can harm consumers or result in poor outcomes.

The review outlined some areas for improvement, including:

- root cause analysis, where improvements would more readily uncover the underlying drivers of issues and enhance the effectiveness of actions to sustainably address those issues
- data analytics capabilities and resources, where uplift would increase the banks' ability to use analytics more extensively across audits and use a range of techniques to deliver higher levels of assurance and better insights
- annual audit planning processes, where improvements would enhance the ability to build an audit program based on a risk-based foundation
- quality of reporting to senior management to allow it to better understand trends and patterns, including new and emerging issues, and take appropriate action.

In response to our feedback, the banks outlined detailed action plans to address our findings, which we have commenced monitoring.

4

ASIC engagement and education

4.1 Engagement

Regional action

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

Australian Capital Territory

Throughout 2021–22, we continued to build collaborative relationships across the Australian Capital Territory at Commonwealth and state levels of the public service and with peak bodies. We supported ASIC's engagement with consumer groups and financial counselling organisations, as well as supporting the ACT Education Directorate to strengthen the delivery of financial education in Canberra schools. We also engaged regularly with industry, including sitting on the ANZ Financial Wellbeing Survey Steering Committee, and participated in the Financial Inclusion Action Plan Advisory Group alongside the ACCC.

Building on a strong partnership, we worked in collaboration with Beyond Blue to finalise an 18-month money and mental health research project in June 2022. The learnings from this work were shared with Commonwealth agencies and inform the development of improved services to Australians experiencing financial stress.

New South Wales

While the COVID-19 pandemic impacted regional outreach with stakeholders and community during 2021–22, we undertook work to prepare for a refreshed and tailored New South Wales regional stakeholder and outreach information-sharing approach to recommence during 2022–23. This will complement existing ASIC national, sectoral and consumer liaison and engagement and maximise the consistency of the approach with that of ASIC's other Regional Commissioners.

Northern Territory

Despite COVID-19 pandemic restrictions, there has been constant engagement and communication with Commonwealth and Northern Territory Government agencies, industry bodies, regional and community groups, and other key industry stakeholders. Our involvement included support for the Northern Territory Government's October Business Month 2021 and presenting to First Nations students participating in accounting and business enabling courses at Charles Darwin University in the Northern Territory.

Queensland

This year, we conducted our regular stakeholder engagement virtually. We continued to meet with industry representatives, consumer groups and other regulators through our Regional Liaison Committee, Consumer Regulator

Forum and other liaison activities. This engagement enabled us to continue the dialogue around how ongoing COVID-19 pandemic conditions were affecting consumers and businesses in Queensland and to take action as appropriate. Meetings since March this year have focused on the recent floods and the potential business impacts and consumer harm arising from the natural disasters that fall within ASIC's regulatory purview.

In May 2021, we participated in Queensland Small Business Month activities across the state.

South Australia

In 2021–22, stakeholder engagement with industry bodies and with regional and community groups continued in a virtual format.

In November 2021, we held a South Australian Regional Liaison Committee meeting.

Tasmania

Tasmanian office stakeholder activities in 2021–22 included a presentation at the Tasmanian Governance Forum organised by the Governance Institute of Australia and direct meetings with key financial services providers. We also attended the Hobart session of the Australian Small Business and Family Enterprise Ombudsman inquiry into education and engagement practices promoting small business disaster resilience session.

Victoria

In the past year, a focus in Victoria has been on championing and supporting the work of the Melbourne and Traralgon teams, as well as the broader work of ASIC. We participated in community outreach events organised by the National Recovery and Resilience Agency to promote ASIC information and resources relating to small business, as well as ASIC's Moneysmart website. The Victorian office also participated in a conference co-hosted by the Federation of Ethnic Communities' Councils of Australia and the Ethnic Communities' Council of Victoria.

Western Australia

In 2021–22, we continued virtual meetings with stakeholders in light of the COVID-19 pandemic restrictions; however, we are moving to encouraging 'hybrid' meetings that permit face-to-face discussions. Our engagement with local and interstate stakeholders during the period included 10 formal liaison meetings convened by the Credit and Banking, Corporations, Financial Reporting and Audit, Registered Liquidators and Market Supervision teams. Additionally, our regional engagement included a very successful visit to the Kimberley region by our Small Business Engagement and Compliance team.

The Regional Liaison Committee convened on three occasions, with virtual attendance by Chair Joseph Longo in July 2021 and April 2022, and with face-to-face attendance in December 2021.

See pages 34–36 for information on our Service Charter results.

First Nations consumer outreach

ASIC's Indigenous Outreach Program (IOP) works across ASIC to support better outcomes for First Nations consumers. The IOP team has several roles:

- providing advice, insights and guidance to ASIC teams where regulatory issues or misconduct affect First Nations consumers
- influencing external stakeholders, including industry, to respond to systemic challenges and the experiences of First Nations consumers
- providing trusted information, tailored resources and communications, as part of regular ongoing stakeholder engagement.

ASIC's IOP manages a dedicated helpline and email inquiries channel, responding to 75 inquiries (as at 30 June 2022) from First Nations consumers and stakeholders working with First Nations consumers over the year.

During 2021–22, ASIC's IOP focused on innovative and strategic engagements due to the limited opportunities for face-to-face discussions. This involved facilitating collaborative opportunities and leveraging relationships across stakeholder groups to ensure that ASIC, service providers and industry are alive to the range of circumstances experienced by First Nations consumers and can respond appropriately.

National Indigenous Consumer Strategy

ASIC, as one of the consumer protection agency members of the National Indigenous Consumer Strategy (NICS), endorsed the NICS 2022–2023 Action Plan. This NICS group seeks to improve access to consumer protection services and market outcomes for First Nations consumers. The Action Plan commits members to priorities which identify behaviours causing harm or particular vulnerabilities for First Nations consumers. Under the Action Plan, ASIC will lead the national project by updating the NICS resource *A Guide to Enforcement: Indigenous Consumer Matters*.

ASIC's Indigenous Financial Services Framework

ASIC continues to develop our Indigenous Financial Services Framework, aimed at driving how we engage with First Nations peoples, and the priorities of our IOP. This involves focusing on our regulator role and working towards reducing the harms and misconduct impacting First Nations peoples, as well as developing stronger partnerships with communities and other stakeholders involved in services and programs assisting these consumers in their experiences and engagement with the financial system.

In 2021–22, ASIC's IOP and Professor Robynne Quiggin of the University of Technology Sydney consolidated learnings from consultations held with many stakeholder groups, including First Nations communities, and focused on sharing these learnings with other stakeholder groups.

This has included three separate financial services industry workshops with industry associations and participants across the credit and banking, superannuation and general insurance sectors. The team has also engaged with other Government agencies where there are aligned objectives and opportunities to collaborate on supporting positive financial outcomes for First Nations consumers.

House of Representatives Standing Committee on Indigenous Affairs

ASIC made a written submission and appeared before the House of Representatives Standing Committee on Indigenous Affairs as part of the inquiry into corporate sector engagement with First Nations consumers. ASIC's submission covered our regulatory activities where First Nations consumers are affected by financial services misconduct, the role of our IOP in engaging with First Nations consumers, and our use of Reconciliation Action Plans.

Inter-agency collaboration on financial crime

ASIC collaborates with other Australian enforcement and regulatory agencies on serious and organised crime, including through the Phoenix Taskforce, the Serious Financial Crime Taskforce (SFCT) and the Fintel Alliance. This year, we released 194 intelligence products to partner agencies and received 352 intelligence reports.

- **Phoenix Taskforce:** Together with other federal, state and territory agencies, ASIC is a member of the ATO-led Phoenix Taskforce which aims to detect, deter and disrupt illegal phoenix activity. The Phoenix Taskforce members share information and use sophisticated data matching tools to identify those promoting or engaging in illegal phoenix activity. The Phoenix Taskforce members work together to disrupt phoenix operators' business model and make it financially unviable, removing their ability to operate, applying financial penalties and prosecuting the worst offenders.

  During 2021–22, ASIC was involved in a number of Phoenix Taskforce operations and conducted joint surveillance activity.
- **Fintel Alliance:** The Fintel Alliance is a public–private partnership between federal and state government intelligence and law enforcement agencies, private sector businesses, and the Australian Transaction Reports and Analysis Centre (AUSTRAC).
- **Serious Financial Crime Taskforce:** The ATO-led SFCT is a joint-agency initiative targeting offences related to serious fraud, money laundering and defrauding the Commonwealth. It brings together the knowledge, resources and experience of law enforcement and regulatory agencies to address the most serious threats to the tax and superannuation systems of Australia.

  In 2021–22, Cybercrime was a key priority of the taskforce, as reflected in our undertaking in Operation Birks.

Serious Financial Crime Taskforce: Disrupting a highly sophisticated cybercrime syndicate responsible for superannuation and share sale fraud

Operation Birks is a joint cybercrime investigation between the Australian Federal Police (AFP) and ASIC, operating under the umbrella of the SFCT. The investigation identified and disrupted a highly sophisticated cybercrime syndicate responsible for large-scale frauds totalling more than $27 million.

This is the first criminal prosecution for cyber fraud of this magnitude in Australia, and the first significant cyber attack to target superannuation and share trading accounts.

The joint AFP and ASIC investigation showed that Jasmine Vella-Arparci worked as part of a transnational cybercrime syndicate which used fraudulently obtained identities to commit large-scale and sophisticated cybercrimes.

The syndicate obtained identity information by hacking into companies, purchasing it from the darknet and setting up a cloned superannuation website. Using this information, the syndicate's activities included identity take-overs, unauthorised access to superannuation accounts, the creation of false share trading and mule bank accounts, and more.

The syndicate stole funds from unsuspecting victims. The laundered funds were sent to an overseas contact who purchased untraceable assets such as jewellery. These assets were sold and the money was remitted back to Australia through various cryptocurrencies.

In September 2019, Ms Vella-Arparci was charged with conspiracy to defraud superannuation funds, conspiracy to defraud shareholdings and a money laundering conspiracy. The charges related to frauds committed against eight superannuation funds, seven share brokers and more than 75 individuals. Ms Vella-Arparci has pleaded guilty to the offences and is awaiting sentencing in the County Court of Victoria.

Operation Birks identified weaknesses in the cyber resilience of a number of Australian companies. These weaknesses have resulted in the unauthorised access, disclosure and modification of client information, and the establishment of fake share brokerage, superannuation and bank accounts.

This investigation aligns with ASIC's enforcement priority of targeting perpetrators of egregious cybercrime.

ASIC–APRA engagement

APRA and ASIC have developed a structured approach for identifying and managing shared risks in relation to their work together. Shared risks are reviewed periodically to help identify and prioritise those areas of joint work where closer monitoring or risk mitigation is required.

PUBLIC STATEMENT ON APRA–ASIC ENGAGEMENT 2021–22

The **Memorandum of Understanding** (MoU) between the Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC) underpins their commitment to work together to protect the financial well-being of the Australian community. This statement fulfils the agencies' commitment under that MoU to report annually on their engagement activities.[1] APRA and ASIC have collaborated in a number of ways during the financial year. For example, the agencies:

- continued to engage closely on loan repayment deferrals and borrower hardship, and on issues related to insurance affordability and availability
- worked with Treasury and the Australian Financial Complaints Authority on business interruption insurance test cases being heard in the Federal Court – this collaboration helped progress these cases in a more timely manner and generated significant engagement from the insurance industry
- brought together six Australian and New Zealand regulators to consider issues such as consumer protection, conduct regulation and prudential regulation during a supervisory college in November 2021
- shared information and insights to support each agency's response to natural disasters, and consulted with insurers and the Insurance Council of Australia
- continued to engage jointly with regulated financial services providers on the issues of cyber readiness and operational resilience. Also, as part of the Council of Financial Regulators, the agencies developed a protocol for the management of a cyber incident at a financial services provider
- collaborated closely with each other, and other agencies, in relation to the Australian regulatory framework for the payments systems, including crypto-assets.

The agencies continue to work in close partnership on superannuation issues, supporting confidence in the industry and pressing superannuation trustees to continue to improve the outcomes they are delivering to their members. APRA and ASIC have regularly shared information, intelligence and data obtained through supervisory and surveillance work. They have also worked closely together on

1 The last public statement on APRA–ASIC engagement was issued in December 2021 for the 2021 calendar year. Certain engagement activities appear in the last public statement and this statement due to overlapping reference periods.

regulatory change such as the implementation of requirements imposed by the Your Future, Your Super reforms. APRA and ASIC continue to jointly communicate their expectations to industry through regular joint engagement and communication. This includes a joint letter to trustees on the implementation of the *Retirement Income Covenant* and by facilitating opportunities to discuss topics with industry at CEO roundtable events.

APRA and ASIC strengthened cooperation on enforcement matters during the year. An example of this cooperation was the agencies' engagement during their respective investigations in relation to the AMP superannuation trustees. The court enforceable undertaking accepted by APRA in November 2021 was designed to address regulatory concerns of both APRA and ASIC with the AMP superannuation trustees. Another example was ASIC and APRA coordinating their respective inquiries into a Westpac subsidiary (BT Funds Management), which had been incorrectly charging commissions for insurance in superannuation. ASIC obtained a $20 million civil penalty in relation to that misconduct.

Collaboration on industry data collections has provided opportunities for both agencies to effectively and efficiently collate insights to inform their respective work and to limit the impost on regulated entities of reporting. More broadly, information sharing between the agencies continues to be critical to how they work together.

APRA and ASIC have developed a structured approach for identifying and managing shared risks in relation to their work together. Shared risks are reviewed periodically to help identify and prioritise those areas of joint work where closer monitoring or risk mitigation is required. This approach has been incorporated into the formal discussions between APRA Members and ASIC Commissioners, including through the APRA–ASIC Committee and supporting Standing Committees of senior members from each agency.

The agencies continue to work together to deliver long-term benefits through a number of significant and potential law reforms. This includes preparation for the Financial Accountability Regime (FAR) that was developed in response to the Financial Services Royal Commission. A key objective of the FAR (subject to it being passed by the Australian Parliament) is to improve the operating culture, and to increase transparency and accountability, of entities in the banking, insurance and superannuation sectors – both in relation to prudential matters and conduct-related matters.

APRA and ASIC will continue to work together to deliver coordinated and efficient regulatory outcomes, and to support the ongoing safety, strength, fairness and efficiency of the financial system for all Australians.

Regulator Performance Guide

The Regulator Performance Guide (RPG) commenced on 1 July 2021, replacing the 2014 Regulator Performance Framework. The RPG sets out refreshed expectations for regulator performance and reporting. It contains three principles of regulator best practice:

- **Principle 1: Continuous improvement and building trust** – Regulators adopt a whole-of-system perspective, continuously improving their performance, capability and culture to build trust and confidence in Australia's regulatory settings.
- **Principle 2: Risk based and data driven** – Regulators manage risks proportionately and maintain essential safeguards while minimising regulatory burden, and leveraging data and digital technology to support those they regulate to comply and grow.
- **Principle 3: Collaboration and engagement** – Regulators are transparent and responsive communicators, implementing regulations in a modern and collaborative way. The 2021–22 financial year is a transitional year, during which ASIC must begin to appropriately reflect the RPG in our annual report and Corporate Plan.

ASIC's Corporate Plan notes the new RPG best practice principles and that over the 2021–22 transitional period we will be aligning how we report on our performance with those principles. This includes aligning the principles with our performance evaluation framework in our Corporate Plan for the 2022–23 year. The RPG best practice principles are broadly reflected in ASIC's strategic priorities. Table 4.1.1 maps ASIC's strategic priorities in the Corporate Plan to the three best practice principles.

Table 4.1.1 ASIC's priorities mapped against Regulator Performance Guide principles

External priorities	Principles
Promoting economic recovery – including through better and more efficient regulation, facilitating innovation, and targeting regulatory and enforcement action to areas of greatest harm.	Principle 2: Risk based and data driven
Reducing risk of harm to consumers exposed to poor product governance and design, and increased investment scam activity.	Principle 2: Risk based and data driven
Supporting enhanced cyber resilience and cyber security among ASIC's regulated population, in line with the whole-of-government commitment to mitigating cyber security risks.	Principle 2: Risk based and data driven
Driving industry readiness and compliance with standards set by law reform initiatives, including the Financial Accountability Regime, reforms in superannuation and insurance, breach reporting, and the design and distribution obligations.	Principle 3: Collaboration and engagement

Internal priorities	Principles
Enhancing communication and engagement with our stakeholders and other regulatory agencies, to ensure that our actions and achievements have a real and tangible impact.	Principle 3: Collaboration and engagement
Improving our infrastructure and systems to strengthen our key internal operations, processes and governance frameworks to effectively support our regulatory work.	Principle 1: Continuous improvement and building trust
Enhancing and effectively utilising our data and cyber resilience capabilities in fulfilling our regulatory mandate and organisational priorities.	Principle 2: Risk based and data driven
Continuing to nurture a workplace environment that promotes a culture of speaking up, challenge, accountability and a 'whole-of-ASIC' lens, underpinned by a sound system of risk management and compliance.	Principle 1: Continuous improvement and building trust

The following summary sets out how we have interpreted and measured our performance against each of the best practice principles. The summary incudes cross-references to performance measures in other parts of this report, including case studies and performance metrics in the annual performance statement.

How we assess performance against Regulator Performance Guide principles

Principle 1 relates to what ASIC is doing to commit to continuous improvement in our processes, governance and capabilities to build trust and confidence in Australia's regulatory settings.

1. How we define, communicate and commit to our organisational values and culture.

Measures and examples

ASIC's Corporate Plan sets out our internal and external priorities and activities to give effect to ASIC's vision of being a capable, confident and effective regulator – including initiatives to build ASIC's internal regulatory capabilities, administer the law effectively and deliver on ASIC's statutory objectives.

ASIC's approach to enforcement (INFO 151) explains how we approach our enforcement role specifically, including how we will meet community expectations that the most serious and harmful misconduct should be judged by the courts and how we will use ASIC's broad range of regulatory tools to respond to contraventions of the law proportionately and effectively.

ASIC sets out our values of accountability, professionalism and teamwork in a publicly available statement. We also set out our expectations of staff in our Code of Conduct. ASIC's values of accountability, professionalism and teamwork ensure there is a strong alignment between our culture and the behaviours that guide our actions and decisions.

Pages 137–140 set out ASIC's diversity and inclusion initiatives and the outcomes we have achieved over this reporting period, including:

- launching Speak Up, where ASIC staff can anonymously raise a concern or make a confidential report about suspected wrongdoing
- continuing to meet our diversity employment goals
- exceeding our equitable gender briefing targets
- developing outcomes and associated targets for our next Reconciliation Action Plan
- developing a new pathway for the employment of First Nations peoples via internship programs
- attaining bronze status in the Australian Workplace Equality Index for a second year
- launching two new accessibility initiatives.

We are committed to fostering diversity because we believe an inclusive and diverse workforce drives better innovation, creativity and problem-solving by bringing a range of experiences, perspectives and ideas to our decision making.

Pages 135–136 set out ASIC's work health and safety initiatives, including supporting a safe return to work in the office as COVID-19 pandemic lockdowns ended and restrictions eased. This ensures a healthy and safe work environment for all ASIC employees to conduct their regulatory work.

2. **How we seek out, engage with and respond to internal and external performance reviews, including reflecting on and taking ownership of recommendations aimed at improving our regulatory practices and procedures.**

Measures and examples

Page 12 sets out ASIC's work in relation to the FRAA's first effectiveness and capability assessment of ASIC, through productive and collaborative engagement with the FRAA Panel and FRAA's Treasury Secretariat.

Pages 206–208 set out information about the external scrutiny of ASIC, including ASIC appearances before Parliamentary Joint Committees, Senate Committees and House of Representative Committees.

Page 22 sets out the actions ASIC has taken to implement the recommendations of the Infrastructure Review.

Page 24 identifies the outcomes achieved by ASIC following the investigations and criminal and civil proceedings arising out of the Financial Services Royal Commission.

3. **How we support and promote a culture of continuous improvement in regulatory practices and staff capabilities.**

Measures and examples

Pages 134–136 set out information about ASIC's workforce planning, including key initiatives and achievements during the reporting period such as:

- implementation of the capability framework to identify our capability strengths and gaps
- introduction of the Existing Leaders and Emerging Leaders Program
- ASIC's national graduate program being ranked #1 in the Australian Government category by the Australian Association of Graduate Employers and #8 in the Government and Public Services category in the Grad Australia Top 100 Graduate Employers.

4. How we make it easier for regulated entities to do business. How we set standards to deliver high-quality services and regulatory interactions and regularly review these processes to ensure that they are transparent, fair, accessible and responsive.

Measures and examples

Page 22 sets out information about our REU, which seeks to promote better regulation by making it easier for businesses to effectively fulfil their regulatory requirements.

Page 125 sets out the work of ASIC's Innovation Hub, including the number of innovative businesses ASIC provided with informal assistance and guidance on their potential regulatory obligations during the reporting period, as well as the number of fintechs accepted to test in ASIC's enhanced regulatory sandbox.

Page 62 sets out information about the number of new or revised regulatory guidance and information sheets ASIC has published during the reporting period to assist industry to understand and comply with its obligations.

Table 2.3.1 sets out our performance against the key measures outlined in the Service Charter for the reporting period.

5. How we contribute to continuous improvement of regulatory frameworks by providing input to the Australian Government.

Measures and examples

Pages 22–24 refer to our key projects to support law reform, including:

- ASIC's engagement with the ALRC on its inquiry into corporations and financial services laws, including the participation of ASIC's Chair on the ALRC's Advisory Committee
- supporting Government legislative reform in respect of design and distribution obligations, reportable situations and the Financial Accountability Regime.

ASIC has continued to support Treasury and the ATO with the Modernising Business Registers program – see page 65 for further information.

6. Our compliance with whole-of-government regulatory policies, including on best practice regulation and cost recovery. This helps us to consider the risks, cost effectiveness and impact of regulatory action, including the impacts on competition, innovation and growth.

Measures and examples

In line with the **Australian Government Cost Recovery Guidelines**, on 11 November 2021 ASIC published a **Cost Recovery Implementation Statement for the 2020–21** financial year.

ASIC complies with Office of Best Practice Regulation requirements, including preparing cost–benefit analysis in Regulation Impact Statements for significant regulatory changes. In 2021–22, **the Office of Best Practice Regulation assessed all of ASIC's proposals** requiring a regulatory impact assessment as compliant.

Principle 2 relates to what ASIC is doing to balance managing risks proportionately with minimising regulatory burden. We leverage data and digital technology to help inform these regulatory decisions and to support our regulated population to comply and grow.

1. **How we identify and prioritise key threats and harms in our external environment by leveraging intelligence and data, and by using these inputs to inform our strategic priority and business planning processes. How our risk-based approach shapes our strategic priorities and our regulatory efforts.**

Measures and examples

As we set out in our Corporate Plan, our strategic priorities reflect a risk-based and data-driven approach to addressing the most significant threats and harms in our regulatory environment. As part of our strategic planning, we undertake an assessment of our external operating environment to identify the most significant threats and harms to investors, consumers and fair and efficient markets using various data sources, including:

- insights from our regulatory work, including intelligence obtained from interactions with industry
- internally available data sources (such as reports of misconduct and breaches, enforcement statistics and licensing data)
- external data sources (such as data subscription services, data from peer international regulators and available data from the Reserve Bank of Australia, APRA, the Australian Bureau of Statistics (ABS), AFCA and Scamwatch).

2. **How we use intelligence and data to inform a risk-based approach to compliance and enforcement. How we adopt a risk-based approach to regulation to identify and address misconduct to focus on the greatest areas of harm.**

Measures and examples

We have embedded risk-based principles in our regulatory work and have invested in building and strengthening our data and analytical tools and capabilities to support our supervision and surveillance.

Pages 41–42 set out how ASIC is strengthening our capabilities in data and analytics to improve our regulatory work. This includes by continued investment in our Data Lake platform, operationalisation of NLP and improving data availability for recurrent data collections.

Page 58 identifies how ASIC has seen consistently high levels of reports relating to scam behaviour since the initial COVID-19 pandemic lockdown, and how we use this information to direct our regulatory activities to identify and address harms to investors and consumers. See, for example, action taken by ASIC in relation to the Cash FX Group.

Page 90 identifies ASIC's action to disrupt 'pump and dump' activity using a multi-pronged early intervention approach.

Page 99 identifies how ASIC has developed a Natural Language Processing solution to flag high-risk DIRRIs.

In deciding how to respond to misconduct, we consider the following factors:

- the strategic significance (the seriousness of the misconduct or harm, how widespread it is, the importance of deterrence, and our strategic priorities)
- the likelihood of success of using one or more of the tools available to us
- issues specific to the case (e.g. the availability of evidence)
- the benefits of pursuing misconduct (e.g. the impact of remedies we may be able to obtain to deter misconduct and protect or compensate consumers, and other public interest factors)
- the availability of resources.

ASIC's approach to enforcement is published in **Information Sheet 151 *ASIC's approach to enforcement***. ASIC also publishes quarterly enforcement updates.

Pages 42–44 provide quantitative information on the number of enforcement activities undertaken in this reporting period.

Pages 46–55 provide case studies on ASIC's investigation and enforcement outcomes achieved in this reporting period.

Table 7.2.2 provides data on the number and outcomes of reports of misconduct received by ASIC by issue during this reporting period. Table 7.2.3 provides data on the number and outcomes of breach reports received by ASIC by type.

3. How we identify and understand market and regulatory developments and address emerging issues.

Measures and examples

Within ASIC's broader strategic planning and decision-making framework, we maintain flexibility in adapting and responding to developments in our operating environment outside the formal strategic planning phases. This may include the emergence of new products, practices or harms, or changes in Government policy.

Pages 213–215 set out information about ASIC's consultation with our external panels. Our panels also help us to better understand industry, consumer and market developments; consider and address risks or harms; and discover potentially harmful conduct.

4. How we respond to changes in our external environment, including market changes and the emergence of new business models.

Measures and examples

Page 58 identifies how we have prioritised addressing the risk of harm from the consistently high levels of reports relating to scam behaviour. As set out on page 88, scams involving emerging crypto-assets have become the most significant type of investment scam. We have used a number of strategies to combat and disrupt these scams, such as action taken against Helio Lending Pty Ltd.

ASIC has also been monitoring and taking action against unlawful social media advice and influence on retail investment decisions – see the case study on Cash FX Group on page 58 and the case study on financial influencers on page 91.

5. How we support deregulation and the economic recovery through better and more efficient regulation.

Measures and examples

ASIC has established the REU to engage with external stakeholders on ways to improve the efficiency of our interactions with our regulated population – see page 22 for further information.

Pages 38–39 set out how we have supported economic recovery by focusing on efficient regulation, and the actions we have taken during this reporting period to support this priority. Outcomes include:

- offering existing licensees an ASIC-initiated variation to their AFS licence to authorise the provision of the same services in relation to securities in a CCIV – see page 60 for further information

- engaging with industry on impediments to industry's ability to deliver good quality and affordable personal advice – see page 76 for further information
- supporting and contributing to the ALRC review of the Corporations Act, which is tasked with facilitating a more adaptive, efficient and navigable legislative framework – see page 23 for further information.

Other example of actions we have taken which promote efficient regulation during the reporting period include:

- transitioning users of the Market Entity Compliance System Portal to the ASIC Regulatory Portal, reducing the number of portals required for stakeholders to interact with us – see page 42 for further information
- successfully assessing all transitioning insurance claims handling providers within the six-month transition period – see page 59 for further information
- consulting with consumer advocates and key industry stakeholders to proactively understand and improve industry practices and prevent consumer harm in relation to landlord insurance debt recovery practices – see page 72 for further information
- providing relief to enable insurers to apply a streamlined process for emergency payments to insured consumers impacted by catastrophic events – see pages 74–75 for further information.

6. How we implement our data and technology strategy, and take steps to continuously improve staff and organisational data capability and digital literacy.

Measures and examples

Pages 41–42 set out our successful implementation of the first year of the *ASIC Data Strategy 2021–26*, as well as the development of a Digital Strategy to transform the way we work internally and how we regulate and interact with our regulated population.

Page 134 sets out our continued implementation of the ASIC capability framework, which focuses on building and maintaining capability in regulatory practice, enforcement, law, data analytics, accounting and auditing.

7. **How we work with our peer regulators to reduce regulatory impost, including by sharing data and intelligence and managing the cumulative burden of regulations on business.**

Measures and examples

ASIC has memorandums of understanding (MOUs) with numerous peer regulators and agencies. Information about our **MOUs with other regulators** is available on our website.

Pages 109–110 sets out key outcomes and activities undertaken in collaboration with APRA over this reporting period, including:

- implementing the Your Future, Your Super reforms
- strengthening cooperation on enforcement matters, including during our investigations into AMP superannuation trustees and our inquiries into BT Funds Management
- collaborating on industry data collections.

Page 89 sets out information about inter-agency data sharing between ASIC and the ATO which has significantly enhanced our surveillance capabilities.

Page 129 sets out information about ASIC and the ATO's Phoenix Surveillance Campaign to identify directors who may be at risk of engaging in illegal phoenix activity and educate them on their duties and obligations.

Page 87 sets out information about ASIC's work with the CFR agencies and the ACCC in supervising ASX's CHESS replacement.

Pages 107–108 set out information about ASIC's collaboration with other Australian enforcement and regulatory agencies on serious and organised crime, including through the Phoenix Taskforce, the SFCT and the Fintel Alliance, and provide a case study on Operation Birks – a joint cybercrime investigation between the AFP and ASIC.

Page 125 sets out information about the number of international cooperation requests we made of, and received from, international peer regulators.

Principle 3 relates to how ASIC engages with our regulated population. We look at how transparent, open and responsive ASIC is to feedback; how we operate; and what we are doing to engage in genuine two-way dialogue with stakeholders and the broader community on our performance.

1. **How we engage genuinely and regularly with our stakeholders, including regulated entities and the broader community.**

Measures and examples

Pages 213–215 set out information about ASIC's consultation with our external panels, including the priority initiatives of our Consumer Consultative Panel. In addition to ASIC's panels, ASIC's industry consultation includes Commission meetings with industry groups, major financial institutions, and consumer organisations and their representatives. During the year, ASIC also sought industry feedback through roundtable discussions, open working relationships and regular meetings with our regulated entities, as well as through initiatives such as the REU.

Pages 103–132 set out ASIC's engagement and education activities with the broader community in this reporting period, including:

- undertaking outreach and stakeholder engagement activities to understand current issues for First Nations consumers of financial services and provide trusted information, including through the IOP Helpline – see page 106 for more information
- activities and initiatives undertaken by ASIC's Regional Commissioners – see pages 104–105 for further information
- undertaking a Young People and Money survey, publishing the Young People and Money report and launching Get Moneysmart – see page 130 for further information
- maintaining a source of trusted information via ASIC's Moneysmart website – see page 131–132 for further details.

2. **How we engage with stakeholders about upcoming regulatory developments, drive industry readiness, and provide guidance and information that is relevant, clear, concise and easily accessible to our regulated population.**

Measures and examples

ASIC provides guidance to industry on how we will administer the law to enhance industry participants' understanding of their legal obligations and how to meet them through regulatory guides and information sheets.

Page 33 sets out the number of new or revised regulatory guides and information sheets ASIC has published during this reporting period.

ASIC also publishes consultation papers to seek feedback from stakeholders on regulatory matters we are considering, as well as a feedback report to provide transparency about our consultation before updating our regulatory guides or information sheets.

Page 62 identifies the number of publication consultation processes ASIC conducted in the reporting period. These include:

- consulting on the new ePayments Code – see page 70 for further details
- consulting with industry on impediments to the delivery of good quality and affordable advice – see page 76 for further details
- consulting on the design and distribution obligations reforms – see page 23 for further details.

ASIC also publishes the results of our supervision and surveillance work to advance good consumer outcomes and change behaviour by driving improved practices across a sector or market and recommending changes in industry practice – see pages 57–58 for more information about the number of reports published during this reporting period.

Pages 40–41 set out key actions we have taken to drive industry readiness and compliance in relation to recent Government law reform initiatives to support this priority during the reporting period. Other actions we have taken in the reporting period to drive industry readiness for regulatory changes and provide clear guidance to our regulated population include:

- reviewing the TMDs for certain credit card and loan products offered by five major financial institutions and providing feedback ahead of the commencement of the design and distribution obligations regime. This resulted in an uplift in the quality of TMDs published before the regime commenced – see pages 101–102 for further details
- providing guidance to industry on cyber resilience – see pages 87–88 for further information
- communicating with AFS licensees around the Federal Court finding in the RI Advice matter to drive behavioural change in managing cyber risk in AFS licensees – see page 48 for further information
- providing practical guidance to enhance access to advice – see page 76 for further information
- reviewing the governance practices of 10 large responsible entities and publishing ASIC's findings and analysis – see page 82 for further information

- reviewing trustee communications and publishing a report detailing the findings of the review and setting expectations for future MySuper performance test-related communications – see page 85 for further information
- publishing ASIC's expectations for industry in the event of a market outage – see page 86 for further information
- introducing new market integrity rules aimed at promoting the technological and operational resilience of securities and futures market operators and their market participants – see page 92 for further information
- publishing an information sheet about good practices for market operators and product issuers in admitting and operating ETPs and other investment products that provide exposure to crypto-assets – see page 88 for further information
- publishing information outlining how financial services laws apply to social media influencers and AFS licensees who use them – see page 91 for further information.

3. How we seek out real-time data to inform our regulatory decisions and priorities to help support improved regulatory actions and outcomes.

Measures and examples

Pages 23–24 sets out reforms around breach reporting, and how we use these reports to support the early identification and resolution of issues. Page 49 includes a case study on how we have used the new penalty powers against Statewide Superannuation for failure to report breaches to ASIC.

ASIC will publish annually information about the number of reports we receive, which will help to provide transparency about the performance of our regulated sectors.

4. How we work with peer regulators to develop innovative approaches to regulatory or policy issues, and share learnings to ensure that our regulatory processes are in line with best practice.

Measures and examples

ASIC is a member of the steering group for the IOSCO Fintech Task Force, which contributes to international regulatory work on crypto-assets – see page 126 for further information.

Page 88 sets out how ASIC has helped contribute to the Government's consideration of crypto-assets. Our contributions are informed by our work with peer regulators in the CFR working group on regulating the crypto-asset ecosystem.

Pages 24 and 110 set out how ASIC and APRA have worked together cooperatively to provide technical and policy input to Treasury in relation to the Financial Accountability Regime, and to establish administrative and business processes and procedures for implementation of the Regime.

International engagement

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

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

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

We participate in a range of international forums:

- ASIC is a member of the board of IOSCO and is represented on its policy committees and taskforces, including those examining issues around financial stability, sustainable finance, asset management, crypto-assets, technology, market fragmentation, enforcement, emerging risks and standards implementation
- ASIC is co-chair of the IOSCO Retail Market Conduct Task Force
- ASIC is a member of the newly formed IOSCO Fintech Task Force
- ASIC is a member of the IOSCO Sustainable Finance Task Force
- ASIC participates in IOSCO Asia-Pacific Regional Committee (APRC) meetings and cochairs the APRC Working Group on Enhancing Supervisory Cooperation
- ASIC chairs the Market Conduct Working Group of the International Association of Insurance Supervisors
- ASIC serves on the board of the International Forum of Independent Audit Regulators
- ASIC vice chairs the International Financial Consumer Protection Organisation and participates in G20/Organisation for Economic Cooperation and Development Financial Consumer Protection Taskforce initiatives
- ASIC is a member of the CFR International Coordination Group, which meets regularly to coordinate a cohesive approach to major international regulatory risks and issues
- ASIC is a member of the Global Financial Innovation Network, which is committed to supporting financial innovation and providing a more efficient way for innovative financial technology (fintech) and regulatory technology (regtech) firms to interact with regulators
- ASIC is negotiating several MOUs with counterparts in New Zealand, India and Luxembourg. We are co-leading the negotiation of a multilateral MOU on supervision for the Asia-Pacific region. These agreements will strengthen cooperation and underpin market access arrangements – for example, substituted compliance arrangements.

International cooperation requests

This year, we made 320 international cooperation requests (up from 304 requests in 2020–21) and received 463 requests (down from 513 requests in 2020–21) in relation to activities such as surveillance, supervision, enforcement, research and licensing.

This included 116 requests for assistance in enforcement matters, of which 23 requests sought ASIC's assistance to compel material from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

Innovation Hub

ASIC's Innovation Hub function helps innovative fintech and regtech Australian businesses navigate the regulatory framework and provides a platform for international engagement on fintech and regtech ideas. Through the Innovation Hub, we provide informal assistance to innovative businesses on their potential regulatory obligations and Australia's overarching regulatory framework, including whether the Australian Government's enhanced regulatory sandbox may be an option for a particular business.

Informal assistance and guidance

In 2021–22, the Innovation Hub met with 124 innovative businesses and provided informal assistance to better understand how the regulatory framework may apply to their intended business model. Some of the business models proposed by the fintech firms involved payments, credit, services related to crypto-assets, and services making use of DLT/blockchain technology. During this financial year, ASIC granted nine licences to new innovative businesses, which included neo banks and businesses offering services in crypto-assets. Fintech businesses that received informal assistance from ASIC's Innovation Hub before submitting their licence applications were approved faster than those that did not seek assistance. The Innovation Hub has provided informal assistance to over 700 businesses since it was first established in March 2015.

Enhanced regulatory sandbox

The enhanced regulatory sandbox (ERS) administered by the Innovation Hub allows eligible businesses to test certain innovative financial services or credit activities for up to 24 months without first obtaining an AFS or credit licence. The ERS allows ASIC to facilitate innovation while ensuring consumer and investor protection.

In 2021–22, we accepted four fintechs to test their business model in the ERS. These business models included payment facilities and equity market comparison services. Since its launch in September 2020, a total of 12 entities have been accepted to test in the ERS. In the same period, 22 applications were unsuccessful mainly because they did not adequately meet the minimum legal requirements under the ERS for eligibility or did not satisfy either or both of the relevant innovation and net public benefit tests.

Domestic and international engagement

The ASIC Innovation Hub continues to facilitate engagement opportunities with other regulators, Government agencies and industry associations.

In 2021–22, the Innovation Hub hosted four Digital Finance Advisory Panel meetings, three Regtech Liaison Forums and one Financial Innovation Regulator Meet-up, bringing together industry leaders and regulatory representatives to help inform ASIC and stakeholders on key fintech and regtech-related developments, issues and collaboration opportunities.

ASIC is one of 11 coordination group members of the Global Financial Innovation Network (GFIN), a network with over 70 members – including regulators, Government bodies and international organisations. GFIN seeks to support financial innovation in the interests of consumers by providing a more efficient way for innovative firms to interact with regulators. ASIC chairs the GFIN RegTech Ecosystem Special Unit, where there is a focus on information sharing and collaboration on the use of emerging technologies for compliance and supervisory purposes.

ASIC is a member of the steering group for the IOSCO Fintech Task Force (formerly known as the Fintech Network) which leads two workstreams on Crypto and Digital Assets and Decentralised Finance (DeFi). ASIC has contributed to IOSCO's earlier work and reports on initial coin offerings and DeFi.

Business Research and Innovation Initiative Regtech Round

Initiated by the Department of Industry, Science, Energy and Resources, the Business Research Innovation Initiative (BRII) is an Australian Government program which provides funding for small to medium-sized regtech businesses to develop innovative solutions to Government challenges in policy and service-delivery areas.

The latest BRII round assesses the potential of regtech to solve challenges across Government agencies and departments. ASIC was selected as one of four Government agencies to participate in this round.

ASIC's selected challenge explores the potential of using technology to help identify and assess poor market disclosure by listed companies. We have been working with five regtech entities – Bedrock AI Aus Pty Ltd, DigitalX Limited, Eastern Analytica Pty Ltd, Listcorp Pty Ltd and Pyxta Pty Ltd – on the latest phase of the challenge, which required the entities to undertake a feasibility study of their potential regtech solution and present on the findings.

In the next stage of the BRII Regtech Round, two of these regtechs may receive further grants of up to $1 million each to develop and test a proof of concept over a further 15 months.

Small business engagement

ASIC plays an important role with regard to small businesses to ensure a strong and healthy economy for all Australians. As part of this role, ASIC:

- assists small businesses through providing information and guidance
- engages with small businesses so that we can understand and respond to the challenges they face
- helps to protect small business through our surveillance, policy and enforcement work.

Richard Ludwig

Addressing illegal phoenix activity continues to be a focus for ASIC, including taking enforcement action to hold directors and facilitators to account.

In December 2021, Richard Ludwig, a former director of Cap Coast Telecoms Pty Ltd, was convicted and sentenced to five years imprisonment, with a non-parole period of 20 months, after pleading guilty to intentionally dealing with the proceeds of crime and breaching his directors' duties.

Following a commercial dispute that Cap Coast Telecoms had with a creditor, Mr Ludwig sought advice from John Narramore and Stephen O'Neill of pre-insolvency firm SME's R Us. Mr Narramore and Mr O'Neill facilitated an asset protection strategy that involved issuing fictitious invoices to Cap Coast Telecoms by companies under their control. As a consequence, between October 2014 and January 2015, Mr Ludwig transferred $743,050 of company funds to the companies controlled by Mr Narramore and Mr O'Neill. Mr Narramore and Mr O'Neill subsequently transferred the funds to Mr Ludwig or his associates. Once the funds had been transferred, Cap Coast Telecoms was wound up owing creditors $2,955,128.

Mr Narramore and Mr O'Neill had previously pleaded guilty to breaches related to the same conduct and were sentenced to four and a half years imprisonment, with a non-parole period of 20 months, and five years imprisonment, with a non-parole period of 22 months, respectively.

Dongfang Modern Agriculture Holding Group Pty Ltd

ASIC takes enforcement action to promote corporate governance that maintains the integrity of the corporate registers. Lodging annual financial reports with ASIC, holding annual meetings and having the required number of officeholders are key obligations to promote investor confidence and support the integrity of Australia's financial system.

In November 2021, Chinese agricultural producer Dongfang Modern Agriculture Holding Group Pty Ltd was convicted and fined $300,000 for failing to:

- lodge with ASIC an annual report for its financial year ending 31 December 2019 and a half-year report for the period ending 30 June 2019
- hold an annual general meeting for the 2019 calendar year
- report to its members for the 2019 financial year
- have a company secretary and at least three directors for the period 9 June 2019 to 27 July 2021.

Enrico Pucci

ASIC takes action to prevent directors with a history of failed companies from continuing to manage corporations. In April 2022, ASIC disqualified former New South Wales cleaning and labour hire director Enrico Pucci from managing corporations for the maximum period of five years.

Mr Pucci was a director of three companies that were placed into external administration owing creditors more than $9.7 million. ASIC found that he acted improperly and failed to meet his various obligations as director. In making the decision to disqualify Mr Pucci, ASIC also relied on a Federal Court judgment in proceedings brought against him by the Fair Work Commission, which found that Mr Pucci engaged in illegal phoenix activity and 'the shameless exploitation of a vulnerable workforce and inept attempts to avoid its legal consequences'.

Phoenix Surveillance Campaign

ASIC uses a range of regulatory tools to identify, disrupt and take action against those who engage in illegal phoenix activity. The Phoenix Surveillance Campaign aims to proactively detect and prevent directors engaging in such activity.

ASIC and the ATO work together to identify directors who may be at risk of engaging in illegal phoenix activity and to educate them of their directors' duties and taxation obligations and the need to seek professional and trusted advice early if they are experiencing financial distress. Previously, campaigns have resulted in companies lodging outstanding ATO returns and evidence of positive impact on directors' behaviour. Between March and June 2022 , as part of this year's campaign, ASIC conducted 37 surveillances, 18 of which were in conjunction with the ATO.

4.2 Education

ASIC seeks to improve the financial skills, knowledge and efficacy of consumers and equip them to make informed financial decisions through the provision of consumer education and information.

This work includes:

- consumer education and information, primarily delivered through ASIC's Moneysmart website
- collaborating with others to understand and measure the impact of consumer education on financial decision making
- supporting ASIC's supervisory teams to strengthen their consumer-facing work.

Some key projects completed this year include the following.

Young People and Money report: ASIC established an Expert Group on the financial wellbeing of young people. The work of the Expert Group has informed the Moneysmart program and provided a greater understanding of the contexts in which young people make financial decisions or need additional support. In December 2021, ASIC released the Young People and Money report summarising ideas and themes arising from the work of the Expert Group.

Young People and Money Survey: The second wave of ASIC's Young People and Money Survey was completed in 2021. The 2020 and 2021 surveys each asked 1,500+ young Australians (aged 15–21) about their experiences, attitudes and behaviours across a range of money-related topics. Key findings across the two waves of this research were:

- 54% of respondents wanted to learn how to manage money well and not waste it
- 57% of respondents wanted to learn about how to invest, ways to invest, types of investments and possible risks and returns
- 62% of respondents agreed or strongly agreed that 'I think it's important to start building up my superannuation while I'm young'
- 51% of respondents agreed or strongly agreed with the statement 'I often feel stressed about money'

The results of this work have influenced the development of money programs supporting young Australians, including Get Moneysmart, launched in March 2022.

Get Moneysmart: In 2022, ASIC released Get Moneysmart, a suite of videos, tools and calculators to help young people with everyday money decisions. This new resource is designed to help young people manage their money, deepen their understanding of key money concepts and behaviours, and make money choices that work for them. It offers practical tips to help them make informed money decisions, manage an income, track their spending and plan for the future.

School financial literacy pilot program: ASIC contributed to a New South Wales state initiative, a pilot program aimed at middle years students. The New South Wales Treasurer's Financial Literacy Challenge was based on real-life learning opportunities, providing online activities to help students develop positive money habits. Students explored ways to make informed money decisions and understand the real costs associated with buying a pet and buying a car. The Financial Literacy Challenge pilot will inform an expanded initiative in 2023 and beyond.

Supporting Australians impacted by natural disasters: In February and March 2022, Australians experienced one of the nation's worst recorded flood disasters. ASIC used Moneysmart social media channels to provide important and timely information to help people make financial decisions in a crisis. ASIC worked across agencies and industry to create and deliver content dealing with disasters and financial decision making associated with recovering from natural disasters.

ASIC's Moneysmart

ASIC's Moneysmart program is a trusted source of information for consumers and investors and a starting point for the many financial decisions people make every day. This year, one in every two Australian adults visited the Moneysmart website and engaged with Moneysmart messages via Facebook, Twitter and Instagram.

Helping Australians to manage their money and plan ahead

In 2021–22, Moneysmart calculators and other resources to assist Australians with day-to-day money management received 6.5 million visits:

- the Mortgage Calculator was used 1,428,000 times
- the Compound Interest Calculator was used 1,126,000 times
- the Budget Planner was accessed 660,000 times.

This year, 2.8 million Australians also visited Moneysmart when planning for their financial future:

- content on investing and making an investment plan received 1,584,000 views
- the Retirement Calculator was used 72,000 times
- information on setting a savings goal was accessed by 198,000 people.

Providing support to those in need

The Moneysmart website is a key information resource for Australians when things go wrong and they need help with money decisions. This year, 684,000 Australians connected with additional support through Moneysmart links. ASIC provided trusted information to Australians looking for urgent help with money, wanting to understand how to protect themselves from scams, and making financial decisions in the pandemic environment:

- the 'What to do after a natural disaster' page received 13,000 visits
- the 'Urgent help with money' page received 202,000 visits
- 92,000 people engaged with content on scams
- the Moneysmart COVID-19 Information Hub received 75,000 visits.

Through the Moneysmart program, ASIC supported initiatives from the ACCC; the ATO; the Department of Education, Skills and Employment; the Department of the Prime Minister and Cabinet; the Reserve Bank of Australia; Services Australia; and Treasury.

5

ASIC's people

5.1 Workforce planning

Employment at ASIC

All employees are employed by the Chair of ASIC under section 120 of the ASIC Act. The Chair also determines their terms and conditions of engagement. Most of our employees are covered by the ASIC Enterprise Agreement 2019–22. ASIC is negotiating a new Enterprise Agreement which, if voted on successfully, will commence in the second half of 2022.

This year, work continued on our implementation of the ASIC capability framework to identify our capability strengths and gaps. This framework aligns with ASIC's strategic priorities and was developed with our current and future (two-to-three-year) capability requirements in mind. The framework has the flexibility to be updated as capability requirements change and enables us to target talent acquisition and development resources where evolving capability needs emerge.

Recruitment

We continue to invest in our workforce and recruitment practices, to engage sharp, analytical minds that will challenge and improve the way we work. We recruit people from a wide variety of disciplines, including finance, economics, statistics and analytics, law, business and accounting, mathematics, arts and social science, including information technology and computer science.

Staff benefits

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

- up to 15.4% superannuation contribution
- individual and team recognition and awards
- study assistance.

Emerging talent

ASIC has a well-recognised two-year national graduate program that attracts diverse candidates, who are then assessed through a multifaceted selection process. The program provides participants with professional development in business and interpersonal skills with opportunities to work across ASIC teams via four rotations.

In 2021–22, ASIC:

- employed 32 new graduates in two cohorts
- was ranked #1 in the Australian Government category by the Australian Association of Graduate Employers, an index ranking graduate employers that provide the most positive experience for new graduates based on the opinions of graduates themselves
- was ranked #8 in the Government and Public Services category in the Grad Australia Top 100 Graduate Employers, which measures the popularity and quality of graduate programs.

We also have three members currently participating in a two-year postgraduate program, which recognises previous experience and offers rotations and professional development opportunities. The work undertaken in rotations and the professional development provided to postgraduates are designed for a more experienced cohort.

During 2021–22, ASIC introduced an internship program, providing participants with relevant work experience that complements their studies and contributes to career pathways after graduation, while building our ability to attract quality entry-level talent for ongoing roles.

Mentoring

ASIC people are provided with opportunities to participate in a range of mentoring programs. In 2021–22, these included the following:

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

Leadership and learning

At ASIC, we develop team member capabilities through formal and on-the-job learning activities. These activities are aligned to the capabilities identified in our organisational capability framework and our professional and technical capability sets, which focus on building and maintaining capability in regulatory practice, enforcement, law, data analytics, accounting and auditing. During 2021–22, we delivered 564 learning activities with 35,337 completions.

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

Having effective leaders is a focus for ASIC. During 2021–22, we launched the Existing Leaders and Emerging Leaders Program to continue to build the capabilities needed to support people management and executive leadership.

Work health and safety

The wellbeing of our people continues to be a top priority for ASIC. This year, there was a strong focus on supporting a safe return to work in the office as COVID-19 pandemic lockdowns ended and restrictions eased. The themes of self-awareness, resilience and supporting ourselves and our peers through challenging times shaped ASIC's program of work.

The 'This is me' program helped ASIC team members reach their full potential by building self-awareness, including relating to how we interact with others. Through the program, participants were provided guidance on how to disrupt unhelpful thinking patterns and adopt strategies aimed to help us Reframe, Refocus, Regulate and Recuperate (the Four Rs).

Our 'Sustaining me in difficult times' workshops explored the factors leading to burnout, prevention strategies, understanding the importance of resilience, emotional regulation and Covey's Circle of Influence.

R U OK? Day was marked with a webinar from Allan Sparkes, who spent 20 years as a frontline police officer. Mr Sparkes delivered an inspiring presentation about how the effects of his work caused dramatic changes in his career, relationships and life. He explained how he adapted to the tumultuous changes he experienced and his journey to becoming Deputy Commissioner of the Mental Health Commission of New South Wales.

We acknowledged Mental Health Month with a staff presentation from Dr Norman Swan, one of Australia's most trusted medical journalists and host of the ABC's *Coronacast*. Dr Swan discussed the pandemic in general, mental health issues related to the pandemic, wellbeing and work–life balance.

ASIC's early intervention approach to managing injuries and illnesses continues to provide strong results. There were no notifiable incidents reportable to Comcare.

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

Our Health, Safety and Wellbeing team collaborated across ASIC to ensure that we keep up to date with changing public health requirements in different jurisdictions. The response included contact tracing requirements in the workplace when ASIC people tested positive for COVID-19. Considerations relating to the COVID-19 pandemic needed to be included in risk assessments, which increased to 359 this year (from 330 last year). In addition, there were 81 external meeting room screening assessments for section 19 examinations.

ASIC's flu vaccination program commenced in May 2022, offering a pharmacy voucher system. This year, 872 vouchers were downloaded and 561 were redeemed.

ASIC's Speak Up platform

In October 2021, ASIC launched Speak Up, an externally hosted, secure, two-way communication platform, where our staff can anonymously raise a concern or make a confidential report about suspected wrongdoing.

ASIC is serious about maintaining integrity and protecting our people and our reputation. The Speak Up platform supports this commitment.

Our staff can now use the Speak Up platform to make a general report on integrity matters or concerns that they reasonably suspect may breach ASIC's Code of Conduct, that are sensitive or concerning in nature, and that are in ASIC's best interests to investigate and resolve. ASIC staff can also make a public interest disclosure using the Speak Up platform if they think that the conduct they want to report is severe or systemic and would be in the public interest to investigate.

5.2 Diversity and inclusion at ASIC

Diversity and inclusion is a key pillar of our people strategy, and we continue to create an inclusive workplace where all our people feel they belong and are treated with fairness and respect. This year, ASIC demonstrated our commitment to an inclusive workplace by:

- signing the **#Istandforrespect** pledge, which is an organisational commitment to a safe workplace for everyone
- becoming accredited as a White Ribbon Employer
- maintaining a gender balanced leadership team at the Senior Executive Service (SES) level, with women comprising 56% of senior executives
- maintaining our bronze status in the Australian Workplace Equality Index
- increasing our First Nations workforce to 1.77% (1.63% last year)
- developing a new 'Lunch & Learn' session – Recruiting for Diverse Perspectives, designed to build the capability of our people to lead in an inclusive way by engaging with difference
- signing the **Racism. It stops with me** pledge, which is led by the Australian Human Rights Commission to educate organisations about racism, while taking positive action to address it.

Women in ASIC

ASIC has a gender balanced leadership cohort with women comprising 54% of Executive Level 1, 49% of Executive Level 2 and 56% of SES positions.

This year, the Women in ASIC Committee delivered regular Communities of Practice events to discuss topics related to women in leadership and workforce participation. The committee welcomed Carly Findlay OAM, who joined ASIC for our annual International Women's Day celebration. During this event, Kelly Rodgers, Senior Manager in Financial Services Enforcement, was awarded the annual Women in Leadership award.

Equitable gender briefing

In 2021–22, ASIC exceeded all targets for both junior and senior female barristers. For junior female barristers, where the target is 30%, we achieved 45% on the value of briefs and 61% on the number of briefs. For senior female barristers where the target is 25%, ASIC achieved 27% on the value of briefs and 34% on the number of briefs. We continue to work to ensure that female barristers, especially those in senior roles, are equitably briefed alongside their male counterparts.

Rainbow Network

ASIC's Rainbow Network continues to raise awareness about LGBTIQ+ issues in the workplace and provides support to ASIC team members. The Rainbow Network was recognised at the ASIC Awards 2022 and received an Outstanding Organisational Achievement Team Award.

This year, the network delivered on the objectives published in the ASIC Rainbow Action Plan 2020–21 and internally published an Interim Action Plan for 2022.

The network delivered ASIC's Gender Affirmation Policy and Gender Affirmation Guidelines, as well as monthly newsletters and bimonthly meetings for members.

For a second year, the network supported ASIC's attainment of bronze status in the Australian Workplace Equality Index. This index is a national benchmark which gauges the overall impact of LGBTIQ+ inclusion initiatives on organisational culture.

ASIC also collaborated with our peer regulators through the Rainbow Regulators Network.

Reconciliation Action Plan

We engaged EY as outcomes measurement specialists to work collaboratively with us to develop a framework for measuring progress towards RAP outcomes through engagement across the organisation. This approach has allowed us to develop clear outcomes and associated targets for our next RAP, towards which ASIC teams will be progressing. This new approach to measuring ASIC's RAP progress, as opposed to tracking outputs, will allow for deeper analysis of progress made towards set outcomes based on ASIC's unique contribution to Reconciliation, allowing us to target our efforts where they will be most effective. ASIC will be tracking approximately 80 data points over 50 substantive commitments in the next RAP to understand more clearly the impact our Reconciliation activities and initiatives are having.

During the development phase, ASIC re-affirmed our commitment to reaching a 3% First Nations people employment target. We developed commitments relating to retaining, developing and progressing First Nations employees; increasing the cultural capability of our non-First Nations employees; and obtaining procurements from First Nations businesses, as well as specific commitments relating to our understanding and protection of First Nations consumers in their interactions with financial products and services providers.

We have continued to engage employees on cultural learning opportunities, including through the launch of our ASIC RAP Learning Group – an informal forum facilitated by RAP Committee volunteers, designed to provide a safe space for exploration and cultural capability building outside of formal training opportunities. We have continued to engage our employees through all-staff speaker events featuring guest speakers such as Professor Marcia Langton OAM, as well as a collaborative event working with the Reserve Bank of Australia, the ACCC, APRA and AUSTRAC and featuring Adam Goodes on his experiences with racism.

ASIC is approaching the finalisation of our second Stretch RAP, which will be in operation for the period August 2022–2025 inclusive. ASIC is currently engaging with Reconciliation Australia to have our next RAP endorsed.

First Nations employment and learning initiatives at ASIC

This year, ASIC developed a new pathway for the employment of First Nations peoples via internship programs. This approach includes both internal and external programs, to broaden our scope of candidates and increase the likelihood of placements. This led to the placement of two First Nations interns this year.

ASIC also continues to participate in initiatives, including the Australian Government's:

- Indigenous Apprenticeships Program
- Indigenous Graduate Pathway.

We also commenced a new partnership with the CareerTrackers Indigenous Internship Program. This program creates the opportunity for two First Nations students to undertake an ASIC internship, broadening our exposure to First Nations tertiary student cohorts and talent.

ASIC also launched 'Lunch & Learn' Indigenous Cultural Safety workshops, delivered by our Indigenous and Inclusion Partner, which seek to empower ASIC leaders to promote inclusion of our First Nations team members and stakeholders through information, allyship, advocacy and support.

This training confirms our commitments, which will be articulated in ASIC's newly developed upcoming Stretch RAP and our Indigenous Cultural Safety Strategy.

ASIC also revised our recruitment procedures to support our employment goals for First Nations peoples, thus ensuring the optimal use of our talent pools.

Multicultural Committee

Our Multicultural Committee ensures that our programs and services meet the needs of all Australians, regardless of their cultural and linguistic background. In 2021–22, the Committee focused on strengthening ASIC as a culturally competent organisation by engaging with subject matter experts to discuss significant world events that occurred during the year.

In partnership with Women in ASIC, the Committee welcomed Rahila Haidary to discuss the changes in Afghanistan and explore how the discrimination against Afghan women, both in Afghanistan and in Australia, is creating new challenges for women.

In June, the Committee celebrated Refugee Week in recognition of the contributions made by refugees to Australian society and welcomed Dr Olga Oleinikova, a Ukrainian-born academic and entrepreneur, to discuss the current situation in Ukraine.

The Committee was also invited to speak at the Federation of Ethnic Communities' Councils of Australia Conference to share a regulatory perspective on engaging with multicultural Australia.

Accessibility

We remain committed to accessibility for our stakeholders and an accessible and inclusive workplace for our people.

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

Our approach to meeting the accessibility needs of our stakeholders is detailed on the **ASIC website**.

Our Accessibility Committee continues to provide a workplace for eligible employees to access without exclusion. The Committee is in the third year of its **ASIC Accessibility Action Plan 2020–22**. In 2021–22, ASIC achieved milestone goals, including establishing a Disability Employee Network and completing a dignified access review of our Sydney premises.

The Committee continued participating in the Positive Action towards Career Engagement (PACE) mentoring program, which matches students and jobseekers with disability to ASIC mentors.

To acknowledge the International Day of People with Disability, ASIC welcomed Rosemary Kayess and Nicole Lee to an event to speak about an inclusive, accessible and sustainable workplace in the wake of the COVID-19 pandemic.

ASIC aims to provide accessible information and services, including websites, telephone services, building and office premises.

This year, the Accessibility Committee launched two new initiatives:

- inclusive communications training – designed to explain the key concepts in inclusive communication and how to create accessible content
- participation in the Stepping Into program – offering students with disability an internship at ASIC.

Parents and Carers network

Our newest diversity network, Parents and Carers, is focused on empowering staff in their parenting and caring journeys. This year, the network concentrated its efforts on connecting team members in similar circumstances through networking events and a series of forums to support managing parental leave and returning to work with confidence.

6

Financial Statements

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Independent Auditor's Report

INDEPENDENT AUDITOR'S REPORT

To the Treasurer

Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission (the Entity) for the year ended 30 June 2022:

(a) comply with Australian Accounting Standards – Simplified Disclosures and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and

(b) present fairly the financial position of the Entity as at 30 June 2022 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2022 and for the year then ended:

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

Basis for opinion

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

Accountable Authority's responsibility for the financial statements

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

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

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

Auditor's responsibilities for the audit of the financial statements

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

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

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

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

Australian National Audit Office

Lorena Skipper

Executive Director

Delegate of the Auditor-General

Canberra

17 August 2022

Statement by the Accountable Authority and Chief Financial Officer

In our opinion, the attached financial statements for the year end 30 June 2022 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

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

J.P. Longo
Chair
17 August 2022

P.J. Dunlop
Chief Financial Officer
17 August 2022

Statement of Comprehensive Income

FOR THE PERIOD ENDED 30 JUNE 2022

	Notes	2022 $'000	2021 $'000
NET COST OF SERVICES			
Expenses			
Employee benefits	1.1A	**269,139**	282,840
Suppliers	1.1B	**129,993**	135,855
Depreciation and amortisation	3.2	**64,689**	70,513
Finance costs	1.1C	**1,719**	2,150
Impairment loss on financial instruments		**–**	53
Write-down and impairment of other assets	1.1D	**220**	704
Total expenses		**465,760**	492,115
Own-source revenue			
Sale of goods and rendering of services		**1,281**	1,343
Revenue from other Australian Government entities	1.2A	**40,581**	30,351
Other revenue	1.2B	**26,011**	8,904
Total own-source revenue		**67,873**	40,598
Gains			
Reversal of write-downs and impairment	3.1B	**–**	8
Total gains		**–**	8
Net (cost) of services		**(397,887)**	(451,509)
Total revenue from Government	1.2C	**422,001**	437,092
Surplus/(Deficit)		**24,114**	(14,417)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Asset revaluation	3.2	**1,033**	–
Movement in makegood provision	3.5	**3,449**	–
Loss on disposal of previously revalued assets	3.2	**(802)**	–
Total comprehensive income/(loss)		**27,794**	(14,417)

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

Statement of Financial Position

AS AT 30 JUNE 2022

	Notes	2022 $'000	2021 $'000
ASSETS			
Financial assets			
Cash and cash equivalents	3.1A	**72,743**	46,304
Trade and other receivables	3.1B	**142,066**	157,936
Total financial assets		**214,809**	204,240
Non-financial assets			
Buildings	3.2	**190,642**	214,302
Plant and equipment	3.2	**24,414**	25,896
Computer software	3.2	**105,375**	83,417
Prepayments		**14,332**	13,533
Total non-financial assets		**334,763**	337,148
Total assets		**549,572**	541,388
LIABILITIES			
Payables			
Suppliers	3.3A	**29,510**	29,750
Other payables	3.3B	**35,345**	34,209
Total payables		**64,855**	63,959
Interest-bearing liabilities			
Leases	3.4	**185,524**	217,968
Total interest-bearing liabilities		**185,524**	217,968
Provisions			
Employee provisions	6.1	**77,490**	81,387
Other provisions	3.5	**5,131**	13,961
Total provisions		**82,621**	95,348
Total liabilities		**333,000**	377,275
Net assets		**216,572**	164,113
EQUITY			
Contributed equity		**525,368**	500,703
Reserves		**26,180**	22,500
Accumulated deficit		**(334,976)**	(359,090)
Total equity		**216,572**	164,113

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

Statement of Changes in Equity

FOR THE PERIOD ENDED 30 JUNE 2022

	Notes	2022 $'000	2021 $'000
CONTRIBUTED EQUITY			
Opening balance		**500,703**	474,633
Transactions with owners			
Distributions to owners			
Returns of capital			
Restructuring	8.2	**–**	(1,690)
Return of equity	5.1B	**(4,409)**	–
Contributions by owners			
Equity injections – Appropriations		**3,530**	6,904
Departmental capital budget	5.1A	**25,544**	20,856
Total transactions with owners		**24,665**	26,070
Closing balance as at 30 June		**525,368**	500,703
RETAINED EARNINGS			
Opening balance		**(359,090)**	(344,673)
Surplus/(Deficit) for the period		**24,114**	(14,417)
Total comprehensive income/(loss)		**24,114**	(14,417)
Closing balance as at 30 June		**(334,976)**	(359,090)
ASSET REVALUATION RESERVE			
Opening balance		**22,500**	22,500
Comprehensive income			
Other comprehensive income		**3,680**	–
Total comprehensive income		**3,680**	–
Closing balance as at 30 June		**26,180**	22,500
TOTAL EQUITY			
Opening balance		**164,113**	152,460
Comprehensive income			
Surplus/(Deficit) for the period		**24,114**	(14,417)
Other comprehensive income		**3,680**	–
Total comprehensive income/(loss)		**27,794**	(14,417)

	Notes	2022 $'000	2021 $'000
Transactions with owners			
Distributions to owners			
Returns of capital			
Restructuring		**–**	(1,690)
Return of equity		**(4,409)**	–
Contributions by owners			
Equity injections – Appropriations		**3,530**	6,904
Departmental capital budget		**25,544**	20,856
Total transactions with owners		**24,665**	26,070
Closing balance as at 30 June		**216,572**	164,113

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

Cash Flow Statement

FOR THE PERIOD ENDED 30 JUNE 2022

	Notes	2022 $'000	2021 $'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		**500,469**	484,672
Operating cash received		**1,281**	1,343
Net GST received		**14,851**	15,002
Cost recoveries		**24,497**	6,728
Other cash received		**67,639**	28,100
Total cash received		**608,737**	535,845
Cash used			
Employees		**269,991**	283,077
Suppliers		**153,167**	148,863
Interest payments on lease liabilities		**1,689**	2,134
Section 74 receipts transferred to OPA		**108,063**	28,768
Total cash used		**(532,910)**	(462,842)
Net cash from operating activities		**75,827**	73,003
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles		**59,424**	73,044
Net cash (used by) investing activities		**(59,424)**	(73,044)
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity		**29,106**	29,784
Total cash received		**29,106**	29,784
Cash used			
Principal payments of lease liabilities		**19,070**	24,590
Total cash used		**(19,070)**	(24,590)
Net cash from/(used by) financing activities		**10,036**	5,194
Net increase/(decrease) in cash held		**26,439**	5,153
Cash and cash equivalents at the beginning of the reporting period		**46,304**	41,151
Cash and cash equivalents at the end of the reporting period	3.1A	**72,743**	46,304

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

Administered Schedule of Comprehensive Income

FOR THE PERIOD ENDED 30 JUNE 2022

	Notes	2022 $'000	2021 $'000
NET COST OF SERVICES			
Expenses			
Grants	2.1A	**5,191**	6,007
Impairment loss allowance on financial instruments	2.1B	**62,392**	60,436
Claims for unclaimed monies	2.1C	**77,507**	160,701
Promotional costs for Moneysmart initiatives		**575**	574
Total expenses		**145,665**	227,718
LESS:			
Own-source revenue			
Taxation revenue			
Fees		**943,822**	892,685
Supervisory cost recovery levies		**73,497**	62,960
Total taxation revenue		**1,017,319**	955,645
Non-taxation revenue			
Supervisory cost recovery levies		**240,218**	235,781
Fees and fines	2.2A	**418,234**	321,137
Unclaimed monies lodgements	2.2B	**289,011**	295,304
Total non-taxation revenue		**947,463**	852,222
Total revenue		**1,964,782**	1,807,867
Net contribution by services		**1,819,117**	1,580,149

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

Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2022

	Notes	2022 $'000	2021 $'000
ASSETS			
Financial assets			
Cash and cash equivalents		**1,380**	1,524
Supervisory cost recovery levies receivable	4.1A	**311,875**	314,471
Fees and fines receivable	4.1B	**150,403**	141,513
Trade and other receivables	4.1C	**13,732**	10,006
Total assets administered on behalf of Government		**477,390**	467,514
LIABILITIES			
Payables and provisions			
Suppliers and other payables	4.2A	**48,360**	44,526
Unclaimed monies provisions	4.2B	**458,953**	491,183
Total liabilities administered on behalf of Government		**507,313**	535,709
Net assets/(liabilities)		**(29,923)**	(68,195)

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

Administered Reconciliation Schedule

FOR THE PERIOD ENDED 30 JUNE 2022

	2022 $'000	2021 $'000
Opening assets less liabilities as at 1 July	**(68,195)**	21,098
Net contribution by services:		
Administered income	**1,964,782**	1,807,867
Administered expenses	**(145,665)**	(227,718)
	1,819,117	1,580,149
Transfers (to)/from the Australian Government		
Appropriation transfers from Official Public Account:		
Special (unlimited) and ordinary appropriations		
Appropriation Act (No. 1)	**6,678**	7,777
Banking Act unclaimed monies	**65,944**	52,551
Life Insurance Act unclaimed monies	**9,424**	4,960
Section 77 PGPA Act	**38,239**	32,298
Total of appropriation transfers from Official Public Account	**120,285**	97,586
Administered transfers to Official Public Account	**(1,901,130)**	(1,767,028)
Closing assets less liabilities as at 30 June	**(29,923)**	(68,195)

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

Administered Cash Flow Statement

FOR THE PERIOD ENDED 30 JUNE 2022

	2022 $'000	2021 $'000
OPERATING ACTIVITIES		
Cash received		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act, Superannuation Industry (Supervision) Act and ASIC Supervisory Cost Recovery Levy	**1,607,104**	1,467,555
Corporations Act unclaimed monies	**113,072**	88,418
Banking Act unclaimed monies	**158,336**	167,555
Life Insurance Act unclaimed monies	**17,603**	39,331
Net GST received	**26**	–
Total cash received	**1,896,141**	1,762,859
Cash used		
Refunds paid to:		
Company shareholders	**34,338**	29,254
Deposit-taking institution account holders	**65,976**	52,588
Life insurance policy holders	**9,424**	4,960
Promotion expenses for Moneysmart initiatives	**485**	724
Grants	**5,217**	5,780
Net GST paid	**–**	22
Total cash used	**(115,440)**	(93,328)
Net cash from operating activities	**1,780,701**	1,669,531
Cash from Official Public Account for:		
Appropriations	**120,285**	97,586
Less: Cash to Official Public Account for:		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act and ASIC Supervisory Cost Recovery Levy fees and charges	**1,612,118**	1,471,724
Corporations Act unclaimed monies	**113,073**	88,418
Banking Act unclaimed monies	**158,336**	167,555
Life Insurance Act unclaimed monies	**17,603**	39,331
Total cash to Official Public Account	**(1,901,130)**	(1,767,028)
Net increase/(decrease) in cash held	**(144)**	89
Cash and cash equivalents at the beginning of the reporting period	**1,524**	1,435
Cash and cash equivalents at the end of the reporting period	**1,380**	1,524

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

Notes to and forming part of the financial statements

FOR THE PERIOD ENDED 30 JUNE 2022

Overview

ASIC is an independent Commonwealth Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001*, and other legislation, throughout Australia.

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

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

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

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

Basis of preparation

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

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

- Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR); and
- Australian Accounting Standards and interpretations, including simplified disclosures for Tier 2 Entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

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

New Accounting Standards

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

AASB 1060 *General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities* became effective on 1 July 2021. The application of AASB 1060 involves some reduction in disclosure compared to the reduced disclosure requirements framework with no impact on ASIC's reported financial position, financial performance and cash flows.

Taxation

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

Reporting of Administered activities

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

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

Events after the reporting period

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

Note 1. Departmental financial performance

This section analyses the financial performance of ASIC for the year ended 30 June 2022.

1.1 Expenses

	2022 $'000	2021 $'000
1.1A: Employee benefits		
Wages and salaries	**207,967**	215,154
Superannuation		
Defined-benefit schemes	**10,267**	11,260
Defined-contribution schemes	**29,157**	28,687
Leave and other entitlements	**19,037**	25,808
Separation and redundancies[1]	**2,711**	1,931
Total employee benefits	**269,139**	282,840

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

Accounting Policy

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

	2022 $'000	2021 $'000
1.1B: Suppliers		
Goods and services supplied or rendered		
Legal and forensic costs	**42,241**	46,380
Office computer and software expenses	**33,871**	32,718
Consultants and specialist services	**21,971**	23,653
Property-related outgoings	**9,400**	8,748
Other goods and services[1]	**5,410**	3,454
Information costs	**3,894**	4,115
Bank fees	**3,249**	3,343
Communications	**3,198**	3,203
Learning and development	**2,448**	3,149
Security	**1,338**	1,743
Recruitment	**1,242**	1,916
Travel	**1,147**	471
Postage and freight	**250**	2,526
Total goods and services supplied or rendered	**129,659**	135,419
Goods supplied	**588**	1,145
Services rendered	**129,071**	134,274
Total goods and services supplied or rendered	**129,659**	135,419
Other suppliers		
Short-term leases	**46**	404
Workers' compensation expense[1]	**205**	176
Fringe benefits tax[2]	**83**	(144)
Total other suppliers	**334**	436
Total suppliers	**129,993**	135,855

1. Comparisons have been changed to reclassify part of the 2021 Workers' compensation premium originally booked to Other goods and services.
2. The credit in 2020–21 Fringe benefits tax expense is from overpayments in 2019 and 2020.

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

Accounting Policy

Short-term leases and leases of low-value assets

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

	2022 $'000	2021 $'000
1.1C: Finance costs		
Unwinding of restoration provision	**30**	16
Interest on lease liability	**1,689**	2,134
Total finance costs	**1,719**	2,150
1.1D: Write-down and impairment of other assets		
Write-off of leasehold improvements	**39**	390
Write-off of plant and equipment	**7**	314
Write-off of software	**174**	–
Total write-down and impairment of other assets	**220**	704

1.2 Own-source revenue

	2022 $'000	2021 $'000
1.2A: Revenue from other Australian Government entities[1]		
Australian Taxation Office (ATO)	**27,755**	20,260
Department of Home Affairs (DHA)	**12,826**	10,091
Total revenue from other Australian Government entities	**40,581**	30,351
1.2B: Other revenue		
Cost recoveries[2]	**24,695**	6,738
Resources received free of charge[3]		
Remuneration of auditors	**388**	378
Committee fees	**23**	24
Other[3]	**905**	1,764
Total other revenue	**26,011**	8,904

1. Relates to reimbursement of operating and capital expenditure incurred by ASIC on government programs funded directly by other Australian Government entities.
2. Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.
3. 2020–21 comparatives have been changed due to the requirement to separately disclose resources received free of charge.

	2022 $'000	2021 $'000
1.2C: Revenue from Government		
Appropriations:		
Departmental appropriations[1]	**357,190**	377,871
Departmental special appropriations[2]	**64,811**	59,221
Total revenue from Government	**422,001**	437,092

1. 2020–21 ordinary annual appropriations, originally $382.014m, were reduced by $4.143m as part of the Modernising Business Registers program. Refer to Note 8.2.
2. A special account is a limited special appropriation that notionally sets aside an amount that can be expended for a particular purpose. $64.811m of ASIC's 2021–22 ordinary annual appropriation has been allocated to the Enforcement Special Account, which was established to fund the costs arising from the investigation and litigation of matters of significant public interest.

Accounting Policy

Rendering of services

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

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

Resources received free of charge

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

Revenue from Government

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

Note 2. Income and expenses administered on behalf of Government

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

2.1 Administered – expenses

	2022 $'000	2021 $'000
2.1A: Grants		
Rendering of services		
Insolvency practitioners	**5,191**	6,007
Total grants	**5,191**	6,007

Accounting Policy

ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.

Grant liabilities are recognised to the extent that (i) the services required to be performed by the grantee have been performed or (ii) the grant eligibility criteria have been satisfied, but payments due have not been made. When the Government enters into an agreement to make these grants and services, but services have not been performed or criteria satisfied, this is considered a commitment.

	2022 $'000	2021 $'000
2.1B: Impairment loss allowance on financial instruments		
Impairment of receivables	**56,451**	54,406
Waiver of fees and charges owing	**5,941**	6,030
Total impairment on financial instruments	**62,392**	60,436
2.1C: Claims for unclaimed monies[1]		
Claims – Bank and deposit-taking institution account holders	**65,976**	52,588
Claims – *Corporations Act 2001*	**34,338**	29,256
Claims – Life Insurance policy holders	**9,424**	4,960
Adjustments to provisions	**(32,231)**	73,897
Total other expenses	**77,507**	160,701

1. 2020–21 comparatives have been adjusted to provide additional disclosure relating to actual claims paid and adjustments to the unclaimed monies provisions.

Accounting Policy

Refer to Note 4.1 for the policy pertaining to the impairment of receivables and fee waivers.

In determining whether a fee should be waived in whole or part, ASIC considers the extent to which the company's officers or its representatives contributed to the circumstances of the matter, in accordance with Part 7 of the Finance Minister's Delegation under section 63 of the PGPA Act.

Administered expenses for refunds of unclaimed monies under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001* are recognised by estimating the value of claims likely to be repaid in respect of unclaimed money collected by ASIC as at balance date. The methodology used to determine the value of probable claims is determined by an independent actuary. Successful claims are paid out of the provision account.

2.2 Administered – income

	2022 $'000	2021 $'000
Non-taxation revenue		
2.2A: Fees and fines		
Fines	**335,953**	241,250
Searches and information brokers' fees	**67,773**	64,905
Fees for service	**14,508**	14,982
Total fees and fines	**418,234**	321,137
2.2B: Unclaimed monies lodgements		
Corporations Act 2001 unclaimed monies	**113,072**	88,418
Banking Act 1959 unclaimed monies	**158,336**	167,555
Life Insurance Act 1995 unclaimed monies	**17,603**	39,331
Total unclaimed monies	**289,011**	295,304

Accounting Policy

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

Administered revenue is generated from fees and fines under the following legislation:

- *Corporations (Fees) Act 2001*
- *Corporations (Review Fees) Act 2003*
- National Consumer Credit Protection (Fees) Regulation 2010
- Business Names Registration (Fees) Regulation 2012
- *Superannuation Industry (Supervision) Act 1993.*

Administered fee revenue is recognised on an accruals basis when:

- the client or the client group can be identified in a reliable manner
- an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions
- the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Administered taxation revenue is recognised at its nominal amount due and an expense is recognised for impaired debts.

ASIC undertakes the collection of certain levies on behalf of the Government. These consist of:

- the *ASIC Supervisory Cost Recovery Levy Act 2017*
- the ASIC Supervisory Cost Recovery Levy Regulations 2017.

ASIC also receives non-taxation revenue from search fees, fines – including late fees, court fines, penalties and infringement notices – and unclaimed monies received under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001*. This revenue is not available to ASIC and is transferred to the OPA.

Administered revenue arising from levies is recognised on an accrual basis.

The collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less, rather than more, likely.

Note 3. Departmental financial position

This section analyses ASIC's assets used to conduct its operations and the operating liabilities incurred as a result. Employee-related information is disclosed in Note 6 People and relationships.

3.1 Financial assets

	2022 $'000	2021 $'000
3.1A: Cash and cash equivalents		
Cash in special accounts	**71,137**	45,174
Cash at bank	**1,606**	1,130
Total cash and cash equivalents	**72,743**	46,304

The closing balance of Cash in special accounts does not include amounts held in trust ($19.897m in 2022 and $11.724m in 2021). See Note 5.2 Special Accounts for more information.

Accounting Policy

Cash is recognised at its nominal amount. Cash and cash equivalents include:

(a) cash on hand
(b) cash in special accounts.

	2022 $'000	2021 $'000
3.1B: Trade and other receivables		
Goods and services receivables:		
Goods and services	**7,943**	47,781
Total goods and services receivables (gross)	**7,943**	47,781
Less impairment allowance	**(548)**	(630)
Total goods and services receivables (net)	**7,395**	47,151
Appropriation receivables:		
Appropriation receivable	**130,349**	105,195
Total appropriation receivables	**130,349**	105,195
Other receivables:		
Tax receivable from the ATO	**4,322**	5,590
Total other receivables	**4,322**	5,590
Total trade and other receivables (net)	**142,066**	157,936
Trade and other receivables are expected to be recovered:		
No more than 12 months	**142,066**	157,936

Credit terms for goods and services were within 20 days (2021: 20 days).

Accounting Policy

Receivables

Trade receivables and other receivables are classified as 'loans and receivables' and recorded at face value less any impairment. Trade receivables are recognised where ASIC becomes party to a contract and has a legal right to receive cash. Trade receivables are derecognised on payment.

Financial assets are assessed for impairment at the end of each reporting period. Allowances are made when collectability of the debt is no longer probable.

3.2 Non-financial assets

	Buildings $'000	Plant and equipment $'000	Computer software $'000	Total $'000
As at 1 July 2021				
Gross book value	268,496	75,882	437,641	**782,019**
Accumulated depreciation/amortisation and impairment	(54,194)	(49,986)	(354,224)	**(458,404)**
Total as at 1 July 2021[1]	**214,302**	**25,896**	**83,417**	**323,615**
Additions:				
By purchase or internally developed	891	4,693	54,468	**60,052**
ROU assets	879	–	–	**879**
Total additions	**1,770**	**4,693**	**54,468**	**60,931**
Revaluations recognised in other comprehensive income	(267)	1,300	–	**1,033**
Impairments recognised in other comprehensive income	(646)	(156)	–	**(802)**
Total revaluations and impairments recognised in other comprehensive income	**(913)**	**1,144**	**–**	**231**
Depreciation and amortisation	(3,793)	(7,312)	(32,336)	**(43,441)**
Depreciation of ROU assets	(21,248)	–	–	**(21,248)**
Total depreciation and amortisation	**(25,041)**	**(7,312)**	**(32,336)**	**(64,689)**
ROU assets – adjustments[2]	563	–	–	**563**
Disposals				
Other	(39)	(7)	(174)	**(220)**
Total as at 30 June 2022	**190,642**	**24,414**	**105,375**	**320,431**
Total as at 30 June 2022 represented by:				
Gross book value	263,346	59,269	491,049	**813,664**
Accumulated depreciation/amortisation and impairment	(72,704)	(34,855)	(385,674)	**(493,233)**
Total as at 30 June 2022	**190,642**	**24,414**	**105,375**	**320,431**
Carrying amount of ROU asset	**154,380**	**–**	**–**	**154,380**

1. The opening gross book value and accumulated amortisation for Computer software has been adjusted for rounding. The net book value at 1 July 2021 has not changed.
2. ROU assets in Sydney and Brisbane were adjusted due to lease incentives being converted from fit-out incentives to rent abatement.

Accounting Policy

Assets are recorded at cost of acquisition, except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Asset Recognition Threshold

Purchases of leasehold improvements, plant and equipment are initially recognised at cost in the Statement of Financial Position, except for purchases costing less than $5,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions taken up by ASIC where there exists an obligation to restore the premises to their original condition at the conclusion of the lease. These costs are included in the value of ASIC's property expenses with a corresponding provision for the 'make good' recognised.

Lease Right of Use (ROU) Assets

Lease ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount and initial direct costs incurred when entering into the lease, less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16, ASIC has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any ROU lease asset that shows indicators of impairment and an impairment loss is recognised against any ROU lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, General Government Sector and whole-of-government financial statements.

Revaluations

Following initial recognition at cost, leasehold improvements, plant and equipment (excluding ROU assets) are carried at the latest revaluation, less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended on the volatility of movements in market values for the relevant assets. An independent valuation of ASIC's assets was undertaken as at 30 June 2022.

Revaluation adjustments are made on a class basis. Any revaluation increment was credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

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

Accounting Policy (continued)

Depreciation

All depreciable leasehold improvements, plant and equipment assets are written down to their estimated residual values over their estimated useful lives to ASIC, using the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future, reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2022	2021
Leasehold improvements	**Residual lease term**	Residual lease term
Plant and equipment	**2 to 80 years**	2 to 80 years

Impairment

All assets were assessed for impairment as at 30 June 2022. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the entity were deprived of the asset, its value in use is taken to be its current replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

ASIC's intangibles comprise software either purchased or internally developed for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful life of ASIC's software is 2 to 10 years (2021: 2 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2022.

Significant accounting judgements and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- The fair value of leasehold improvements and property, plant and equipment (excluding ROU assets) is assessed at market value or current replacement cost as determined by an independent valuer and is subject to management assessment between formal valuations.

3.3 Payables

	2022 $'000	2021 $'000
3.3A: Suppliers		
Trade creditors and accruals	**29,510**	29,750
Total suppliers	**29,510**	29,750

Supplier payables are settled in accordance with the terms of the purchase order or contract and are expected to be settled within 12 months.

3.3B: Other payables		
Prepayments received/unearned income	**12,045**	11,404
Salaries and bonuses	**21,335**	18,990
Separations and redundancies	**1,346**	644
Other[1]	**619**	3,171
Total other payables	**35,345**	34,209

1. Includes GST payable of $0.433m (2021: $2.982m).

3.4 Interest-bearing liabilities

Lease liabilities	**185,524**	217,968
Total leases	**185,524**	217,968

Total cash outflow for leases for the year ended 30 June 2022 was $20.759m (2021: $26.725m).

Maturity analysis – contractual undiscounted cash flows		
Within 1 year	**17,174**	23,181
Between 1 to 5 years	**103,862**	107,184
More than 5 years	**71,233**	102,535
Total leases	**192,269**	232,900

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

Accounting Policy

For all new contracts entered into, ASIC considers whether the contract is, or contains, a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'.

Once it has been determined that a contract is, or contains, a lease, the lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, if that rate is readily determinable, or the Department of Finance's incremental borrowing rate.

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification to the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset or profit and loss, depending on the nature of the reassessment or modification.

3.5 Other provisions

	Provision for restructuring $'000	Provision for restoration costs $'000	Provision for settlement costs $'000	Total other provisions $'000
As at 1 July 2021	322	5,899	7,740	**13,961**
Additional provisions made	160	215	272	**647**
Amounts used	(1)	250	(5,700)	**(5,451)**
Amounts reversed	(322)	(3,664)	(70)	**(4,056)**
Amortisation of restoration provision discount	–	30	–	**30**
Total as at 30 June 2022	**159**	**2,730**	**2,242**	**5,131**

Accounting Policy

Restoration costs

ASIC currently has two lease agreements (2021: two) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. The provision reflects the current best estimate of these future restoration costs discounted to reflect the present value of the future payments.

Settlement costs

ASIC recognises a provision for the estimated costs that will be paid on settlement of current legal proceedings based on past history of settlement costs.

The accounting policy for the provision for restructuring is contained in Note 6 People and relationships.

Note 4. Assets and liabilities administered on behalf of the Government

This section analyses assets used to conduct operations and the operating liabilities incurred as a result of activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

4.1 Administered – financial assets

	2022 $'000	2021 $'000
4.1A: Supervisory cost recovery levies receivables		
Supervisory cost recovery levies receivables – taxation	**73,497**	62,960
Supervisory cost recovery levies receivables – non-taxation	**244,739**	256,589
Total supervisory cost recovery levies receivables (gross)	**318,236**	319,549
Less impairment loss allowance		
Supervisory cost recovery levies	**6,361**	5,078
Total supervisory cost recovery levies receivables (net)	**311,875**	314,471
4.1B: Other taxation receivables		
Fees and fines receivable	**232,778**	219,745
Total other taxation receivables (gross)	**232,778**	219,745
Less impairment loss allowance		
Fees and fines	**82,375**	78,232
Total other taxation receivables (net)	**150,403**	141,513

Taxation receivables are due from entities that are not part of the Australian Government. Credit terms for goods and services were within 30 days (2021: 30 days).

	2022 $'000	2021 $'000
4.1C: Trade and other receivables		
Information brokers' fees	**13,284**	9,532
GST receivable	**448**	474
Total trade and other receivables (gross)	**13,732**	10,006

Accounting Policy

Cash and cash equivalents

Cash is recognised at its nominal amount. Cash and cash equivalents include:
(a) cash on hand;

Receivables

Administered receivables are recognised at their nominal value less an impairment allowance. The Finance Minister has determined that statutory receivables are not financial instruments and accordingly ASIC has assessed administered receivables for impairment under AASB 136 *Impairment of Assets (FRR 26.3)*.

The impairment allowance is raised against receivables for any doubtful debts and any probable credit amendments, and is based on a review of outstanding debts at balance date. This includes an examination of individual large debts and disputed amounts with reference to historic collection patterns.

The impairment allowance expense is calculated using estimation techniques to determine an estimate of current receivables which are unlikely to be collected in the future.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under rule 11 of the PGPA Act.

4.2 Administered – payables

	2022 $'000	2021 $'000
4.2A: Suppliers and other payables		
Supplier payables	**118**	28
Refund of fees payable	**25,694**	22,196
Unallocated monies	**10,394**	10,535
Grants payable[1]	**4,196**	4,222
Other non-current payables[2]	**7,958**	7,545
Total payables	**48,360**	44,526

All payables are for entities that are not part of the Australian Government.

All payables, with the exception of Other non-current payables, are expected to be settled within 12 months. Settlement is usually made within 30 days.

1. Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.
2. Other non-current payables are over payments of fees where payments are made to ASIC in error. The settlement period is expected to be greater than 12 months as these are unidentified payments.

	2022 $'000	2021 $'000
4.2B: Unclaimed monies provisions		
Banking Act 1959 claims	**215,046**	228,710
Corporations Act 2001 claims	**207,535**	215,427
Life Insurance Act 1995 claims	**36,372**	47,046
Total other provisions	**458,953**	491,183

Accounting Policy

Provisions

The provisions recognised in the Administered Schedule of Assets and Liabilities are for estimated claims payable from collections of unclaimed monies administered by ASIC as at balance date. ASIC adopted a provision for future claims based on an independent valuation as at 30 June annually, calculated by a registered actuary, under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.

Significant accounting judgements and estimates

The provision has been estimated considering the historic claims pattern experienced since 2002 and lodgements not claimed at balance date. The estimate reflects the volatility of unclaimed monies lodgements and claims from year to year, which is impacted by factors including economic events, legislative change, media exposure and the behaviour of claimants, each of which has differed significantly from year to year and over time. The estimated future flow of claims over time has been discounted to present value at a risk-free rate of interest based on government bond rates with similar terms to the expected claims. This is consistent with standard actuarial practice and required under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*. The relevant discount rate for 2021–22 is 3.7% (2020–21: 1.7%). Allowance has been made for payment of compounding interest for all claims from 1 July 2013 on unclaimed balances in accordance with actual legislated interest rates and estimated future interest rates based on economist expectations for inflation in the medium to longer term, noting legislated interest rates are linked to movements in the CPI. The relevant CPI rate is March–March CPI from the previous year to be applied on 1 July each year. A 9% per annum decay rate is used for decay years 16 to 80 (2020–21: 11 to 40 years).

Note 5. Funding

This section identifies ASIC's funding structure.

5.1 Appropriations

5.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2022	Annual appropriation $'000	Adjustments to appropriation[1,2] $'000	Total appropriation $'000	Appropriation applied in 2022 (current and prior years) $'000	Variance[3] $'000
Departmental					
Ordinary annual services	426,670	103,394	**530,064**	512,877	**17,187**
Capital budget[4]	25,544	–	**25,544**	23,588	**1,956**
Other services					
Equity injections	3,530	–	**3,530**	5,518	**(1,988)**
Total departmental	455,744	103,394	**559,138**	541,983	**17,155**
Administered					
Ordinary annual services	9,952	–	9,952	6,833	3,119
Total administered	9,952	–	**9,952**	**6,833**	**3,119**

1. Section 51 quarantine of $4.669m reappropriated as capital through Appropriation Act (No. 3).
2. Section 74 receipts ($108.063m).
3. The variance in departmental expenses is due to an underspend in operating activities, particularly in relation to the ESA.
4. Departmental capital budgets are appropriated through Appropriation Acts (Nos. 1, 3, 5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

Accounting Policy

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and departmental capital budgets (DCB) are recognised directly in contributed equity in that year.

Annual appropriations for 2021	Annual appropriation $'000	Adjustments to appropriation[1,2] $'000	Total appropriation $'000	Appropriation applied in 2021 (current and prior years) $'000	Variance[3] $'000
Departmental					
Ordinary annual services	441,235	24,625	465,860	528,118	(62,258)
Capital budget[4]	20,856	–	20,856	20,749	107
Other services					
Equity injections	6,904	–	6,904	9,035	(2,131)
Total departmental	468,995	24,625	493,620	557,902	(64,282)
Administered					
Ordinary annual services	9,708	–	9,708	7,674	2,034
Total administered	9,708	–	9,708	7,674	2,034

1. Section 74 receipts ($28.768m).
2. Section 75 Machinery of Government transfer ($4.143m).
3. The variance in departmental expenses is due to the payment of prior year accrued expenses in the current year.
4. Departmental capital budgets are appropriated through Appropriation Acts (Nos. 1, 3, 5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

5.1B: Unspent annual appropriations ('recoverable GST exclusive')

	2022 $'000	2021 $'000
Departmental		
Appropriation Act (No. 1) DCB 2018–2019[1]	–	4,409
Appropriation Act (No. 4) 2019–2020	–	1,891
Appropriation Act (No. 1) 2020–2021	–	96,891
Appropriation Act (No. 1) DCB 2020–2021	–	436
Appropriation Act (No. 2) 2020–2021	**376**	1,433
Supply Act (No. 2) 2020–2021	**219**	1,037
Appropriation Act (No. 3) 2020–2021	–	228
Appropriation Act (No. 1) 2021–2022[2]	**128,223**	–
Appropriation Act (No. 3) 2021–2022	**3,636**	–
Appropriation Act (No. 3) DCB 2021–2022	**2,392**	–
Appropriation Act (No. 4) 2021–2022	**1,778**	–
Enforcement Special Account	**71,137**	45,174
Total departmental	**207,761**	151,499

Unspent departmental appropriations include cash balances of $1.606m (2021: $1.130m).

1. This amount is not available beyond 30 June 2021, following the repeal of *Appropriation Act (No. 1) 2018–2019* on 1 July 2021.
2. Includes $4.669m withheld under section 51 of the PGPA Act or quarantined for administrative reasons. The funds were transferred to Capital and were reappropriated through *Appropriation Act (No. 3) 2021–2022*.

	2022 $'000	2021 $'000
Administered		
Appropriation Act (No. 1) 2018–2019[1]	–	2,933
Appropriation Act (No. 1) 2019–2020	**1,521**	4,312
Supply Act (No. 1) 2019–2020	**1,087**	1,087
Appropriation Act (No. 1) 2020–2021	**3,560**	3,916
Supply Act (No. 1) 2020–2021	**1,728**	2,907
Appropriation Act (No. 1) 2021–2022	**7,445**	–
Total administered	**15,341**	15,155

Unspent administered appropriations include cash balances of $0.165m (2021: $0.320m).

1. This amount is not available beyond 30 June 2021, following the repeal of *Appropriation Act (No. 1) 2018–2019* on 1 July 2021.

5.1C: Special appropriations ('recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied 2022 $'000	Appropriation applied 2021 $'000
s69 *Banking Act 1959*, Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from banking and deposit-taking institutions. ASIC receives special appropriations from the OPA (s69 *Banking Act 1959*) to refund amounts to banking and deposit-taking institution account holders.	**65,944**	52,551
s216 *Life Insurance Act 1995*, Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. ASIC receives special appropriations from the OPA (s216 *Life Insurance Act 1995*) to refund amounts to life insurance policy holders.	**9,424**	4,960
s77 PGPA Act, *Corporations Act 2001*, *National Consumer Credit Protection Act 2009*, Business Names Registration (Fees) Regulations 2010 and *Superannuation Industry (Supervision) Act 1993*. (Refunds of overpaid *Corporations Act 2001* fees and charges), Administered	Unlimited	ASIC has responsibility for the administration and collection of *Corporations Act 2001* fees and charges. All fees and charges are deposited into the OPA as received. Refunds of overpayments are appropriated under s77 of the PGPA Act.	**5,055**	4,020
s77 PGPA Act, *Corporations Act 2001* (Refunds of unclaimed money held under s1341 *Corporations Act 2001*), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies under s1341 of the *Corporations Act 2001*.	**33,185**	28,278
Total			**113,608**	89,809

5.2 Special Accounts

	Enforcement Special Account[1]		ASIC Trust and Other Moneys Special Account 2018[2]	
	2022 $'000	2021 $'000	2022 $'000	2021 $'000
Balance brought forward from previous period	**45,174**	39,599	**11,724**	8,838
Increases				
Appropriation for the reporting period	**64,811**	59,221	**–**	–
Other increases	**20,643**	5,964	**10,696**	3,682
Available for payments	**130,628**	104,784	**22,420**	12,520
Decreases				
Departmental				
Cash payments from the Special Account	**(59,491)**	(59,610)	**–**	–
Total departmental	**(59,491)**	(59,610)	**–**	–
Administered				
Cash payments from the Special Account	**–**	–	**(2,523)**	(796)
Total administered	**–**	–	**(2,523)**	(796)
Balance carried forward to the next period	**71,137**	45,174	**19,897**	11,724
Balance represented by:				
Cash held in entity bank accounts	**–**	–	**19,897**	11,724
Cash held in the Official Public Account	**71,137**	45,174	**–**	–
	71,137	45,174	**19,897**	11,724

1. Appropriation: s78 *Public Governance, Performance and Accountability Act 2013*.
   Establishing Instrument: s78 *Public Governance, Performance and Accountability Act 2013*.
   Purpose: the Enforcement Special Account (ESA) is a departmental special account which was established by a determination of the Finance Minister on 23 August 2016 to fund the costs of ASIC arising from the investigation and litigation of matters of significant public interest.
2. Appropriation: s78 *Public Governance, Performance and Accountability Act 2013*.
   Establishing Instrument: s78 *Public Governance, Performance and Accountability Act 2013*.
   Purpose: the ASIC Trust and Other Moneys Special Account was established by a determination of the Finance Minister on 30 June 2018:
   (a) to perform duties or exercise powers for and on behalf of the Commonwealth in relation to money and other property vested in or held on behalf of the Commonwealth as a trustee, including:
      (i) by making payments in relation to deregistered companies and property vested in the Commonwealth under Part 5A.1 of the Corporations Act;
      (ii) by making payments in relation to liabilities imposed on property vested in the Commonwealth under Part 5A.1 of the Corporations Act; or
      (iii) by making payments in relation to expenses incurred by or on behalf as the Commonwealth as a trustee;

(b) to perform functions or exercise powers in relation to money or other property held on behalf of or for the benefit of a person other than the Commonwealth, including:

   (i) in relation to money or other property held temporarily by ASIC as a consequence of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC;

   (ii) by making payments to or for the benefit of a person for whose benefit the money was held by ASIC;

   (iii) making payments of amounts required or contemplated to be paid by ASIC in the course of an investigation;

   (iv) making payments to give effect to court orders, enforceable undertakings, settlements, transfers of assets, or other disbursements of monies held by ASIC on behalf of a person other than the Commonwealth; or

   (v) making payments in relation to expenses incurred in relation to holding and realising third party assets, or locating and identifying any person for whose benefit an amount is held;

(c) to perform functions and to exercise powers in relation to security bonds and security deposits lodged by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees, including security bonds and security deposits lodged under section 912B of the Corporations Act, and regulations 7.6.02AAA and 7.6.02AA of the Corporations Regulations, including by:

   (i) discharging, returning or releasing a security bond or security deposit lodged with ASIC in whole or in part; or

   (ii) making payments from security bonds or security deposits to compensate a person other than the Commonwealth who has suffered a pecuniary loss;

(d) to repay an amount where a court order, Act or other law requires or permits the repayment of an amount received under clause 7; or

(e) to reduce the balance of the special account (and, therefore, the available appropriation for the special account) without making a real or notional payment.

ASIC also has a Services for Other Entities and Trust Moneys Special Account – Australian Securities and Investments Commission (SOETM). This account was established under section 78 of the *Public Governance, Performance and Accountability Act 2013*. The SOETM combines the purposes of the Other Trust Moneys and the Services for other Government and Non-agency Bodies special accounts into a single standard-purpose Special Account. The SOETM enables ASIC to continue to hold and expend amounts on behalf of persons or entities other than the Commonwealth. The SOETM will typically be used to accommodate small amounts of miscellaneous monies, for example, amounts received in connection with services performed for or on behalf of any persons or entities that are not agencies as prescribed under the PGPA Act, such as other governments. For the year ended 30 June 2022, the account had a nil balance and there were no transactions debited or credited to it during the current or prior reporting period.

The closing balance of the ASIC Trust and Other Moneys Special Account 2018 includes amounts held in trust: $11.724m in 2021 and $19.897m in 2022.

5.3 Regulatory charging summary

	2022 $'000	2021 $'000
Amounts applied		
Departmental		
Appropriation applied	**320,070**	321,829
Total amounts applied	**320,070**	321,829
Expenses		
Departmental	**320,070**	321,829
Total expenses	**320,070**	321,829
External Revenue		
Administered		
Fees for services	**12,886**	14,596
ASIC Supervisory Cost Recovery Levy	**307,184**	307,233
Total external revenue	**320,070**	321,829

Regulatory charging activities

On 20 April 2016, the Australian Government announced it would introduce an industry funding model for ASIC. Under the industry funding model, ASIC's regulatory costs will be partially recovered from the industry sectors we regulate, through a combination of:

(a) general industry levies (cost recovery levies);

(b) statutory industry levies; and

(c) cost recovery fees (fees for service), for user-initiated, transaction-based activities where we provide a specific service to individual entities.

ASIC's costs associated with regulatory activities will be recovered from industry as outlined in ASIC's Cost Recovery Implementation Statement. Activities include:

- supervision and surveillance;
- enforcement;
- stakeholder engagement;
- education;
- guidance; and
- policy advice.

The cost recovery implementation statement for the above activities is available at:

https://download.asic.gov.au/media/4zujamd3/cris-asic-industry-funding-model-2021-22-for-feedback-published-6-june-2022.pdf.

5.4 Net cash appropriation arrangements

	2022 $'000	2021 $'000
Total comprehensive income/(loss) – as per the Statement of Comprehensive Income	**27,794**	(14,417)
Plus: depreciation/amortisation expenses previously funded through appropriations (departmental capital budget funding and/or equity appropriations)[1]	**43,441**	45,062
Plus: depreciation ROU assets[2]	**21,248**	25,451
Less: lease principal repayments[2]	**19,070**	24,590
Net cash operating surplus/(deficit)	**73,413**	31,506

1. From 2010–11, the Government introduced net cash appropriation arrangements where revenue appropriations for depreciation/amortisation expenses of non-corporate Commonwealth entities and selected corporate Commonwealth entities were replaced with a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.
2. The inclusion of depreciation/amortisation expenses related to ROU leased assets and the lease liability principal repayment amount reflects the impact of AASB 16 *Leases*, which does not directly reflect a change in appropriation arrangements.

Note 6. People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

6.1 Employee provisions

	2022 $'000	2021 $'000
Annual leave entitlement	**29,588**	28,068
Long service leave entitlement	**45,413**	52,230
Restructuring provision	**–**	1,089
Separation and redundancy provision	**2,489**	–
Total employee provisions	**77,490**	81,387

Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within 12 months of the end of the reporting period are measured at their nominal amounts.

Other long-term employee benefits are measured as net total of the present value of the defined-benefit obligations at the end of the reporting period minus the fair value at the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time leave is taken, including ASIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an independent actuary dated 7 June 2022. Actuarial reviews of long service leave are undertaken at least every five years. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

ASIC employees are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other superannuation funds held outside the Australian Government.

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

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedule and notes.

ASIC makes employer contributions to its employees' defined-benefit superannuation schemes at rates determined by an actuary to be sufficient to meet the current cost to the Government, and ASIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

Accounting Policy (continued)

Restructuring

ASIC recognises a provision for restructuring when strategic and operational priorities change or when the Government has announced a funding measure which will result in a future reduction in functions, resources and staff and the costs associated with these future reductions can be reliably estimated.

Significant accounting judgement and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- Leave provisions involve assumptions based on the expected tenure of existing staff, patterns of leave claims and payouts, future salary movements and future discount rate.

6.2 Key management personnel remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of ASIC, directly or indirectly. ASIC has determined the key management personnel to be members of the Commission, the Portfolio Minister, the Minister for Superannuation, Financial Services and the Digital Economy and ASIC Executive Directors. Key management personnel remuneration is reported in the table below:

	2022 $'000	2021 $'000
Short-term employee benefits	**6,597**	6,558
Post-employment benefits	**737**	642
Other long-term benefits	**161**	55
Termination benefits	**–**	89
Total key management personnel remuneration expenses[1]	**7,495**	7,344

The total number of key management personnel who are included in the above table is 15 (2021:19).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by ASIC.

6.3 Related party disclosures

Related party relationships

ASIC is an Australian Government controlled entity. Related parties to ASIC are key management personnel, including the Commission members and ASIC Executive Directors that have the responsibilities for planning, directing and controlling ASIC's resources.

Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

ASIC transacts with other Australian Government controlled entities consistent with normal day-to-day business operations provided under normal terms and conditions, including the payment of workers' compensation and insurance premiums, subleasing of office space and payment of superannuation contributions. These are not considered individually significant to warrant separate disclosure as related party transactions.

Note 7. Managing uncertainties

This section describes how ASIC manages financial risks within its operating environment.

7.1 Contingent assets and liabilities

	2022 $'000	2021 $'000
7.1A: Departmental contingent assets and liabilities		
Contingent assets		
Balance from previous period	**11,539**	5,526
New contingent assets	**2,763**	8,175
Re-measurement	**1,175**	1,055
Assets realised	**(7,499)**	(1,582)
Assets relinquished	**(120)**	(1,635)
Total contingent assets	**7,858**	11,539
Contingent liabilities		
Balance from previous period	**(1,200)**	–
New contingent liabilities	**(150)**	(1,200)
Obligations expired	**1,200**	–
Total contingent liabilities	**(150)**	(1,200)
Net contingent assets	**7,708**	10,339

Quantifiable contingencies (ASIC Departmental)

The above table contains 20 matters (2021: 23 matters) where a contingent asset is disclosed in respect of cases where ASIC has received an award of costs in its favour; however, agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated that these matters represent a combined receivable of $7.858m (2021: $11.539m), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

The above table contains one matter (2021: one matter) where a contingent liability is disclosed in respect of a case where ASIC has had costs awarded against it; however, agreement with respect to the quantum payable by ASIC has not been reached. ASIC has estimated that this matter represents a payable of $0.150m (2021: $1.200m), which is disclosed as a contingent liability because realisation of this payable is not virtually certain.

Unquantifiable contingencies (ASIC Departmental)

ASIC is party to many civil litigation matters arising out of its statutory duty to administer and enforce laws for which it is responsible.

Like any corporate body, ASIC may from time to time be the subject of legal proceedings for damages brought against it or may receive notice indicating that such proceedings may be brought. In either case, ASIC, like any other party to civil litigation, may be required to pay the other party's costs if ASIC is unsuccessful.

Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There are, at the date of this report, seven matters (2021: six matters) of this type where proceedings are current. In these matters, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- successfully defend the actions instituted; and
- not be required to pay any damages.

Conversely, ASIC, like any other party to civil litigation, may be entitled to recover costs arising out of such litigation if it is successful. In addition to the matters specifically referred to in this note, ASIC has legal action pending in a number of other matters; however, due to the uncertainty over the outcome of outstanding and pending court cases, the duration of court cases and the legal costs of the opposing party, ASIC is unable to reliably estimate either its potential payments to, or potential cost recoveries from, opposing litigants. There may also be other matters where ASIC has received an award of costs in its favour; however, no contingent asset has been disclosed as recovery of the debt is not probable. There may also be other matters where no contingency has been quantified because the costs awarded for or against ASIC are estimated to be less than $20,000 each.

Accounting Policy

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position but are reported in this note. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than unlikely.

Significant accounting judgements and estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

Quantifiable administered contingencies – Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the number of claims that are likely to be lodged with ASIC in respect to unclaimed monies was conducted by a registered actuary. ASIC adopted the registered actuary's calculation for the likely claims payable, reported in Note 4.2B.

The contingent liability represents an estimate of the principal unclaimed monies that have been lodged with ASIC but where the likelihood of a successful claim is regarded as unlikely. No allowance has been made for the compounding interest, which is payable for a successful claim lodged from 1 July 2013 in accordance with legislated interest rates. The contingent liability has been calculated by deducting from the total principal balance, excluding interest, of unclaimed monies lodged but not yet claimed, the undiscounted amount of the provision for future refunds excluding any interest.

	2022 $'000	2021 $'000
7.1B: Administered contingent liabilities		
Banking Act 1959	**683,083**	588,337
Corporations Act 2001	**491,812**	423,687
Life Insurance Act 1995	**121,499**	104,570

Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

Accounting Policy

Administered contingent liabilities represent a repayment estimate of unclaimed monies that are considered unlikely to be paid. There are no administered contingent assets as at 30 June 2022 (2021: nil).

7.2 Financial instruments

	Notes	2022 $'000	2021 $'000
7.2A: Financial instruments			
Financial assets			
Cash and cash equivalents	3.1A	**72,743**	46,304
Trade receivables	3.1B	**7,395**	47,151
Total financial assets		**80,138**	93,455
Financial liabilities			
Trade creditors	3.3A	**29,510**	29,750
Total financial liabilities		**29,510**	29,750

Accounting Policy

Financial assets

In accordance with AASB 9 *Financial Instruments*, ASIC classifies its financial assets in the following categories:

- Cash and cash equivalents are measured at nominal amounts.
- Trade receivables are measured at amortised cost.

The classification depends on both ASIC's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Financial assets at amortised cost

Financial assets included in this category need to meet two criteria:

(1) the financial asset is held in order to collect the contractual cash flows; and

(2) the cash flows are solely payments of principal and interest on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

Effective interest method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

Accounting Policy (continued)

Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on the simplified approach.

The simplified approach for trade debtors is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

Financial liabilities at amortised cost

Supplier payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

Accounting judgement and estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of financial assets and liabilities within the next reporting period.

	2022 $'000	2021 $'000
7.2B: Impairment loss on financial instruments		
Financial assets at amortised cost		
Impairment	–	53
Net gain/(loss) on financial assets at amortised cost	–	53

7.3 Administered financial instruments

	Notes	2022 $'000	2021 $'000
Financial assets			
Cash and cash equivalents		**1,379**	1,524
Trade receivables	4.1C	**13,284**	9,532
Total financial assets		**14,663**	11,056
Financial liabilities			
Grants payable	4.2A	**4,196**	4,222
Supplier payables	4.2A	**118**	28
Total financial liabilities		**4,314**	4,250

7.4 Fair value measurement

	2022 $'000	2021 $'000
Non-financial assets:		
Leasehold improvements	**36,262**	40,929
Plant and equipment	**24,414**	25,896
Total non-financial assets	**60,676**	66,825

ASIC did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2022.

Accounting Policy

ASIC deems transfers between levels of the fair value hierarchy to have occurred at the end of the reporting period. See Note 3.2 for further details on ASIC's valuation policy and procedures.

Note 8. Other information

8.1 Current/non-current distinction for assets and liabilities

	2022 $'000	2021 $'000
8.1A: Current/non-current distinction for assets and liabilities		
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	**72,743**	46,304
Trade and other receivables	**142,066**	157,936
Prepayments	**14,332**	13,533
Total no more than 12 months	**229,141**	217,773
More than 12 months		
Buildings	**190,642**	214,302
Plant and equipment	**24,414**	25,896
Computer software	**105,375**	83,417
Total more than 12 months	**320,431**	323,615
Total assets	**549,572**	541,388
Liabilities expected to be settled in:		
No more than 12 months		
Suppliers	**29,510**	29,750
Other payables	**35,345**	34,209
Leases	**21,422**	21,501
Employee provisions	**24,506**	22,580
Other provisions	**2,242**	7,740
Total no more than 12 months	**113,025**	115,780
More than 12 months		
Leases	**164,103**	196,467
Employee provisions	**52,983**	58,807
Other provisions	**2,889**	6,221
Total more than 12 months	**219,975**	261,495
Total liabilities	**333,000**	377,275

	2022 $'000	2021 $'000
8.1B: Administered – current/non-current distinction for assets and liabilities		
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	**1,380**	1,524
Supervisory cost recovery levies receivable	**311,875**	314,471
Fees and fines receivable	**150,403**	141,513
Trade and other receivables	**13,732**	10,006
Total no more than 12 months	**477,390**	467,514
More than 12 months		
Total more than 12 months	**–**	–
Total assets	**477,390**	467,514
Liabilities expected to be settled in:		
No more than 12 months		
Supplier and other payables	**40,402**	36,981
Total no more than 12 months	**40,402**	36,981
More than 12 months		
Supplier and other payables	**7,958**	7,545
Unclaimed monies provisions	**458,953**	491,183
Total more than 12 months	**466,911**	498,728
Total liabilities	**507,313**	535,709

8.2 Restructuring

	2022 $'000	2021 $'000
	Modernising Business Registers	Modernising Business Registers
	Australian Taxation Office[1]	Australian Taxation Office[1]
FUNCTIONS RELINQUISHED		
Revenue relinquished		
Revenue from Government[2]	–	4,143
Total revenue relinquished	–	4,143
Assets relinquished		
Appropriations receivable	–	(9,191)
Buildings – ROU asset	–	(15,339)
Buildings – leasehold improvements	–	(2,466)
Plant and equipment	–	(11)
Prepayments	–	(42)
Total assets relinquished	–	(27,049)
Liabilities relinquished		
Lease liabilities	–	16,006
Provision for restoration obligations – leased premises	–	120
Provision for employee entitlements	–	5,090
Total liabilities relinquished	–	21,216
Net (assets) relinquished[3]	–	(1,690)

1. Under the Modernising Business Registers (MBR) Program, the Government decided to establish a new whole-of-government registry platform, the Australian Business Registry Services (ABRS). As part of the MBR Program, in-scope business registers are to be transferred (in multiple stages) from ASIC to the ATO, along with associated ASIC staff. The first stage of the transfer of staff and departmental resources (appropriation) took place on 15 April 2021.
2. $4.143m of employee and supplier expenses was recognised by the ATO in the 2021 financial year, with ASIC's Departmental appropriation being reduced by the corresponding amount.
3. Except for employee entitlements provision amounts and prepayments, the net book value of assets and liabilities was transferred to the ATO for no consideration.

8.3 Expenditure relating to statutory board and tribunal

The Superannuation Complaints Tribunal wound up in December 2020. Residual expenses in the process were incurred in 2022.

	2022 $'000	2021 $'000
Companies Auditors Disciplinary Board	**338**	371
Superannuation Complaints Tribunal	**19**	2,025

Accounting Policy

ASIC is required to support the Companies Auditors Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of the board and the tribunal are included in the Statement of Comprehensive Income of ASIC.

8.4 Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. ASIC takes a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

Vested assets are not available to ASIC and are not recognised in the financial statements.

	2022 Quantity	2021 Quantity
Class of asset		
Land	**529**	544
Shares	**190**	175
Other	**132**	150
Closing balance	**851**	869

Land is comprised of real property as described on the relevant Land Titles Registry. Shares are comprised of parcels of shares in both private and publicly listed companies and include those parcels held by the company as trustee. Other assets include such property as intellectual property (e.g. trademarks) and mortgages.

8.5 Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* and the Corporations Regulations 2001 require applicants for a dealer's or investment adviser's licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	2022 $'000	2021 $'000
Security deposits under Corporations Regulations 2001 reg 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	**83**	83
Inscribed stock	**20**	–
Bank guarantees	**8,510**	8,550
Closing balance	**8,613**	8,633
Security deposits under the *Corporations Act 2001* s1284(1) (liquidators)		
Insurance bond	**1,800**	1,800
Closing balance	**1,800**	1,800

8.6 Budgetary reports and explanations of major variances

8.6A: Departmental Budgetary Reports

The following tables provide a comparison of the original budget as presented in the 2021–22 Portfolio Budget Statements to the 2021–22 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/– 10% and greater than +/– $5m are provided.

Statement of Comprehensive Income

	Actual 2022 $'000	Original Budget 2022 $'000	Variance 2022 $'000
NET COST OF SERVICES			
Expenses			
Employee benefits	269,139	256,624	12,515
Suppliers	129,993	147,697	(17,704)
Depreciation and amortisation	64,689	65,866	(1,177)
Finance costs – unwinding of restoration provision	1,719	3,480	(1,761)
Write-down and impairment of assets	220	–	220
Total expenses	465,760	473,667	(7,907)
LESS:			
Own-source revenue			
Sale of goods and rendering of services	1,281	2,000	(719)
Revenue from other Australian Government entities	40,581	10,532	30,049
Other revenue	26,011	4,374	21,637
Total own-source revenue	67,873	16,906	50,967
Gains			
Reversal of write-downs and impairment	–	–	–
Total gains	–	–	–
Net (cost) of services	397,887	456,761	(58,874)
Total revenue from Government	422,001	423,034	(1,033)
Surplus/(Deficit)	24,114	(33,727)	57,841
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Asset revaluation	1,033	–	1,033
Movement in makegood provision	3,449	–	3,449
Loss on disposal of previously revalued assets	(802)	–	(802)
Total comprehensive income/(loss)	27,794	(33,727)	61,521

Explanations of major variances	Affected line items
Expenses	
The increase in Employee benefits was due to allocation between employee expense and suppliers cost.	Employee benefits/ Suppliers
Own-source revenue	
This revenue stream was higher than budget due to receipts during the year from the ATO and DHA, which were provided to fund both capital and operating expense requirements for these programs.	Revenue from other Australian Government entities
The increase mainly relates to higher than expected court cost recoveries in relation to ESA matters. These revenues are unpredictable and therefore subject to variation.	Other revenue
The reduction in the deficit is primarily driven by the revenue variances mentioned above.	Surplus/(Deficit)

Statement of Financial Position

	Actual 2022 $'000	Original Budget 2022 $'000	Variance 2022 $'000
ASSETS			
Financial assets			
Cash and cash equivalents	72,743	30,307	42,436
Trade and other receivables	142,066	132,008	10,058
Total financial assets	214,809	162,315	52,494
Non-financial assets			
Buildings	190,642	221,678	(31,036)
Plant and equipment	24,414	7,818	16,596
Computer software	105,375	78,818	26,557
Other non-financial assets	14,332	17,706	(3,374)
Total non-financial assets	334,763	326,020	8,743
Total assets	549,572	488,335	61,237
LIABILITIES			
Payables			
Suppliers	29,510	27,618	1,892
Other payables	35,345	31,031	4,314
Total payables	64,855	58,649	6,206

	Actual	Original Budget	Variance
	2022 $'000	2022 $'000	2022 $'000
Interest-bearing liabilities			
Leases	185,524	199,449	(13,925)
Total interest-bearing liabilities	185,524	199,449	(13,925)
Provisions			
Employee provisions	77,490	82,255	(4,765)
Other provisions	5,131	13,578	(8,447)
Total provisions	82,621	95,833	(13,212)
Total liabilities	333,000	353,931	(20,931)
Net assets	216,572	134,404	82,168
EQUITY			
Contributed equity	525,368	525,020	348
Reserves	26,180	22,500	3,680
Accumulated deficits	(334,976)	(413,116)	78,140
Total equity	216,572	134,404	82,168

Explanations of major variances	Affected line items
Financial assets	
The variance is mainly due to lower than expected ESA expenditure and unbudgeted court cost recoveries related to ESA matters.	Cash and cash equivalents
Non-financial assets	
The decrease mainly relates to the transfer of building-related assets in relation to Machinery of Government (MoG) functional transfers from ASIC to ATO. At the time of budget preparation in April 2021, the property budget was inclusive of the MoG leasehold. This was offset with reallocation of capital spend to property, plant and equipment.	Buildings/Plant and equipment
The increase is driven by capital expenditure funded by the ATO and DHA.	Software

Statement of Changes in Equity

	Actual 2022 $'000	Original Budget 2022 $'000	Variance 2022 $'000
CONTRIBUTED EQUITY			
Opening balance	500,703	502,393	(1,690)
Transactions with owners			
Distributions to owners			
Returns of capital			
Return of equity	(4,409)	–	(4,409)
Contributions by owners			
Equity injections – Appropriations	3,530	1,752	1,778
Departmental capital budget	25,544	20,875	4,669
Total transactions with owners	24,665	22,627	2,038
Closing balance as at 30 June	525,368	525,020	348
RETAINED EARNINGS			
Opening balance	(359,090)	(379,389)	20,299
Comprehensive income			
Surplus/(Deficit) for the period	24,114	(33,727)	57,841
Total comprehensive income/(loss)	24,114	(33,727)	57,841
Closing balance as at 30 June	(334,976)	(413,116)	78,140
ASSET REVALUATION RESERVE			
Opening balance	22,500	22,500	–
Comprehensive income			
Other comprehensive income	3,680	–	3,680
Total comprehensive income	3,680	–	3,680
Closing balance as at 30 June	26,180	22,500	3,680
TOTAL EQUITY			
Opening balance	164,113	145,504	18,609
Comprehensive income			
Surplus/(Deficit) for the period	24,114	(33,727)	57,841
Other comprehensive income	3,680	–	3,680
Total comprehensive income/(loss)	27,794	(33,727)	61,522

	Actual	Original Budget	Variance
	2022 $'000	2022 $'000	2022 $'000
Transactions with owners			
Distributions to owners			
Returns of capital			
Return of equity	(4,409)	–	(4,409)
Contributions by owners			
Equity injections – Appropriations	3,530	1,752	1,778
Departmental capital budget	25,544	20,875	4,669
Total transactions with owners	24,665	22,627	2,038
Closing balance as at 30 June	216,572	134,404	63,560

Explanations of major variances

The variances are supported by the explanations provided above in the Statement of Comprehensive Income and the Statement of Financial Position portions of this note.

Cash Flow Statement

	Actual	Original Budget	Variance
	2022 $'000	2022 $'000	2022 $'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	500,469	423,341	77,128
Operating cash received	1,281	2,625	(1,344)
Net GST received	14,851	–	14,851
Cost recoveries	24,497	–	24,497
Other cash received	67,639	13,927	53,712
Total cash received	608,737	439,893	168,844

	Actual 2022 $'000	Original Budget 2022 $'000	Variance 2022 $'000
Cash used			
Employees	269,991	256,624	13,367
Suppliers	153,167	148,479	4,688
Interest payments on lease liabilities	1,689	2,651	(962)
Transfers to the Official Public Account	108,063	–	108,063
Total cash used	(532,910)	(407,754)	(125,156)
Net cash from operating activities	75,827	32,139	43,688
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles	59,424	36,172	23,252
Net cash (used by) investing activities	(59,424)	(36,172)	(23,252)
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity	29,106	26,809	2,297
Total cash received	29,106	26,809	2,297
Cash used			
Principal payments of lease liabilities	19,070	22,776	(3,706)
Total cash used	(19,070)	(22,776)	3,706
Net cash from financing activities	10,036	4,033	6,003
Net increase/(decrease) in cash held	26,439	–	26,439
Cash at the beginning of the reporting period	46,304	30,307	15,997
Cash at the end of the reporting period	72,743	30,307	42,436

Explanations of major variances

The variances are supported by the explanations provided above in the Statement of Comprehensive Income and the Statement of Financial Position portions of this note.

8.6B: Administered Budgetary Reports

The following tables provide a comparison of the original budget as presented in the 2021–22 Portfolio Budget Statements to the 2021–22 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/– 10% and greater than +/– $5m are provided.

Administered Schedule of Comprehensive Income

	Actual	Original Budget	Variance
	2022 $'000	2022 $'000	2022 $'000
EXPENSES			
Grants	5,191	7,116	(1,925)
Impairment loss allowance on financial instruments	62,392	80,007	(17,615)
Claims for unclaimed monies	77,507	99,722	(22,215)
Promotional costs for Moneysmart initiatives	575	575	0
Total expenses	145,665	187,420	(41,755)
LESS:			
Own-source revenue			
Taxation revenue			
Fees	943,822	883,980	59,842
Supervisory cost recovery levies	73,497	76,937	(3,440)
Total taxation revenue	1,017,319	960,917	56,402
Non-taxation revenue			
Supervisory cost recovery levies	240,218	301,247	(61,029)
Fees and fines	418,234	221,033	197,201
Unclaimed monies	289,011	175,000	114,011
Total non-taxation revenue	947,463	697,280	250,183
Total revenue	1,964,782	1,658,197	306,585
Net contribution by services	1,819,117	1,470,777	348,340

Explanations of major variances	Affected line items
The decrease in the impairment loss allowance is due to the delay in the ASIC/ATO MoG. At the time of budget preparation in April 2021, the property budget was inclusive of the MoG aged debts.	Impairment loss allowance on financial instruments
The increase in unclaimed monies claim expense is due to a valuation adjustment of the claims provision. The valuation is directly impacted by emerging trends of higher lodgements received for all categories of unclaimed monies. Refer to the Accounting Policy note at 4.2B.	Claims for unclaimed monies
The difference between budgeted and actual revenue reflects the estimated impact of Government decisions since the budget was prepared.	Non-taxation revenue – Supervisory cost recovery levies
The increase in revenue for fees and fines is due to the continual increase in company population growth, which increases annual review fees and late payments revenue. Fines and penalties, which are difficult to estimate, have also increased.	Fees and fines
A significant increase in the volume of records lodged under the *Banking Act 1959*, combined with more lodgements received under s601 of the *Corporations Act 2001* and a higher value of lodged records under the *Life Insurance Act 1995*, has contributed to an increase in lodgement revenue.	Unclaimed monies

Administered Schedule of Assets and Liabilities

	Actual	Original Budget	Variance
	2022 $'000	2022 $'000	2022 $'000
ASSETS			
Financial assets			
Cash and cash equivalents	1,380	1,418	(38)
Supervisory cost recovery levies receivable	311,875	385,362	(73,487)
Fees and fines receivable	150,403	161,030	(10,627)
Trade and other receivables	13,732	8,143	5,589
Total assets administered on behalf of Government	477,390	555,953	(78,563)
LIABILITIES			
Payables and provisions			
Suppliers and other payables	48,360	44,179	4,181
Unclaimed monies provisions	458,953	488,104	(29,151)
Total liabilities administered on behalf of Government	507,313	532,283	(24,970)
Net assets/(liabilities)	(29,923)	23,670	(53,593)

Explanations of major variances	Affected line items
The variances are supported by the explanations provided above in the Statement of Comprehensive Income.	Supervisory cost recovery levies receivable Trade and other receivables

7 Appendices

7.1 Appendices relating to ASIC's governance and operations

Parliamentary oversight

Responsible Ministers

At 30 June 2022, the Minister responsible for ASIC was the Treasurer, the Hon. Jim Chalmers MP.

Parliamentary committees

ASIC is accountable to Parliament through the following Parliamentary committees:

- Parliamentary Joint Committee on Corporations and Financial Services
- Senate Standing Committee on Economics
- House of Representatives Standing Committee on Economics
- other parliamentary committees and inquiries as required.

Correspondence with members of Parliament

ASIC receives correspondence from members of Parliament both directly and indirectly through requests from Treasury.

We aim to respond to 100% of correspondence within 28 days of receipt. In 2021–22, we responded to 99 letters and emails from members of Parliament. We responded to 73% of this correspondence within 14 days and 94% within 28 days.

Financial and operational oversight

ASIC is a non-corporate Commonwealth entity under the PGPA Act, which primarily governs our use and management of public resources.

The PGPA Act also requires ASIC to prepare a corporate plan covering our purpose, environment, performance, capability, and risk oversight and management for the budget forward estimates period.

ASIC's Corporate Plan for 2021–25 was published in August 2021.

The Auditor-General audits our annual financial statements on behalf of the Parliament.

External scrutiny of our agency

Judicial decisions and decisions of administrative tribunals and the Office of the Australian Information Commissioner

There were no judicial decisions, administrative decisions, or decisions by the Office of the Australian Information Commissioner in 2021–22 that have had, or may have, a significant impact on ASIC's operations.

Parliamentary Joint Committees

During 2021–22, ASIC testified before the following Parliamentary Joint Committees and provided answers to Questions on Notice:

- Parliamentary Joint Committee on Corporations and Financial Services – Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
- Parliamentary Joint Committee on the Australian Commission on Law Enforcement Integrity – Inquiry into the expansion of the Australian Commission on Law Enforcement Integrity's jurisdiction and the corruption vulnerabilities of law enforcement agencies' contracted services.

ASIC made submissions to the following Parliamentary Joint Committee inquiries:

- Parliamentary Joint Standing Committee on Trade and Investment Growth – Inquiry into the prudential regulation of investment in Australia's export industries
- Parliamentary Joint Committee on the Australian Commission on Law Enforcement Integrity – Inquiry into the expansion of the Australian Commission on Law Enforcement Integrity's jurisdiction and the corruption vulnerabilities of law enforcement agencies' contracted services.

Senate Committees

During 2021–22, ASIC testified before the following Senate Committees and provided answers to Questions on Notice:

- Senate Economics Legislation Committee – Senate Estimates
- Senate Economics Legislation Committee – Inquiry into the Financial Accountability Regime Bill 2021 [Provisions] and Financial Services Compensation Scheme of Last Resort Levy Bill 2021 [Provisions] and related Bills
- Senate Select Committee on Australia as a Technology and Financial Centre – Inquiry into the Senate Select Committee on Australia as a Technology and Financial Centre's third issues paper
- Senate Economics Legislation Committee – Inquiry into Sterling Income Trust
- Senate Economics Legislation Committee – Inquiry into the Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Bill 2021 [Provisions].

ASIC made submissions to the following Senate Committee inquiries:

- Senate Economics Legislation Committee – Inquiry into Sterling Income Trust
- Senate Select Committee on Australia as a Technology and Financial Centre – Inquiry into the Senate Select Committee on Australia as a Technology and Financial Centre's third issues paper
- Senate Economics Legislation Committee – Inquiry into the Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Bill 2021 [Provisions].

House of Representatives Committees

During 2021–22, ASIC testified before the following House of Representatives Committees and provided answers to Questions on Notice:

- House of Representatives Standing Committee on Economics – Review of Australian Securities and Investments Commission Annual Report 2020
- House of Representatives Standing Committee on Indigenous Affairs – Inquiry into how the corporate sector establishes models of best practice to foster better engagement with Aboriginal and Torres Strait Islander consumers
- House of Representatives Standing Committee on Economics – Inquiry into the implications of common ownership and capital concentration in Australia.

ASIC made a submission to the following House of Representatives Committee inquiry:

- House of Representatives Standing Committee on Indigenous Affairs – Inquiry into how the corporate sector establishes models of best practice to foster better engagement with Aboriginal and Torres Strait Islander consumers.

Corporate governance

The role of the Chair and the Commission

In line with the PGPA Act, the Chair, as accountable authority, will govern ASIC in a way that is not inconsistent with the policies of the Australian Government.

Our Chair has sole executive management responsibility and relies on and uses our key senior executives to carry out day-to-day management activities and deal with operational issues. The Chair delegates functions where he considers this would benefit the executive management of ASIC.

The Commission acts as a strategic non-executive body, focusing on high-level regulatory and statutory decision making and stakeholder management. It provides support to the Chair on organisational oversight.

In 2021–22, ASIC continued to implement a program to improve our governance, structure and decision-making processes. As set out in Chapter 1, ASIC engaged PwC to review our infrastructure and assess how key aspects of our corporate support functions operate as part of our commitment to ensure efficient and effective regulation. We also confirmed the role of the COO and established an Executive Director Operations, as well as clearly communicating the split of accountabilities between the Accountable Authority, the Commission, and the Organisation.

The Commission utilises a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles. Details of these committees are set out in Chapter 1.

Commission meetings take place weekly and may be convened more regularly as required. The Commission also meets as a team on a weekly basis to provide early direction or guidance on issues, or to consider urgent matters. Unscheduled Commission meetings are called to obtain Commission decisions on specific issues where required outside of the meeting timetable.

The Commission appoints and evaluates the performance of its Executive Directors and Senior Executive Leaders and approves budgets and business plans for each team.

Commissioners are appointed by the Governor-General, on the nomination of the Treasurer. The Treasurer may nominate only those people who are qualified by knowledge of, or experience in, business, the administration of companies, financial markets, financial products and financial services, law, economics or accounting.

Commissioners are appointed on fixed terms that may be terminated only for the reasons set out in section 111 of the ASIC Act. The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

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

ASIC's Chief Legal Office, led by Chris Savundra, General Counsel, is the primary source of legal advice to the Commission, providing legal counsel on governance and on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters. The Commission delegates various powers and functions to Executive Directors, Senior Executive Leaders, Regional Commissioners and employees reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

The Commission held 45 meetings in 2021–22. The Commission Enforcement Committee met 44 times, the Commission Regulatory Committee met 18 times, and the Commission Risk Committee met six times in 2021–22.

Additional information on ASIC's internal governance is published on our website.

Audit and Risk Committee and audit services

The Audit and Risk Committee operates independently of management in accordance with Terms of Reference approved by the accountable authority. The Committee provides independent assurance to the ASIC Chair on ASIC's financial and performance reporting responsibilities, risk oversight and management, and system of internal control.

ASIC's Audit and Risk Committee Terms of Reference, which are available on our website (**Audit and Risk Committee Terms of Reference**), sets out the Committee's role, authority, membership and functions, as well as its procedural, reporting and administrative arrangements.

The Committee met seven times during the year, with five regular and two special meetings. Details of the Audit and Risk Committee's membership in 2021–22 are set out in Table 7.1.1. The remuneration of Committee members is set out in Table 7.1.2.

Table 7.1.1 Membership of the Audit and Risk Committee, 2021–22

Member	Member experience	No. of regular meetings	No. of special meetings
Peter Achterstraat AM (Chair)	Peter holds a Bachelor of Economics (Hons), a Bachelor of Laws, and a Bachelor of Commerce from the Australian National University and has been inducted into the ANU College of Business and Economics Hall of Fame. He has been awarded a Member of the Order of Australia for significant service to public administration through financial management and governance roles. Peter currently retains the following positions: › NSW Productivity Commissioner › Chairman, Bankstown Airport Limited › Chair, Sydney Financial Forum › Chair, Australian Taxation Office Audit and Risk Committee › Chair, Department of Agriculture, Water, Environment Portfolio Audit Committee. His former roles include NSW President of the Australian Institute of Company Directors, Adjunct Professor at the Graduate School of Government at the University of Sydney, Auditor-General of NSW and Chief Commissioner of State Revenue NSW.	5	2

Member	Member experience	No. of regular meetings	No. of special meetings
Lisa Woolmer (Deputy Chair)	Lisa holds a Bachelor of Economics and Postgraduate Diploma in Japanese Business Communication from Monash University, and a Postgraduate Diploma of Employment Relations from the University of Canberra. She is a member of both the Australian Institute of Company Directors and Chartered Accountants Australia and New Zealand. Lisa currently retains the following positions: › Independent Chair, Adult, Community and Further Education Board's Audit and Risk Committee › Independent Chair, Glen Eira City Council Audit and Risk Committee › Independent Member, Whitehorse City Council Audit and Risk Committee › Independent Member, Orygen Audit and Risk Committee › Director, The Yarra Yarra Golf Club Ltd. Lisa's former roles include Principal at PwC Melbourne, and Independent Chair of the Audit and Risk Committees for Comcare, Bayside City Council and Mornington Peninsula Shire.	5	2
Timothy Montgomery (a)	Timothy holds a Bachelor of Economics and a Bachelor Science (Hons) from the Australian National University, a Graduate Certificate in Management from the Australian Graduate School of Management, and a Graduate Certificate in Statistics from the University of Canberra. He has held senior ICT roles across Commonwealth agencies, including as Program Manager in the Technology and Security Division at the ABS, as well as senior ICT management consultant roles.	3	2

Member	Member experience	No. of regular meetings	No. of special meetings
Jon Webster AM (b)	Jon holds a Bachelor of Commerce, Bachelor of Law (Hons) and Master of Laws from the University of Melbourne, where he was also a Senior Fellow of the Law School for more than 20 years. His former roles include Partner at Allens, practising in the area of mergers and acquisitions, Chairman of the Corporations Committee of the Law Council of Australia, Director of the Human Rights Law Centre, member of ASX's Listings Advisory Panel and of the Australian Government's Consultative Group to the Corporations Law Simplification Task Force, and Chairman of the Audit Committee of the Northern Land Council. Jon is an independent non-executive Director and member of the Audit Committee for AMCIL Limited, a Trustee of the R E Ross Trust, and a Director of Hillview Quarries Pty Ltd. He has been awarded a Member of the Order of Australia for significant service to the law, education and the community.	4	–

(a) Timothy Montgomery ceased as a committee member on 20 February 2022.
(b) Jon Webster commenced as a committee member on 1 November 2021.

Table 7.1.2 Remuneration of Audit and Risk Committee members, 2021–22

Member	Remuneration (net of GST where applicable)		
	ARC meetings	Other meetings	Total remuneration
Peter Achterstraat AM	45,455	7,603	53,057
Lisa Woolmer	34,091	2,383	36,474
Jon Webster AM	30,000		30,000
Timothy Montgomery (a)	–	–	–

(a) Audit and Risk Committee services were provided free of charge in accordance with an MOU between ASIC and the ABS.

Peter Achterstraat AM
Chair
Audit and Risk Committee
August 2022

Consultative panels and committees

ASIC takes a consultative approach to addressing harms and emerging developments in Australia's financial system.

As part of ASIC's strategic change program, we have enhanced our advisory panel processes to bolster their efficiency and to ensure that we are effectively engaging with our stakeholders to gain a deeper understanding of industry and consumer developments, consult on policy matters, and identify threats and harms in the sectors we regulate.

ASIC Consultative Panel

The ASIC Consultative Panel was established in 2020 to provide ASIC with a flexible and responsive approach to external engagement. It enables us to consult on proposed regulatory changes and provides intelligence on the external environment, including market conditions.

Panel members are senior representatives from the academic, consumer, industry, legal and regulatory sectors and are appointed in their personal capacity. They can be called upon to consult on emerging issues as they arise and they meet as a group at a plenary meeting at least once annually.

In November 2021, the annual plenary meeting was hosted virtually by ASIC. Members discussed changing market dynamics, supporting innovation, and vulnerable consumers. The Panel also reflected on emerging threats and harms within ASIC's regulatory remit to assist in the development of its strategic priorities for 2022–23.

ASIC Consumer Consultative Panel

In 2021, ASIC renamed the Consumer Advisory Panel, which was established in 1998 after ASIC assumed regulatory responsibility for consumer protection in financial services, the ASIC Consumer Consultative Panel (ACCP). The ACCP:

- tells us about current and emerging consumer issues it sees in the sectors we regulate
- provides feedback on proposed regulatory changes
- informs – through an evidence base of practical consumer and investor experience – the development and delivery of ASIC's strategic and operational objectives.

With the continuing impacts of the COVID-19 pandemic, the ACCP met virtually three times in 2021–22. This included a joint meeting with the ACCC's equivalent consumer panel, the Consumer Consultative Committee.

Priority areas of ACCP member focus included:

- the increasing prevalence and impacts of scams activity on consumers, the focus topic of the joint ASIC–ACCC consumer panel meeting
- ASIC's consultation on and proposed updates to the ePayments Code
- the implementation of reforms to license debt management firms and the commencement of the design and distribution obligations
- consumer experience and impacts from the growing buy now pay later sector
- persistent problems for First Nations people with car loans and poor value insurance products
- the failure of the Youpla Group (formerly the Aboriginal Community Benefit Fund) and its impacts on First Nations peoples and communities
- issues confronting new investors in a low return environment and potential policy responses to cryptocurrency
- ASIC's consultation on remediation guidance and consumer issues and experience in financial sector remediation programs
- the Government's introduction of legislation to establish a Compensation Scheme of Last Resort.

Corporate Governance Consultative Panel

The Corporate Governance Consultative Panel continued to meet during 2021–22. The Panel was established in 2020 to enable ASIC to gain a deeper understanding of developments and emerging issues in corporate governance practices.

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

The Panel met twice in 2021–22. It discussed climate change-related disclosure, including the International Sustainability Standards Board's draft standards and the cyber resilience of companies.

Cyber Consultative Panel

This year, ASIC established a Cyber Consultative Panel to advise us on our supervisory approach for the cyber resilience of financial services and markets. The Panel is an independent group of senior members from regulators and the financial services industry with relevant experience across a variety of disciplines relevant to ASIC's regulatory remit.

In addition to advising on our strategic approach, the Panel shares emerging threats and other market developments for regulatory consideration.

The Panel met for the first time in May 2021 and will meet twice yearly going forward.

Digital Finance Advisory Panel

The Digital Finance Advisory Panel (DFAP) was established in 2015 to help inform ASIC's fintech and regtech approach and to advise on engagement with the sector. Members of DFAP are drawn from a cross-section of the fintech and regtech communities, academia and consumer organisations.

DFAP also has active observer members from public sector and regulatory agencies, which facilitates dialogue between industry and the public sector. The establishment of DFAP has helped foster a network of domestic departments and agencies dealing with innovative businesses, which has promoted a coordinated approach to financial innovation and regtech. DFAP helps inform the focus of ASIC's engagement with the fintech and regtech sectors.

DFAP met four times in 2021–22 and has included discussions on crypto-assets, payments, the Consumer Data Right, central bank digital currencies and artificial intelligence.

Financial Advisers Consultative Panel

The Financial Advisers Consultative Panel was established in 2017. Its members are practising financial advisers who are skilled in insurance, superannuation (including self-managed funds) and digital financial advice. The members sit in a personal capacity.

The Panel met three times this year. It discussed a number of topics of interest, including the future of advice, advice processes, the cost of advice, and the implementation of new laws such as breach reporting, advice fee consent, and design and distribution obligations. The Panel also discussed and provided input into initiatives from ASIC's unmet advice needs work, including new ASIC guidance on limited advice, records of advice, and the financial advice webpage.

Markets Consultative Panel

The Markets Consultative Panel was established in 2010 and advises on ASIC's approach to our responsibilities for supervision of the Australian market and on broader market developments. Members are drawn from the financial services industry, with experience in retail markets, institutional banking, asset management and academia.

During 2021–22, the Panel met five times. Issues discussed included the macroeconomic environment, energy markets, operational and technological issues and developments, crypto-assets, cyber resilience, design and distribution obligations, market events and retail investor trading.

Disciplinary or peer review panels

The panels listed below have disciplinary or peer review functions and assist in our regulatory decision making.

Liquidator registration and disciplinary committees

Applications for registration as a liquidator, or to vary or remove conditions imposed on a liquidator's registration, and potential disciplinary actions against registered liquidators are referred to committees convened by ASIC.

Each committee consists of an ASIC delegate who chairs the committee, a registered liquidator chosen by the Australian Restructuring, Insolvency and Turnaround Association, and a person appointed by the Minister, as set out in sections 20–10, 20–45 and 40–45 of Schedule 2 to the Corporations Act.

During 2021–22, ASIC convened 25 committees to consider applications for registration as a liquidator, and registered 21 liquidators, as set out in Table 7.1.2.

Table 7.1.2 Committees convened, 2021–22

Results of committees convened in 2021–22	Convened	Registered
Applicants should be registered (no conditions)	11	11
Applicants should be registered (conditions)	6	6
Applicant – not registered	7	–
Committee decision pending	1	–
Prior year convened committee registered during the year	–	4
Total	**25**	**21**

During 2021–22, ASIC received five applications from liquidators to remove conditions attached to their registration. The applications were referred to committees convened by ASIC for consideration. Of those five applications, one committee decision was pending at the end of the financial year and the other four committees decided to remove the conditions attached to the relevant liquidator's registrations. ASIC implemented those four decisions.

Also during 2021–22, one disciplinary committee considered a matter referred by ASIC. That committee decided that the liquidator should continue to be registered, should be publicly reprimanded, and should be directed by ASIC not to accept any further appointments for a period, and that ASIC should publish the committee's notice of reprimand.

The register of liquidators and a summary of disciplinary actions can be found on the ASIC website.

Markets Disciplinary Panel

The Markets Disciplinary Panel (MDP) is a peer review panel engaged by ASIC to make decisions about whether infringement notices should be given to market participants for alleged contraventions of the market integrity rules. It consists of part-time members with extensive market or professional experience. Matters are referred to the MDP by ASIC as an alternative to bringing civil proceedings.

During 2021–22, the MDP issued an infringement notice in respect of the following matter:

- BGC Partners (Australia) Pty Limited (BGC) paid a $110,250 infringement notice in connection with the MDP's view that, on two occasions on 22 March 2019, BGC transacted pre-negotiated business orders on the ASX 24 market without making the required inquiry through the trading platform's message facility.

The infringement notices issued by the MDP are published on the MDP Outcomes Register on the ASIC website. Compliance with an infringement notice is not an admission of guilt or liability, and the market participant is not taken to have contravened subsection 798H(1) of the Corporations Act.

Financial Services and Credit Panel

No matters were referred to the Financial Services and Credit Panel (FSCP) during 2021–22.

On 1 January 2022, the *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021* (Better Advice Act) commenced. The Better Advice Act changed the role of the FSCP by providing it with its own functions and powers. Under the Better Advice Act, ASIC can refer certain conduct and circumstances regarding financial advisers which occurred from 1 January 2022 onwards to the FSCP for its consideration, and ASIC must do so in specified circumstances. The FSCP operates separately from, but alongside, ASIC's existing administrative decision-making processes. Each panel of the FSCP will be comprised of an ASIC staff member, who will chair the panel, and no less than two industry participants.

Since 1 January 2022, ASIC has been making the necessary arrangements to administer the Better Advice Act, including by consulting on updates to our regulatory guidance about FSCPs via Consultation Paper 359 *Update to RG 263 Financial Services and Credit Panels*. In February 2022, the industry participants eligible to be appointed to FSCPs were appointed by the responsible Minister.

In 2017, ASIC established a panel of external delegates (also called the FSCP) to make administrative decisions on financial services and credit matters. ASIC's 2017 FSCP ceased to operate from 1 July 2021, in anticipation of the reforms in the Better Advice Act.

Warnings and reprimands

No warnings or reprimands were issued by ASIC during 2021–22.

From 1 January 2022, ASIC must issue financial advisers a written warning or reprimand in specified circumstances relating to less serious misconduct which occurred from that date onwards. The requirement for ASIC to issue a warning or reprimand was introduced by the Better Advice Act.

Since 1 January 2022, ASIC has been making the necessary arrangements to issue warnings or reprimands, including by publishing Information Sheet 270 *Warnings and reprimands*.

Financial Adviser Exam

ASIC took over administration of the Financial Adviser Exam (the exam) from the former Financial Adviser Standards and Ethics Authority on 1 January 2022, following commencement of the Better Advice Act. The Better Advice Act requires ASIC to administer the exam in accordance with the principles approved by the responsible Minister. The exam is a key component of the education and training standards that all financial advisers must complete in order to provide personal advice on relevant financial products to retail clients.

We contracted the Australian Council of Educational Research (ACER) to develop and administer the exams in 2022. ACER delivered and administered all previous financial adviser exams.

ASIC successfully administered two cycles of the exam from 1 January to 30 June 2022. The 16th and 17th cycles of the exam were held 17–21 February and 12–16 May 2022 respectively.

We released the results of the February 2022 exam on 25 March 2022, and the results of the May 2022 exam on 20 June 2022.

- 829 candidates sat the exam between 1 January and 30 June 2022, 333 sat the February exam, and 496 sat the May exam
- the pass rate was 32.4% in the February exam and 42.7% in the May exam
- both exams had a high number of resitters (73% in the February exam, and 72% in the May exam)
- approximately 20,000 candidates have sat the exam since it began in June 2019.

Approximately 91% of advisers who have sat the exam since it began in June 2019 have passed the exam.

ASIC's people

ASIC continues to attract and retain highly skilled employees who are instrumental in ensuring that we carry out our regulatory functions and achieve our regulatory goals.

As at 30 June 2022, ASIC had a total of 1947 full-time equivalent (FTE) employees. Table 7.1.4 and Table 7.1.5 show a breakdown by location for each classification in 2021–22 and 2020–21 respectively. Table 7.1.6 and Table 7.1.7 provide a detailed picture of the gender breakdown of our people in 2021–22 and 2020–21 respectively.

Table 7.1.4 ASIC employees (FTE), by location, 2021–22[1,2,3]

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	**1**
Deputy Chair	1	–	–	–	1	–	–	–	**2**
Member	2	1	–	–	–	–	–	–	**3**
SES	20	32	1	1	2	–	2	–	**58**
ELS	3	8	1	–	–	–	–	–	**12**
Exec 2	223	359	60	35	15	13	9	–	**713**
Exec 1	131	257	44	31	13	2	5	1	**484**
ASIC 4	132	193	42	22	13	6	2	–	**410**
ASIC 3	72	71	27	13	5	1	2	–	**191**
ASIC 2	41	10	10	1	–	–	1	–	**64**
ASIC 1	9		–	–	–	–	–	–	**9**
Total	**635**	**931**	**185**	**103**	**49**	**22**	**21**	**1**	**1,947**

1 Averaged FTE for FY 2021–22 on a business-as-usual FTE basis (i.e. including FTE working on capital projects).
2 No staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.
3 Excludes contractors and secondments from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 7.1.5 ASIC employees (FTE), by location, 2020–21[1,2,3]

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	**1**
Deputy Chair	1	–	–	–	–	–	–	–	**1**
Member	2	1	–	–	–	–	–	–	**3**
SES	19	36	–	2	2	–	1	–	**60**
ELS	–	1	–	–	–	–	–	–	**1**
Exec 2	214	324	51	30	12	14	7	–	**652**
Exec 1	140	251	45	34	14	3	6	1	**494**
ASIC 4	150	186	43	24	12	1	1	–	**417**
ASIC 3	116	110	32	16	8	5	3	–	**290**
ASIC 2	124	11	13	1	1	1	1	–	**152**
ASIC 1	16	1	–	–	–	–	–	–	**17**
Total	**783**	**921**	**184**	**107**	**49**	**24**	**19**	**1**	**2,088**

1 Averaged FTE for FY 2020–21 on a business-as-usual FTE basis (i.e. including FTE working on capital projects).
2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondments from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 7.1.6 Combined totals by gender and employment type, 2021–22[1,2,3]

	Permanent				Temporary					
	Full-time		Part-time		Full-time			Part-time		
Roles	Female	Male	Female	Male	Female	Male	Unspecified	Female	Male	Total
Chair	–	–	–	–	–	1	–	–	–	**1**
Deputy Chair	–	–	–	–	2	–	–	–	–	**2**
Member	–	–	–	–	2	1	–	–	–	**3**
SES	28	20	1	1	3	5	–	–	–	**58**
ELS	7	5	–	–	–	–	–	–	–	**12**
Exec 2	231	336	76	12	22	32	–	4	1	**714**
Exec 1	167	207	61	6	16	24	1	2	–	**484**
ASIC 4	188	149	30	4	21	15	–	3	–	**410**
ASIC 3	89	62	12	2	16	7	–	2	1	**191**
ASIC 2	31	13	4	1	9	3	–	1	1	**63**
ASIC 1	3	2	2	–	1	1	–	–	–	**9**
Total	**744**	**794**	**186**	**26**	**92**	**89**	**1**	**12**	**3**	**1,947**

1 Averaged FTE for FY 2021–22 on a business-as-usual FTE basis (i.e. including FTE working on capital projects).
2 No staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondments from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 7.1.7 Combined totals by gender and employment type, 2020–21[1,2,3]

	Permanent				Temporary				
	Full-time		Part-time		Full-time		Part-time		
Roles	Female	Male	Female	Male	Female	Male	Female	Male	Total
Chair	–	–	–	–	–	1	–	–	**1**
Deputy Chair	–	–	–	–	1	–	–	–	**1**
Member	–	–	–	–	2	1	–	–	**3**
SES	27	19	–	1	7	6	–	–	**60**
ELS	1	–	–	–	–	–	–	–	**1**
Exec 2	204	308	78	13	24	22	1	2	**652**
Exec 1	183	205	55	3	17	25	6	–	**494**
ASIC 4	199	144	28	2	18	25	1	–	**417**
ASIC 3	130	102	14	1	23	16	4	–	**290**
ASIC 2	62	27	26	4	19	7	5	2	**152**
ASIC 1	5	1	4	1	2	2	1	1	**17**
Total	**811**	**806**	**205**	**25**	**113**	**105**	**18**	**5**	**2,088**

1 Averaged FTE for FY 2020–21 on a business-as-usual FTE basis (i.e. including FTE working on capital projects).
2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondments from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 7.1.8 shows ASIC employees by stakeholder team. Most of our staff are employed under the ASIC Enterprise Agreement 2019–22, which is ongoing. Table 7.1.9 shows the industrial arrangements for all ASIC employees.

We continued to provide our people with the opportunity to receive an annual performance bonus. Table 7.1.10 shows the performance payments we made in 2020–21.

Table 7.1.8 ASIC employees (FTE) by stakeholder team, 2021–22

Stakeholder teams	Total Net FTE
Markets	
Corporations	31
Financial Reporting and Auditing	27
Insolvency Practitioners	25
Market Infrastructure	33
Market Supervision	83
Markets Operations	11
Governance	14
Financial Services and Wealth	
Financial Advisers	51
Investment Managers	38
Superannuation	39
Credit, Retail Banking and Payments	63
Insurers	37
Licensing	33
Institutional Supervision	27
Consumer Insights and Communications	**36**
Misconduct and Breach Reporting[1]	**97**
Small Business Engagement and Compliance[1]	**35**
Office of Enforcement[2]	
Financial Services Enforcement	
Financial Services Enforcement	215
Markets Enforcement	
Corporations and Corporate Governance	60
Enforcement WA and Criminal Intelligence Unit	70
Market Enforcement	62
Total net FTE[3]	**1,087**

1 The Misconduct and Breach Reporting team and the Small Business Engagement and Compliance team are reported as two separate lines in FY 2021–22. These two teams were presented under the Assessment and Intelligence Group in the FY 2020–21 annual report. The Assessment and Intelligence Group is no longer in use due to organisational structure change.

2 Plus an additional 131 FTEs providing Enforcement support services and legal counsel.

3 No FTEs were recorded in the Registry team in FY 2021–22, unlike in previous years, due to Registry staff transfers to the ATO following completion of the MoG in April 2021.

Table 7.1.9 Industrial arrangements for ASIC employees as at 30 June 2022[1]

Classification	ASIC Act s120(3)	EA[2]	Total
ASIC 1	–	9	**9**
ASIC 2	–	75	**75**
ASIC 3	–	222	**222**
ASIC 4	–	430	**430**
Exec 1	–	511	**511**
Exec 2	–	758	**758**
ELS	16	–	**16**
SES	56	–	**56**
Total	**72**	**2,005**	**2,077**

1 The number of industrial arrangements for ASIC team members is calculated based on the total headcount as at 30 June, rather than FTEs. This is because each industrial instrument belongs to an individual, regardless of their work pattern. Headcount is the number of people employed by ASIC, including full-time, part-time and temporary team members. FTE, or full-time equivalent, is the adjusted size of the workforce, reducing the number of team members to account for part-time and casual team members.

2 Enterprise agreement.

Table 7.1.10 Performance payments by classification, 2020–21

Classification	No. of recipients	Aggregate	Minimum	Maximum	Average
ASIC 4	327	$1,181,496	$647	$13,991	$3,613
Exec 1	504	$2,866,164	$845	$19,684	$5,687
Exec 2	765	$7,038,871	$1,285	$33,012	$9,201
SES	54	$869,121	$3,580	$35,398	$16,095

This table includes payments for the 2020–21 performance year which were paid in 2021–22, plus any pro-rata payments for the 2021–22 performance year for staff who left ASIC in 2021–22.

Executive remuneration

ASIC's executive remuneration is determined by:

- the *Remuneration Tribunal Act 1973*
- the ASIC Act
- the ASIC Enterprise Agreement 2019–2022
- remuneration policies and procedures.

Commission remuneration is set according to the *Remuneration Tribunal Act 1973* and the Remuneration Tribunal Determinations.

Executive Director and Senior Executive Leader remuneration is determined under section 120 of the ASIC Act. Remuneration and conditions are consistent across the cohort and jobs are evaluated under Mercer IPE methodology. Remuneration for Executive Directors and Senior Executive Leaders is based on a fixed total remuneration package that comprises base salary and superannuation.

In 2021–22, ASIC removed bonuses from Executive Director and Senior Executive Leader remuneration, in line with the APSC Performance Bonus Guidance.

Table 7.1.11 Information about remuneration for key management personnel, 2021–22[1,2]

Name	Position title	Base salary $	Bonuses[5] $	Other benefits and allowances $	Superannuation contributions $	Long service leave	Other long-term benefits	Termination benefits $	Total remuneration $
Joseph Longo	Chair	781,446	–	–	23,568	18,748	–	–	823,762
Sarah Court	Deputy Chair	549,786	–	–	80,680	13,801	–	–	644,267
Karen Chester	Deputy Chair	596,155	–	–	79,083	13,801	–	–	689,039
Catherine Armour	Commissioner[3]	500,827	–	–	23,568	12,480	–	–	536,875
Danielle Press	Commissioner	555,239	–	–	23,568	13,224	–	–	592,031
Sean Hughes	Commissioner	521,209	–	–	72,936	12,322	–	–	606,467
Warren Day	Chief Operating Officer	416,623	–	11,904	60,258	10,691	–	–	499,476
Christopher Savundra	General Counsel	390,596	–	–	27,500	9,693	–	–	427,789
Greg Kirk	Executive Director Strategy	354,356	–	–	61,922	8,736	–	–	425,014
Greg Yanco	Executive Director Markets	386,343	–	–	27,500	9,639	–	–	423,482
Joanna Bird	Executive Director Wealth Management	320,837	–	–	63,149	8,368	–	–	392,354
Sharon Concisom	Executive Director Markets Enforcement	349,405	–	–	63,878	8,668	–	–	421,951

Name	Position title	Base salary $	Bonuses[5] $	Other benefits and allowances $	Superannuation contributions $	Long service leave	Other long-term benefits	Termination benefits $	Total remuneration $
Timothy Mullaly	Executive Director Financial Services Enforcement	343,042	–	–	63,647	8,668	–	–	415,357
Zak Hammer	Executive Director Operations[4]	181,747	–	–	11,846	4,085	–	–	197,678
Louise Macaulay	Chief of Staff	315,118	–	13,725	54,020	7,848	–	–	390,711

1 This table is prepared on an accrual basis. This includes accrued long service leave which can only be realised when the vesting requirements have been met.
2 The remuneration for these positions is set by the Remuneration Tribunal. This is outlined in Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021.
3 Part-year remuneration disclosure – ceased as a KMP on 2 June 2022.
4 Part-year remuneration disclosure – commenced as a KMP on 4 January 2022.
5 In accordance with the APS Performance Bonus Guidance, bonuses were not awarded to KMP for the 2021–22 performance year.

Note: In August 2022, ASIC found that due to an administrative error, 53 travel allowance payments totalling $3,690.93 were paid incorrectly to Statutory Office Holders across three financial years. These will be rectified in the 2022–23 financial year.

Table 7.1.12 Information about remuneration for senior executives, 2021–22[1]

		Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
Remuneration band ($)	Number of senior executives	Average base salary ($)	Average bonuses[2] ($)	Average other benefits and allowances ($)	Average superannuation contributions ($)	Average long service leave ($)	Average other long-term benefits ($)	Average termination benefits ($)	Average total remuneration ($)
0–220,000	13	92,970	–	2,106	13,642	(1,628)		–	107,090
220,001–245,000	1	186,054	–	1,041	32,450	4,918		–	224,463
245,001–270,000	5	192,871	–	2,297	19,832	4,770		37,838	257,608
270,001–295,000	5	240,851	–	2,682	32,182	6,109		–	281,824
295,001–320,000	14	260,134	848	1,443	37,832	6,435		–	306,692
320,001–345,000	10	277,459	–	3,866	39,919	6,838		–	328,082
345,001–370,000	5	301,159	–	2,615	41,833	7,506		–	353,113
370,001–395,000	1	321,507	–	–	53,517	7,813		–	382,837
420,001–445,000	1	385,704	–	–	27,500	9,449		–	422,653
445,001–470,000	1	110,746	–	–	17,354	2,721		315,074	445,895
495,001–520,000	1	315,082	–	–	24,433	8,395		158,042	505,952
520,001–545,000	2	287,476	–	692	38,746	7,135		207,559	541,608

1 This table is prepared on an accrual basis. This includes accrued long service leave which can only be realised when the vesting requirements have been met.
2 In accordance with the APS Performance Bonus Guidance, bonuses were not awarded to Senior Executives on individual contracts. Acting Senior Executives employed under the ASIC Enterprise Agreement 2019–2022 (EA) continued to receive a bonus due to their entitlement under the EA.

Other highly paid team members are remunerated either under the ASIC Act with similar conditions to Executive Directors and Senior Executive Leaders, or through higher duties or individual flexibility arrangements under the ASIC Enterprise Agreement 2019–22. Any bonuses paid to highly paid staff during the financial year were limited to those employed under the ASIC Enterprise Agreement or pro-rata bonuses to ASIC Act employees who left ASIC prior to the removal of bonuses.

Table 7.1.13 Information about remuneration for other highly paid staff, 2021–22[1]

		Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
Remuneration band ($)	Number of other highly paid staff	Average base salary ($)	Average bonuses[2] ($)	Average other benefits and allowances ($)	Average superannuation contributions ($)	Average long service leave ($)	Average other long-term benefits ($)	Average termination benefits ($)	Average total remuneration ($)
235,001–245,000	9	196,450	7,745	–	31,033	4,833	–	–	240,061
245,001–270,000	23	197,635	12,665	–	30,827	4,819	–	10,025	255,971
270,001–295,000	11	154,633	6,380	–	24,029	3,827	–	90,568	279,437
295,001–320,000	1	121,868	5,994	–	24,525	3,014	–	137,035	292,436
320,001–345,000	6	149,295	7,066	–	24,039	3,635	–	149,332	333,367
370,001–395,000	1	167,020	6,678	–	25,420	4,161	–	175,382	378,661
420,001–445,000	2	189,470	3,594	–	30,913	4,561	–	196,055	424,593

1 This table is prepared on an accrual basis. This includes accrued long service leave which can only be realised when the vesting requirements have been met.
2 In accordance with the APS Performance Bonus Guidance, bonuses were not awarded to Senior Executives on individual contracts. Acting Senior Executives employed under the ASIC Enterprise Agreement 2019–2022 (EA) continued to receive a bonus due to their entitlement under the EA.

Governance arrangements

Senior Executive remuneration reviews are conducted by the Chair around June–July each year. In 2021-22, the Chair awarded a salary increase of 1.7% to senior executives under the ASIC Act following wage freezes the previous year.

In December 2021, the Chair reviewed all Senior Executive remuneration and contract arrangements in line with the APSC Performance Bonus Guidance recommendation to remove bonuses. A percentage of the average bonus was rolled into base salary to compensate for the loss of a performance bonus.

Remuneration decisions are based on:

- the duties, responsibilities and accountabilities required by the position
- the performance of the relevant executive
- managing internal consistency, recognising the different skills, experience, and capabilities of executives in comparable level roles.

Highly paid team members employed under the ASIC Enterprise Agreement 2019–22 did not receive a salary increase as there were no salary increases remaining under the Enterprise Agreement.

7.2 Appendices relating to assessments

Assessing misconduct and other reports

Misconduct reports from the public

We record and assess reports of alleged misconduct we receive and use this information to identify and respond to misconduct. In 2021–22, we dealt with 8,688 reports of alleged misconduct. Table 7.2.1 shows the outcome of the misconduct reports received by ASIC during the financial year.

Table 7.2.1 Misconduct issues, by category, 2021–22

Category	2021–22
Corporations and corporate governance	
Governance issues	12%
Failure to provide books and records or a report as to affairs to registered liquidator	11%
Fraud allegations	2%
Registered liquidator misconduct	4%
Insolvency matters	3%
Other (e.g. shareholder issues, reporting issues)	10%
Subtotal	**42%**
Financial services and retail investors	
Credit issues	11%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	15%
General licence obligations	7%
Other (e.g. insurance, advice, misleading or deceptive conduct, unconscionable conduct)	9%
Subtotal	**42%**

Category	2021–22
Market integrity – including insider trading, continuous disclosure, misleading statements, or market manipulation	5%
Registry integrity – including incorrect address recorded on ASIC's register, lodging false documents with ASIC and issues with business names	4%
Issues outside of ASIC's jurisdiction	7%
Total	**100%**

Table 7.2.2 Misconduct issues, by outcome, 2021–22 and 2020–21

	2021–22 Number	2020–21 Number
Misconduct reports		
Total misconduct reports finalised[1]	**8,688**	10,711
Outcome		
Referred for action by ASIC[2]	**13%**	15%
Resolved[3]	**11%**	9%
Compliance achieved	1%	<0.5%
Warning letter issued	6%	6%
Referred for internal or external dispute resolution	4%	3%
Assistance provided		<0.5%
Make formal information release under s127 (ASIC Act)	<0.5%	<0.5%

1 Where ASIC receives reports about the same entity and issue, we merge these matters.
2 The matters ASIC takes into account when deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.
3 This can involve referral to an EDR scheme, ASIC issuing a warning letter to the party that may be in breach of the Corporations Act, ASIC providing assistance to the reporter in the form of guidance and information about how best to resolve the matter themselves or ASIC taking action to achieve compliance.

	2021–22 Number	2020–21 Number
Analysed and assessed for no further action[4]	**66%**	65%
Insufficient evidence	43%	48%
No action	23%	17%
No jurisdiction[5]	**9%**	9%
No breach or offences	**1%**	2%
Total	**100%**	**100%**

Reportable situations from licensees and auditors

The Corporations Act requires AFS licensees and, since 1 October 2021, Australian credit licensees to submit notifications to ASIC about reportable situations (previously called breach reports). Reportable situations are significant or likely significant breaches of core obligations and investigations into such matters, or conduct of gross negligence or serious fraud. Licensees can also report situations about other licensees. We also receive reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by the company, managed investment scheme, AFS licensee or Australian credit licensee they are appointed to audit. ASIC uses the reports to undertake both immediate assessment of particular concerns and broader consideration of trends and issues arising from the analysis of the collective information. Since the new regime commenced on 1 October 2021, ASIC has received 14,038 reportable situation form lodgements from licensees and 137 from licensees reporting about another licensee.

During the 2022–23 financial year, ASIC will commence publication of information about reportable situations lodged with us each financial year, with reports to be published on our website within four months after the end of each financial year.

Table 7.2.3 provides a breakdown of the reportable situations and reports where an immediate assessment was completed by ASIC's Misconduct and Breach Reporting team in 2021–22 by type and outcome. Reportable situations are also considered by ASIC's Stakeholder and Enforcement teams.

4 Preliminary inquiries made and information provided analysed and assessed for no further action by ASIC, due to insufficient evidence or other reason, such as another agency or law enforcement body or third party (e.g. a liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.

5 Where relevant, ASIC directs reporters to the appropriate agency or solution.

Table 7.2.3 Reportable situations by type and outcome, 2021–22 and 2020–21

	2021–22	2020–21
Type	**Number**	**Number**
Auditor breach reports	1,393	1,174
AFSL notifications/updates	1,151	2,435
AFSL and ACL licensee notifications	765	
Another licensee notification	53	
Total breach reports finalised	**3,362**	**3,609**
Outcome	**Percentage**	**Percentage**
Referred for action by ASIC	**10%**	**11%**
Referred for compliance, investigation or surveillance	10%	11%
Analysed and assessed for no further action	**90%**	**89%**
No further action	87%	77%
Awaiting update	3%	12%
Total	**100%**	**100%**

For more information on the matters that require an auditor to report a breach of the law to ASIC, see sections 311, 601HG and 990K of the Corporations Act.

Statutory reports from registered liquidators

The Corporations Act requires liquidators, administrators and receivers (i.e. external administrators) to report to ASIC if they suspect that company officers are guilty of an offence. Liquidators must also report if the return to unsecured creditors may be less than 50 cents in the dollar.

We received 4,313 initial reports from external administrators. Of these reports, 3,767 related to suspected offences by company officers. The remainder were lodged because the return to unsecured creditors may be less than 50 cents in the dollar. Of the 3,767 that reported misconduct, we requested supplementary reports from the external administrators in 593 cases.

These supplementary reports typically set out the results of the external administrator's inquiries and the evidence to support the alleged offences. We referred 20% of supplementary reports assessed in 2021–22 for compliance, investigation or surveillance action, compared to 18% in 2020–21.

Table 7.2.4 provides details of the statutory reports we assessed in 2021–22 and 2020–21 by type and outcome.

Table 7.2.4 Statutory reports from registered liquidators, 2021–22 and 2020–21

	2021–22	2020–21
Type	**Number**	**Number**
Initial reports from registered liquidators[1]	**4,313**	**4,566**
Reports alleging misconduct	3,767	3,810
Reports not alleging misconduct	546	756
Supplementary reports finalised	**332**	**517**
Total statutory reports finalised (initial and supplementary)	**4,645**	**5,083**
Outcome	**Percentage**	**Percentage**
Supplementary report analysed and assessed, no further information required[2]	**80%**	**82%**
Supplementary reports referred	**20%**	**18%**
Total	**100%**	**100%**

1 We requested a further report (Supplementary Report) from the external administrator in 16% of cases.

2 There was insufficient evidence to warrant commencing a formal investigation in 80% of the cases where a supplementary report was requested and subsequently it was determined that no further information was required. We retain these reports for intelligence purposes for possible future use.

Whistleblowing

ASIC's Office of the Whistleblower ensures that we record and assess the disclosures we receive from whistleblowers and that we communicate with whistleblowers as we undertake our inquiries. We also engage with stakeholders about implementing Australia's corporate sector whistleblower protection regime. This year, we dealt with 774 disclosures by whistleblowers, a decrease compared to the previous year. Around 71% of these disclosures related to corporations and corporate governance, including internal company disputes. We also dealt with matters relating to credit and financial services and the conduct of licensees (23%), markets (4%) and other issues (2%). ASIC is unable to comment on our assessment of, or investigation into, whistleblower disclosures, considering the strong confidentiality protections for whistleblowers. Following our preliminary inquiries, we assessed approximately 91% of disclosures as requiring no further action by ASIC due to insufficient evidence, no actionable breach being disclosed, or the breach being in the jurisdiction or remit of other regulators. In a number of cases, we referred the matter to another agency, law enforcement body, or third party (such as a liquidator) that was better placed to deal with the issue or was already taking action.

7.3 Appendices relating to statements required by law

Portfolio Budget Statement outcomes

Table 7.3.1 Agency resource statement 2021–22

	Actual available appropriation for 2021–22 $'000	Payments made 2021–22 $'000	Balance remaining 2021–22 $'000
	(a)	(b)	(a)–(b)
Departmental			
Annual appropriations – ordinary annual services[1,4]	612,973	478,722	134,251
Annual appropriations – other services – non-operating[2]	7,891	5,518	2,373
Total departmental annual appropriations	620,864	484,240	136,624
Special accounts[3]	130,628	59,491	71,137
Total special accounts	130,628	59,491	71,137
less departmental appropriations drawn from annual appropriations and credited to special accounts	(64,811)		
Total departmental resourcing	**686,681**	**543,731**	**207,761**
Administered			
Annual appropriations – ordinary annual services[1]	22,174	6,833	15,341
Total administered annual appropriations	22,174	6,833	15,341
Administered special appropriations[3]	152,286	113,606	
Total administered special appropriations	152,286	113,606	
Total administered resourcing	**174,460**	**120,440**	**15,341**
Total resourcing and payments for ASIC	**861,141**	**664,171**	**223,102**

1 Appropriation Act (No. 1) 2021–22, Appropriation Act (No. 3) 2021–22, prior year appropriation and section 74 relevant agency receipts.
2 Appropriation Act (No. 2) 2021–22 and Appropriation Act (No. 4) 2021–22.
3 Excludes trust money held in the SOETM and other special accounts.
4 Includes $25.544m for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

Table 7.3.2 Expenses by outcome

Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.	Budget* 2021–22 $'000	Actual expenses 2021–22 $'000	Variance $'000
	(a)	(b)	(a)–(b)
Program 1.1: Australian Securities and Investments Commission			
Administered expenses			
Ordinary annual services (Appropriation Act 1)	7,691	5,766	1,925
Expenses not requiring appropriation in the Budget year[2]	64,051	62,392	1,659
Administered total	71,742	68,158	3,584
Departmental expenses			
Ordinary annual services (Appropriation Act 1 and Act 3)	395,596	333,198	62,398
s74 External revenue[1]	16,906	67,873	(50,967)
Expenses not requiring appropriation in the Budget year[3]	66,580	64,689	1,891
Departmental total	479,082	465,760	13,322
Total expenses for Program 1.1	**550,824**	**533,918**	**16,906**
Program 1.2: *Banking Act 1959*, *Life Insurance Act 1995*, unclaimed monies and special accounts			
Administered expenses			
Ordinary annual services (Appropriation Act 1)	2,128	1,145	983
Special appropriations	137,679	76,362	61,317
Administered total	139,807	77,507	62,300
Total expenses for Program 1.2	**139,807**	**77,507**	**62,300**

Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.	Budget* 2021–22 $'000	Actual expenses 2021–22 $'000	Variance $'000
	(a)	(b)	(a)–(b)
Outcome 1 totals by appropriation type			
Administered expenses			
Ordinary annual services (Appropriation Act 1)	9,819	6,911	2,908
Expenses not requiring appropriation in the Budget year[2]	64,051	62,392	1,659
Special appropriations	137,679	76,362	61,317
Administered total	211,549	145,665	65,884
Departmental expenses			
Ordinary annual services (Appropriation Act 1 and Act 3)	395,596	333,198	62,398
s74 External revenue[1]	16,906	67,873	(50,967)
Expenses not requiring appropriation in the Budget year[3]	66,580	64,689	1,891
Total Departmental Expenses	479,082	465,760	13,322
Total expenses for Outcome 1	**690,631**	**611,425**	**79,206**
Average staffing level (number)	1,885	1,947	(62)

* Full year budget, including any subsequent adjustments made to the 2021–22 budget at Additional Estimates.
1 Estimated expenses incurred in relation to receipts retained under section 74 of the PGPA Act.
2 Expenses not requiring appropriation in the budget year are made up of doubtful debts.
3 Expenses not requiring appropriation in the budget year are made up of depreciation and amortisation expenses.

Reports required under statute and other reporting requirements

ASIC Act

As required by subsection 136(1)(a), ASIC reports that we did not provide relief under Part 29 of the SIS Act or Part 15 of the *Retirement Savings Account Act 1997*.

As required by subsection 136(1)(c), ASIC reports that during 2021–22 we conducted two joint inspections with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations.

We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de Surveillance du Secteur Financier or share any information with them under relevant provisions of the ASIC Act during 2021–22.

As required by subsection 136(1)(cb), ASIC reports that there were no instances during the period where ASIC failed to consult before making a product intervention order, as required by section 1023F of the Corporations Act or section 301F of the National Credit Act.

Commonwealth fraud control guidelines

ASIC has a fraud control policy and plan in place, which is reviewed every two years and approved by the Operational Risk Committee.

We have appropriate fraud prevention, detection, investigation and reporting mechanisms in place, considering the nature of ASIC's activities.

ASIC conducts fraud risk assessments as part of our enterprise risk management protocols for each business unit. Results are contained in the operations risk registers.

We have taken all reasonable measures to deal appropriately with fraud.

Auditor-General reports

This financial year, there was one report by the Auditor-General on ASIC's operations.

On 14 December 2021, the Auditor-General released a report on the ASIC 2020–21 financial statements audit. During the audit, no new or unresolved findings were identified by the Australian National Audit Office.

Commonwealth Ombudsman reports

ASIC was examined in the report on the Commonwealth Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapters 3 and 4 of the *Telecommunications (Interception and Access) Act 1979*, released in February 2022.

Other reports

In October 2021, the Senate Economics References Committee released its final report on matters relating to the collapse of the Sterling Income Trust, including ASIC's oversight of the Trust. ASIC is now considering the findings and recommendations, in particular the two directed at ASIC.

In March 2022, a report by the PJC inquiring into ASIC's governance framework concluded that ASIC's current framework is adequate and fit for purpose.

In 2021–22, there were no:

- instances of fraud reported to the Minister
- capability reviews of ASIC.

Freedom of Information Act 1982

Members of the public have the right to apply to ASIC for access to documents in our possession under the FOI Act.

Applications must be in writing, state that they are made under the FOI Act, provide such information as is reasonably necessary to identify the documents requested, and provide details of where notices under the FOI Act can be sent to the applicant.

Requests by email should be sent to:

foirequest@asic.gov.au

or you may lodge a mail request to:
Senior Manager
Freedom of Information Team
GPO Box 9827
Brisbane QLD 4001

For further information on how to apply, visit our website at **www.asic.gov.au**.

Categories of documents in ASIC's possession include, for operational matters:

- licence and professional registration applications
- applications from businesses, correspondence, internal working papers, policy proposals and submissions
- administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers.

And, for other matters, categories of documents include:

- law reform, including submissions and proposal papers
- correspondence with members of the public, Government entities, parliamentary committees, business entities and other bodies
- administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and employee management, delegation and authorisation
- reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory documents, media releases, information releases, pamphlets and annual reports
- other documents held as public information.

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, legislative instruments and other regulatory publications on our website.

ASIC Digest, which includes ASIC regulatory documents and additional information, is published by Thomson Reuters under the terms of an agreement with ASIC.

ASIC Digest is available by subscription from Thomson Reuters, telephone 1300 304 197.

Information from ASIC's registers and databases that is available to the public for the payment of a fee cannot be obtained under the FOI Act.

Agencies subject to the FOI Act must publish information for the public as part of the Information Publication Scheme. This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

ASIC's Information Publication Scheme Plan, showing what information is published in accordance with the scheme requirements, can be found at

https://asic.gov.au/about-asic/freedom-of-information-foi/information-publication-scheme/.

ASIC's use of compulsory information-gathering powers

Since 2010–11, ASIC has reported the use of significant compulsory information-gathering powers under statute.

This appendix discloses data by number of instances in 2021–22, with comparative data for 2020–21.

Table 7.3.3 Use of significant compulsory information-gathering powers

		Number of notices 2021–22	Number of notices 2020–21
Appear for examination			
s19 ASIC Act[1]	Requirement to appear for examination	**895**	975
s58 ASIC Act	Power to summons a witness and take evidence	**0**	0
s253 National Credit Act[1]	Requirement to provide reasonable assistance	**73**	74
Give reasonable assistance			
s1317R Corporations Act	Power to require assistance in prosecutions	**19**	3
s49(3) ASIC Act	Power to require reasonable assistance in proceedings and prosecutions	**45**	39
s51 National Credit Act	Requirement to provide reasonable assistance	**0**	0

		Number of notices 2021–22	Number of notices 2020–21
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	**0**	1
s274(4) National Credit Act	Requirement to provide reasonable assistance	**0**	0
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	**71**	170
Produce documents			
s266 National Credit Act	Requirement to produce books (credit activities)	**70**	75
s267 National Credit Act	Requirement to produce books	**79**	135
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	**761**	862
s31 ASIC Act	Notice to produce books about financial products	**34**	10
s32A ASIC Act	Notice to produce books about financial services	**0**	3
s33 ASIC Act	Notice to produce books in person's possession	**1,930**	1,969
s1213P Corporations Act	Power to provide a register of members of a foreign passport fund	**0**	0
Provide access			
s29 ASIC Act	Power to inspect books	**0**	0
s821D Corporations Act	Power to require access to a CS facility	**0**	0

		Number of notices 2021–22	Number of notices 2020–21
Provide information			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	**0**	0
s37(9)(a) ASIC Act	Power requiring explanation of books	**0**	0
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	**0**	0
s49(1) National Credit Act	Requirement to provide information (statement)	**46**	46
s912C Corporations Act	Power to require information from an AFS licensee	**431**	667
Item 17 Sch 2 National Credit Act	Power to require information (obtain statement or audit report)	**0**	0
s672A Corporations Act	Power to require disclosure of relevant interests	**3**	15
s672B Corporations Act	Power to require disclosure of relevant interests	**0**	0
s37(4) National Credit Act	Power to request information or audit report from licence applicant	**0**	0
s792D Corporations Act	Power to require reasonable assistance from a market licensee	**11**	41
s1226C Corporations Act	Power to request information about a compliance plan of a retail corporate collective investment vehicle (CCIV)	**0**	0
Provide information and produce books			
s30A ASIC Act	Notice to auditors requiring information or books	**65**	58
s30B ASIC Act	Notice to registered liquidators requiring information or books	**5**	9

		Number of notices 2021–22	Number of notices 2020–21
Search warrants			
s3E *Crimes Act 1914*	Warrants to search premises/conveyance or person	**0**	0
s36 ASIC Act	Warrant to search premises/conveyance or person	**79**	70[2]

1 These notices may include directions to provide reasonable assistance or produce documents
2 Last year, we reported that 30 s36 ASIC Act search warrants were executed. This number has been corrected to include an additional 40 search warrants that were omitted due to delays in record keeping.

Table 7.3.4 Use of other powers

Use of other powers		Number of notices 2021–22	Number of notices 2020–21
Obligations of carriers and carriage service providers			
s313 *Telecommunications Act 1997*	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	**0**	0
Provide documents, information or evidence			
s10(2) *Mutual Assistance in Business Regulation Act 1992*	Requirement to produce documents, to give information or to appear to give evidence and produce documents	**24**	62

Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Government and administered by ASIC to address illegal phoenix activity or other serious misconduct. The scheme may fund the following types of activities:

- further investigations and reports by liquidators into the failure of companies with few or no assets, where it appears that a director may be banned, or other enforcement action may result from the investigations and reports
- liquidator recovery actions to undertake legal action to recover assets when misconduct has occurred which resulted in the dissipation of company assets
- the appointment of reviewing liquidators to companies under external administration where ASIC suspects misconduct of either the director, the adviser or the registered liquidator
- the appointment of liquidators to abandoned companies pursuant to Part 5.4C of the Corporations Act.

On 1 July 2021, ASIC was allocated $7.116 million, which, together with an amount of $8.284 million rolled over from the previous financial year, resulted in total available funds of $15.400 million. ASIC paid and committed the amount of $9.028 million to liquidators in 2021–22. Applications in progress and grants approved have substantially committed the balance of the funding allocation.

The 2021–22 year saw an approximate 21% increase in liquidations and a decrease of 39% in AA Fund applications, as compared to the 2020–21 financial year. The 475 applications for funding comprised:

- 377 director banning reports (38% decrease)
- 54 matters other than section 206F director banning reports (49.5% decrease)
- 44 funding liquidator actions to recover assets (29% decrease).

ASIC approved grant funding for:

- 144 director banning reports
- 48 matters other than director banning reports
- 18 asset recovery actions.

An additional 14 variations for increased funding were approved.

ASIC also funded the appointment by ASIC of one reviewing liquidator and liquidators to seven abandoned companies.

The AA Fund assisted in:

- 51 director bannings, representing 88% of the total of 58 directors banned – the average banning period for funded matters was 46 months
- 1 criminal conviction/prosecution.

There have also been in-principle approvals across several matters for liquidators to undertake public examinations of an estimated 60 parties.

Information on grants by ASIC under the AA Fund can be found at **Assetless Administration Fund | ASIC – Australian Securities and Investments Commission**.

Managing property vested in ASIC or the Commonwealth

ASIC administers the property of deregistered companies. This property remains vested in ASIC or, in the case of trust property, the Commonwealth until it is lawfully dealt with or evidence is provided that the property no longer vests in ASIC or the Commonwealth for some other reason.

ASIC accounts for any proceeds on realisation of property vested in it by transferring such proceeds, less the expenses incurred in dealing with the property, into the Official Public Account in accordance with our statutory duties. The proceeds are treated like any other unclaimed money for which ASIC is responsible.

In 2021–22, the number of new cases received decreased to 1,648 and the number of cases finalised increased to 1,701.

Table 7.3.5 shows vested properties of deregistered companies by number of cases.

Assets of deregistered companies vesting in ASIC or the Commonwealth

Section 601AD of the Corporations Act provides that when a company is deregistered, all of its property vests in ASIC or, in the case of trust property, the Commonwealth.

We generally only deal with vested property once an application is made by a third party for us to exercise powers under section 601AE or section 601AF of the Corporations Act. We do not consider it practical to value any identified vested property and, consequently, such property is not recorded or disclosed in these financial statements.

Table 7.3.5 Vested properties of deregistered companies (by number of cases)

Claims by type	2021–22	2020–21
Total new cases	**1,648**	1,737
Total finalised cases	**1,701**	1,683
Property disposals		
Transferred	**53**	46
Sold	**5**	13
No longer vested[1]	**768**	769
Other[2]	**61**	43
Total property disposals	**887**	**871**

1 Property is removed from ASIC's records when the company is reinstated, a third party lawfully deals with the asset, or evidence is provided that the property no longer vests in ASIC.
2 Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

Ecologically sustainable development

ASIC continues to focus on our environmental performance in accordance with Government policy. In 2021–22, we continued to mitigate our impact on the environment through the initiatives discussed below, which were consistent with the *Environmental Protection and Biodiversity Conservation Act 1999* principles of ecologically sustainable development. The progress and results of these initiatives are reported and reviewed by our Executive on a twice-yearly basis.

Energy efficiency

We are managing our offices and using data to minimise our electricity consumption, with the closure of spaces in our offices to reflect staffing numbers in the hybrid working model. This space efficiency is complemented by ongoing energy minimisation initiatives, including programmable motion sensor-controlled lighting, LED lighting and default power saving modes for equipment. These approaches ensure reduction of associated environmental impacts and we continue to review and report on our energy consumption results against the Energy Efficiency in Government Operations Policy targets.

Table 7.3.6 Consumption of office energy

Indicator	2021–22	2020–21
Light and power – ASIC tenancies (kWh)	**1,355,863**	2,124,313
MJ per person	**5,942**	2,864
Light and power – ASIC computer centres (kWh)	**518,565**	620,355
MJ per m^2	**5,942**	5,120
Greenhouse gas emissions (tonnes CO_2-e) – attributed to all light and power	**1,646**	2,138

Resource efficiency and waste

We have continued our strategy of using Australian-made copy paper and using consumables supplied from state-based warehouses to minimise the environmental impacts of freight shipping. We continue to engage with our landlords on extending waste streams to minimise the amount of waste going to landfill. We have implemented a rechargeable battery trial across multiple sites to limit the environmental impact of toxic chemicals from disposed batteries entering our waterways.

A desk booking system has been implemented which identifies which desks have been used so we can target our end-of-day cleaning, helping to reduce the use of chemicals and the associated environmental impact. We have continued with our zero IT waste policy.

Table 7.3.7 Resource efficiency and waste

Indicator	2021–22	2020–21
Office paper purchased by FTE (A4 reams/FTE)	**0.1***	1.1
Percentage of office paper purchased with recycled content	**100%**	100%
Toner cartridges recycled (kgs)	**27.78**	140.92
IT equipment recycled or re-used (tonnes)	**11.45**	13.88

* Government target 4.5.

Travel

This year, there has been a periodic requirement for staff to work from home due to COVID-19 restrictions. This has led to a significant reduction in business travel and a reduction in the associated carbon emissions compared to the pre-COVID period. We have continued to utilise alternative communication tools, such as Microsoft Teams, to facilitate internal and external meetings, reducing the need for travel.

Table 7.3.8 Type and amount of travel undertaken by ASIC employees

Indicator	2021–22	2020–21
Air travel		
Total distance of air flights (kms)	**1,374,195**	575,445
Total greenhouse emissions of flights (tonnes CO_2-e)	**145**	153

Information and engagement

We have continued our engagement with key stakeholders in relation to sustainability initiatives and are always seeking to trial and implement new initiatives. We continue to participate in activities such as Earth Hour and encourage our staff to be mindful of their environmental impact. We encourage staff to utilise the different waste streams available in each of our offices. We make available our environmental reporting to staff on our intranet page and have moved to increasing environmental reporting to a quarterly basis.

Consultancies and expenditure on advertising

During 2021–22, ASIC conducted the advertising campaigns set out in Table 7.3.9.

Further information on ASIC's advertising campaigns is available on our website at **www.asic.gov.au**. Information on advertising campaign expenditure greater than $250,000 is available in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available at **www.finance.gov.au**.

Table 7.3.9 Expenditure on advertising agency services, 2021–22[1]

Agency	Expenditure ($)	Purpose
Mediabrands Australia Pty Ltd	41,109.75	Seek advert packs FY 21–22
Mediabrands Australia Pty Ltd	18,172.84	Advertising for CFO role
Mediabrands Australia Pty Ltd	75,885.91	LinkedIn FY 21–22
Mediabrands Australia Pty Ltd	180,000.00	Moneysmart advertising
Mediabrands Australia Pty Ltd	198,000.00	Moneysmart advertising
Mediabrands Australia Pty Ltd	137,500.00	Moneysmart advertising
Mediabrands Australia Pty Ltd	45,220.73	Seek advert pack FY 22–23
Total	**695,889.23**	

1 Data contained in this table reflects the reported contract commitment value, and not the amount spent in the reporting period.

Procurement

ASIC's use of Commonwealth resources and expenditure of public money is primarily governed by the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule).

Responsibility for compliance with the Commonwealth Procurement Rules (CPRs) lies with the appropriate financial delegates.

The delegates are supported by a central procurement team of qualified procurement advisers who:

- develop and maintain our procurement processes, guidance and systems to promote compliance with the PGPA Act, the PGPA Rule and the CPRs for all levels of procurement
- manage, in partnership with the business, complex and high-risk procurement activities, including procurements that are subject to the mandatory procurement procedures of the CPRs

- advise on all procurement activities.

Our procurement framework aims to facilitate compliance with the core principles and policies of the CPRs to achieve 'value for money' by 'encouraging competition', 'efficient, effective, ethical and economical use of resources', 'accountability and transparency', and 'appropriate engagement with risk' through a process that is 'commensurate with the scale and scope of the business requirement'.

We undertake regular audits of procurement and any instances of non-compliance are reported through the compliance report and addressed, as required, through process improvement initiatives.

All major contracts entered into in 2020–21 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

Using AusTender

This annual report contains information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available through the AusTender website, **www.tenders.gov.au**.

During 2021–22, ASIC awarded 615 procurement activities (each valued at $10,000 or more reported on AusTender) for a total value of $127.576 million. Of these procurements, 231 were valued in excess of $80,000 for a total value of $113.437 million.

Contracts of $100,000 or more were reported on AusTender, in accordance with the Senate order on departmental and agency contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2021 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

Table 7.3.10 Expenditure on non-consultancy contracts

Business data	2021–22
Number of new non-consultancy contracts	**577**
Expenditure on new non-consultancy contracts ($ millions)	**48,472**
Number of ongoing non-consultancy contracts	**974**
Expenditure on ongoing non-consultancy contracts ($ millions)	**88.910**

Note: The above figures are GST inclusive. Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.

Table 7.3.11 Additional information – Reportable non-consultancy contracts

Organisations receiving a share of reportable non-consultancy contract expenditure 2021–22	Expenditure ($)
Australian Government Solicitor	**8,243,931.34**
Holding Redlich	**5,515,512.56**
Ventia Property Pty Ltd	**5,448,544.01**
Nuix Pty Ltd	**4,676,858.71**
Deloitte Touche Tohmatsu	**4,584,137.61**

Note: The above figures are GST inclusive and include the names of the organisations that received the five largest shares of ASIC's total expenditure on such contracts during the 2021–22 financial year, and the total amounts they received.

Consultancy contracts

During 2021–22, ASIC entered into 38 new consultancy contracts, involving total expenditure of around $8.970 million. In addition, 42 ongoing consultancy contracts were active during the year, involving total expenditure of $3.888 million.

Table 7.3.12 Consultancy trend data

Business data	2021–22	2020–21
Number of new consultancies	**38**	39
Expenditure on new consultancies ($ millions)	**8.970**	4.539
Number of ongoing consultancies	**42**	35
Expenditure on ongoing consultancies ($ millions)	**3.888**	5.073

Note: The above figures are GST inclusive and include all consultancies valued over $10,000, as indicated on AusTender. The figures differ from the consultancy expenditures shown in the financial statements, which are the value of all consulting costs exclusive of GST. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website, www.tenders.gov.au.

Table 7.3.13 Additional information – Reportable consultancy contracts

Organisations receiving a share of reportable consultancy contract expenditure 2021–22	Expenditure ($)
ARQ Group Enterprise Pty Ltd	**3,511,212.65**
Cybercx Pty Ltd	**2,104,594.60**
State of Matter Consulting Pty Ltd	**1,142,985.36**
Avanade Australia Pty Ltd	**772,869.63**
Decision Inc Australia Pty Ltd	**750,942.50**

Note: The above figures are GST inclusive and include the names of the organisations that received the five largest shares of ASIC's total expenditure on such contracts during the 2021–22 financial year, and the total amounts they received.

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally and business units seeking to engage consultants must prepare a business case seeking funding. Requests to engage consultants must be linked to outcomes in business plans and must contribute to ASIC's objectives. Once the engagement of a consultant is approved, the procurement method used will be in accordance with the CPRs and ASIC's procurement policies.

Of the 38 consultants that ASIC engaged during 2021–22:

› 35 were for specialised or professional skills
› 1 was for skills currently unavailable within the agency
› 2 were for independent research or assessment.

The method of procurement used was open tender for 32 engagements (including engagements from panels) and limited tender for 6 engagements.

The consultants were engaged for the following main service categories:

› information technology consultation services
› management advisory services
› strategic planning consultation services
› internal audits
› human resources services
› organisational structure consultation
› management advisory services
› strategic planning consultation services.

Procurement initiatives to support small business

ASIC supports small business participation in the Australian Government procurement market. Small to medium-sized enterprise (SME) and small enterprise participation statistics are available on the Department of Finance website, **www.finance.gov.au**.

ASIC recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury website, **www.treasury.gov.au**.

ASIC's procurement practices support small businesses by:

- use of the Commonwealth Contracting Suite for low-risk procurements valued under $200,000, where applicable
- encouraging use of the SME exemption under the Commonwealth Procurement Rules
- using the Digital Transformation Agency's digital marketplace, which is accessible to SMEs and clearly identifies their SME status.

Australian Financial Complaints Authority

ASIC has oversight of AFCA. AFCA is a single external dispute resolution (EDR) scheme for financial services that aims to resolve complaints that a financial firm could not resolve by internal dispute resolution (IDR).

Financial firms must have a dispute resolution system that consists of IDR procedures that meet the standards or requirements made or approved by ASIC, and membership of AFCA.

AFCA deals with financial services, credit and superannuation complaints made by consumers, small businesses and primary producers that a firm has not resolved at IDR.

In 2021–22, AFCA received 72,358 complaints and secured $207.73 million in compensation for consumers and small businesses, an increase of 3% on the previous year. Flood and storm disasters also impacted on the numbers of general insurance complaints lodged with AFCA, almost double on the previous year.

As an authorised EDR scheme, AFCA is governed by an independent board responsible for ensuring the scheme's ongoing compliance with the authorisation requirements, ministerial conditions, and ASIC regulatory requirements.

Under the legislative requirements, AFCA reported 67 systemic issues and 23 serious contraventions to ASIC in 2021–22. AFCA's systemic issues work resulted in the remediation of over 163,000 consumers and more than $18 million in refunds.

In November 2021, the Government published the Final Report of the inaugural Independent Review of AFCA which commenced on 1 November 2018. The overall finding of the Review was that AFCA is performing well in a difficult operating environment and a changing regulatory landscape.

The Review made 14 recommendations, most of which focus on enhancements to improve AFCA's operating effectiveness. AFCA has commenced a program of work to implement the Review recommendations and consulted on and introduced a new funding model which took effect from 1 July 2022. ASIC will continue to work closely with AFCA on its implementation of the Independent Review recommendations, noting interactions with ASIC's work on IDR data reporting, remediation, and breach reporting reforms.

Other areas of shared priority and focus in 2021–22 included:

- responding to flood and disaster events affecting consumers and small businesses across south-east Queensland and New South Wales
- updating AFCA's processes to support the effective introduction of updated IDR requirements in Regulatory Guide 271, which commenced on 5 October 2021
- responding to Treasury consultation ahead of the introduction of legislation to the previous Parliament in October 2021 to establish a Compensation Scheme of Last Resort
- ASIC enforcement action responding to licensees who fail to cooperate with AFCA processes or comply with AFCA determinations.

7.4 Five-year summary of key stakeholder data

Table 7.4.1 Five-year summary of key business and stakeholder data, 2017–22

Business data	2021–22	2020–21	2019–20	2018–19	2017–18
Registry services					
Companies (total)	3.1m	2.9m	2.8m	2.7m	2.6m
New companies registered	292,166	279,853	222,048	223,661	244,510
Business names (total)	2.5m	2.4m	2.3m	2.3m	2.2m
New business names registered	421,607	460,409	387,827	375,052	366,181
% company data lodged on time	95.0%	94%	93%	95%	95%
Total searches of ASIC databases	265.8m	219.2m	243.7m	142.6m	122.5m
Regulated entities					
AFS licensees	6,288	6,179	6,127	6,159	6,170
Credit licensees	4,720	4,777	4,930	5,188	5,503
Authorised market infrastructure providers	72	67	64	64	65
Registered SMSF auditors	5,173	5,540	5,699	5,919	6,039
Registered company auditors	3,441	3,553	3,781	3,962	4,226
Registered liquidators	646	649	633	651	663
Registered managed investment schemes	3,656	3,612	3,650	3,712	3,726

Business data	2021–22	2020–21	2019–20	2018–19	2017–18
Fundraising and takeovers					
Fundraising documents lodged	908	884	711	794	898
Fundraising where ASIC required additional disclosure	$4.6bn	$3.8bn	$2.3bn	$3.2bn	$3.5bn
Control transactions – schemes and bids	77	85	55	73	60
Control transactions – schemes and bids implied target size	$120.96bn	$40.5bn	$23.5bn	$34.3bn	$32bn
Enforcement outcomes					
Criminal and civil litigation completed[1]	98	75	72	108	127
% successful criminal and civil litigations[2]	95%	97%	93%	94%	99%
Criminals imprisoned[3]	6	7	7	10	6
Recoveries, costs, compensation or fines[4]	$3.1m	$10.2m	$1.5m	$77.7m	$437.8m
Reports of misconduct					
Reports of crime or misconduct finalised	8,688	10,711	12,355	10,249	9,567
Other key statistics					
Fees and charges collected for the Commonwealth	1,676m	$1,513m	$1,358m	$1,273m	$1,227m
Staff (average FTEs)[5]	1,947	2,008	1,940	1,701	1,656

1 This excludes summary prosecutions for strict liability offences.
2 This excludes summary prosecutions for strict liability offences.
3 This excludes custodial sentences served by way of an Intensive Correction Order or where the defendant is released on recognisance to be of good behaviour.
4 Compensation or remediation programs monitored by ASIC are not included in this statistic. The amount includes compensation or remediation agreed in court enforceable undertakings accepted by ASIC, fines and costs ordered by the Courts and infringement notices paid. The decrease compared to previous years is attributed to fewer court enforceable undertaking being accepted by ASIC, where there is a component of compensation or remediation.
5 Data rounded. This data excludes contractors and secondees from other agencies.

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Glossary

Glossary

Term	Definition
AA Fund	Assetless Administration Fund
ABR	Australian Business Register
ABRS	Australian Business Registry Services
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACCP	ASIC Consumer Consultative Panel
ACER	Australian Council of Educational Research
AFCA	Australian Financial Complaints Authority
AFP	Australian Federal Police
AFS licence	Australian financial services licence
ALRC	Australian Law Reform Commission
AMP	AMP Limited
ANZ	Australia and New Zealand Banking Group Limited
APRA	Australian Prudential Regulation Authority
APRC	Asia-Pacific Regional Committee
APS	Australian Public Service
ASIC Act	*Australian Securities and Investments Commission Act 2001*
ASX	ASX Limited or the exchange market operated by ASX Limited
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
Better Advice Act	*Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021*
BoQ	Bank of Queensland
BRII	Business Research and Innovation Initiative
CADB	Companies Auditors Disciplinary Board
CBA	Commonwealth Bank of Australia
CCIV	Corporate collective investment vehicle
CDPP	Commonwealth Director of Public Prosecutions
CFR	Council of Financial Regulators
CHESS	ASX Clearing House Electronic Subregister System
COO	Chief Operating Officer

Term	Definition
Corporate Plan	*Corporate Plan 2021–25 – Focus 2021–22*
Corporations Act	*Corporations Act 2001*
CP	Consultation Paper
CPRs	Commonwealth Procurement Rules
CRIS	Cost Recovery Implementation Statement
CSFS	Cash Settlement Fact Sheet
DeFi	Decentralised finance
DFAP	Digital Finance Advisory Panel
DIRRI	Declaration of Independence, Relevant Relationships and Indemnities
EDR	External dispute resolution
ERS	Enhanced regulatory sandbox
ESA	Enforcement Special Account
ETP	Exchange traded product
FAR	Financial Accountability Regime
Financial Services Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
FOI Act	*Freedom of Information Act 1982*
FRAA	Financial Regulator Assessment Authority
FSCP	Financial Services and Credit Panel
FTE	Full-time equivalent
GFIN	Global Financial Innovation Network
GST	Goods and services tax
IDPS	Investor-directed portfolio service
IDR	Internal dispute resolution
INFO	Information Sheet
IOP	Indigenous Outreach Program
IOSCO	International Organization of Securities Commissions
KMP	Key management personnel
kWh	Kilowatt-hour, a measure of energy
LED	Light-emitting diode. A semiconductor device that converts electricity into light.
LGBTIQ+	Lesbian, gay, bisexual, transgender, intersex and queer
MBR	Modernising Business Registers

Term	Definition
MDA	Managed discretionary account
MDP	Markets Disciplinary Panel
MJ	Megajoule, a unit of energy measurement
MoG	Machinery of government
MOU	Memorandum of understanding
NAB	National Australia Bank
NAIDOC	National Aborigines and Islanders Day Observance Committee
National Credit Act	*National Consumer Credit Protection Act 2009*
NICS	National Indigenous Consumer Strategy
OAIC	Office of the Australian Information Commissioner
OFR	Operating and financial review
OTC	Over-the-counter
PACE	Positive Action towards Career Engagement
PGPA Act	*Public Governance, Performance and Accountability Act 2013*
PGPA Rule	Public Governance, Performance and Accountability Rule 2014
PJC	Parliamentary Joint Committee
RAP	Reconciliation Action Plan
REP	Report
REU	Regulatory Efficiency Unit
RG	Regulatory Guide
ROA	Record of Advice
SES	Senior Executive Service
SFCT	Serious Financial Crime Taskforce
SIS Act	*Superannuation Industry (Supervision) Act 1993*
SME	Small to medium-sized enterprise
SMSF	Self-managed superannuation fund
Suncorp	Suncorp Group Limited
TCFD	Taskforce on Climate-Related Financial Disclosures
TMD	Target market determination
WBC	Westpac Banking Corporation

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Compliance index

9.1 Reporting requirements under the *Public Governance, Performance and Accountability Act 2013*

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AD(g)	**Letter of transmittal**		
17AI	A copy of the letter of transmittal signed and dated by the accountable authority on the date the final text is approved, with a statement that the report has been prepared in accordance with section 46 of the PGPA Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	1
17AD(h)	**Aids to access**		
17AJ(a)	Table of contents	Mandatory	2–3
17AJ(b)	Alphabetical index	Mandatory	277
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	257–260
17AJ(d)	List of requirements	Mandatory	262–276
17AJ(e)	Details of contact officer	Mandatory	Inside back cover
17AJ(f)	Entity's website address	Mandatory	Inside back cover
17AJ(g)	Electronic address of report	Mandatory	Inside back cover
17AD(a)	**Review by accountable authority**		
17AD(a)	A review by the accountable authority of the entity	Mandatory	6–8

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AD(b)	**Overview of the entity**		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	9–10, 208–209
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	11–21
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	28–102
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	9–10
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority	Mandatory	14
17AE(1)(aa)(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	14
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	14
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – mandatory	N/A
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, details of variation and reasons for change	If applicable, mandatory	N/A
17AD(c)	**Report on the performance of the entity**		
Annual performance statement			
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the PGPA Act and section 16F of the PGPA Rule	Mandatory	28–66

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AD(c)(ii)	**Report on financial performance**		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	25–26, 141–204
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	236–238
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, mandatory	N/A
Management and accountability			
Corporate governance			
17AD(d)	Information on the management and accountability of the entity for the period in accordance with section 17AG	Mandatory	11–12, 208–209
17AG(2)(a)	Information on compliance with section 10 (fraud systems) of the PGPA Rule	Mandatory	239
17AG(2)(b)(i)	A certification by the accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	239
17AG(2)(b)(ii)	A certification by the accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting, fraud that meet the specific needs of the entity are in place	Mandatory	239

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(2)(b)(iii)	A certification by the accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	239
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	11–18, 208–209
17AG(2)(d)–(e)	A statement of significant issues reported to the Minister under paragraph 19(1)(e) of the PGPA Act that relate to non-compliance with finance law and action taken to remedy non-compliance	If applicable, mandatory	240
Audit committee			
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee	Mandatory	210
17AG(2A)(b)	The name of each member of the entity's audit committee	Mandatory	210–212
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee	Mandatory	210–212
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings	Mandatory	210–212
17AG(2A)(e)	The remuneration of each member of the entity's audit committee	Mandatory	213
External scrutiny			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	8, 11–12, 206–208, 239–240

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, mandatory	206
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than reports under section 43 of the Act), a Parliamentary Committee or the Commonwealth Ombudsman	If applicable, mandatory	239
17AG(3)(c)	Information on any capability review on the entity that was released during the period	If applicable, mandatory	12
Management of human resources			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	133–140
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, at the end of that and the previous reporting period, including the following: › statistics on full-time employees › statistics on part-time employees › statistics on gender › statistics on staff location	Mandatory	218–222

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following: › statistics on staffing classification level › statistics on full-time employees › statistics on part-time employees › statistics on gender › statistics on staff location › statistics on employees who identify as Indigenous	No longer mandatory[1]	N/A
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the *Public Service Act 1999*	If applicable, mandatory	224
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements, arrangements, contracts or determinations during this period	If applicable, mandatory	224
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	No longer mandatory[2]	N/A
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	If applicable, mandatory	134
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	No longer mandatory[3]	224
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	No longer mandatory	224

1 On 1 July 2019, ASIC moved out of the APS. The *Treasury Laws Amendment (Enhancing ASIC's Capabilities) Act 2018* amended the ASIC Act to remove the requirement for ASIC to engage employees under the *Public Service Act 1999*. Instead, it engaged employees under section 120 of the ASIC Act.

2 As above.

3 While this content is no longer mandatory for ASIC to report, we have included it because it is data we record and it may be of interest to the public.

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(4)(d)(iii)	Information on the average amount of performance payment, and the range of such payments, at each classification level	No longer mandatory	224
17AG(4)(d)(iv)	Information on the aggregate amount of performance payments	No longer mandatory	224
Assets management			
17AG(5)	An assessment of the effectiveness of assets management where assets management is a significant part of the entity's activities	If applicable, mandatory	194, 246
Purchasing			
17AG(6)	An assessment of the entity performance against the Commonwealth Procurement Rules	Mandatory	249–250
Consultants			
17AG(7)(a)	A summary statement detailing the number of new reportable contracts engaging consultants entered into during the period; the total actual expenditure on all new reportable consultancy contracts entered into during the period (inclusive of GST); the number of ongoing reportable consultancy contracts entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing reportable consultancy contracts (inclusive of GST)	Mandatory	251
17AG(7)(b)	A statement that 'During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of $[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of $[specified million].'	Mandatory	251

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	252
17AG(7)(d)	A statement that 'Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.'	Mandatory	250
17AG(7A)(a)	A statement on the number of new reportable non-consultancy contracts that were entered into during the period, including: (a) the total actual expenditure during the period on all such contracts (inclusive of GST) (a) the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period (a) the total actual expenditure during the period on those ongoing contracts (inclusive of GST)	Mandatory	250
17AG(7A)(b)	A statement that 'Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.'	Mandatory	250
17AD(daa)	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory	251–252

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
Australian National Audit Office access clauses			
17AG(8)	If an entity entered into a contract with a value of more than $100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, the purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, mandatory	N/A
Exempt contracts			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than $10,000 (inclusive of GST) that has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, mandatory	N/A
Small business			
17AG(10)(a)	A statement that '[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website.'	Mandatory	253
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	253

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature – a statement that '[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website.'	If applicable, mandatory	253
Financial statements			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the PGPA Act	Mandatory	141–204
Executive remuneration			
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2–3 of the Rule	Mandatory	225–230
Other mandatory information			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that 'During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website.'	If applicable, mandatory	249
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, mandatory	N/A
17AH(1)(b)	A statement that 'Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].'	If applicable, mandatory	245

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	140
17AH(1)(d)	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of the FOI Act can be found	Mandatory	241
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	N/A
17AH(2)	Information required by other legislation	Mandatory	239–241

Note: N/A means not applicable.
Source: Department of Finance, Resource Management Guide No. 135 *Annual reports for non-corporate Commonwealth entities*, 2016.

9.2 Additional compliance reporting requirements

Description	Requirement	Source of requirement	Location (page(s))
Exercise of ASIC's powers under Part 15 of the *Retirement Savings Accounts Act 1997* and under Part 29 of the *Superannuation Industry (Supervision) Act 1993*	Mandatory	ASIC Act, s136(1)(a)	239
ASIC's monitoring and promotion of market integrity and consumer protection in relation to the Australian financial system and the provision of financial services	Mandatory	ASIC Act, s136(1)(b)	67–102
ASIC's activities in accordance with each agreement or arrangement entered into by ASIC under s11(14) of the ASIC Act	Mandatory	ASIC Act, s136(1)(c)	239
Information about the activities that ASIC has undertaken during the period in exercise of its powers, and performance of its functions, under Chapter 5 of, or Schedule 2 to, the Corporations Act and any provisions of that Act that relate to that Chapter or Schedule	Mandatory	ASIC Act, s136(1)(ca)	29–33, 95–100
Information about any instances during the period where ASIC failed to consult as required by section 1023F of the Corporations Act or section 301F of the National Credit Act	Mandatory	ASIC Act, s136(1)(cb)	239

Description	Requirement	Source of requirement	Location (page(s))
The operation of the *Business Names Registration Act 2011*, including details of the level of access to the Business Names Register using the internet and other facilities, the timeliness with which ASIC carries out its duties, functions and powers under the Act, and the cost of registration of a business name under the Act	Mandatory	ASIC Act, s136(1)(d)	34–35, 64–65
Information, for the relevant period, about the activities undertaken by each Financial Services and Credit Panel during the period, any exams administered by ASIC under subs 921B(3) of the Corporations Act, any warnings given by ASIC under s912S of the Corporations Act, any decisions by ASIC not to follow a recommendation under subs 921Q(1) of the Corporations Act	Mandatory	ASIC Act, s136(1)(da)	217–218
The number of times ASIC used an information-gathering power, the provision of the Corporations Act, the ASIC Act, or another law that conferred the power, and the number of times in the previous financial year ASIC used the power	Mandatory	ASIC Act, s136(1)(e), Australian Securities and Investments Commission Regulations 2001, reg 8AAA(1)	241–244
ASIC's regional administration in referring states and the Northern Territory, including a statement on our performance against service-level performance indicators during the relevant period	Mandatory	Corporations Agreement, s603(3)	34–36, 104–105
A report on the activities of each state and Northern Territory Regional Liaison Committee maintained by the Regional Commissioners	Mandatory	Corporations Agreement, s604(4)	104–105

Description	Requirement	Source of requirement	Location (page(s))
A report on the work of the financial services and consumer credit external dispute resolution schemes, and ASIC's assessment of the systemic and significant issues the schemes have raised in their reports to ASIC, including information on any action taken in response to the matters raised in these reports.	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 4	253–254
Commentary on ASIC's activities related to monitoring compliance with court enforceable undertakings, and on how court enforceable undertakings have led to improved compliance with the law	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 27	44
Accountable authority must state, in the annual financial statements, whether, in the authority's opinion, the statements comply with subsection 42(2)	Mandatory	PGPA Act, s42(3)	145
Work health and safety			
(a) initiatives taken during the year to ensure the health, safety and welfare of workers who carry out work for the entity (b) health and safety outcomes (including the impact on injury rates of workers) achieved as a result of initiatives mentioned under paragraph (a) or previous initiatives (c) statistics of any notifiable incidents of which the entity becomes aware during the year that arose out of the conduct of businesses or undertakings by the entity	Mandatory	*Work Health and Safety Act 2011*, s4(2) Sch 2	135–136

Description	Requirement	Source of requirement	Location (page(s))
(d) any investigations conducted during the year that relate to businesses or undertakings conducted by the entity, including details of all notices given to the entity during the year under Part 10 of this Act (e) such other matters as are required by guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit	Mandatory		N/A
Environmental performance			
(a) include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development (b) identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development (c) document the effect of the reporter's activities on the environment (d) identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment (e) identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures	Mandatory	*Environment Protection and Biodiversity Conservation Act 1999*, s516A(6)	247–248
Any other Committee recommendations			N/A

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