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ASIC's role

ASIC is Australia's corporate, markets and financial services regulator.

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

The *Australian Securities and Investments Commission Act 2001* requires ASIC to strive to:

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

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

- ♦ *Australian Securities and Investments Commission Act 2001* (ASIC Act)
- ♦ *Business Names Registration Act 2011*
- ♦ *Business Names Registration (Transitional and Consequential Provisions) Act 2011*
- ♦ *Corporations Act 2001* (Corporations Act)
- ♦ *First Home Saver Accounts Act 2008*
- ♦ *Insurance Contracts Act 1984*
- ♦ *Life Insurance Act 1995*
- ♦ *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- ♦ *National Consumer Credit Protection Act 2009* (National Credit Act)
- ♦ *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*
- ♦ *Retirement Savings Accounts Act 1997*
- ♦ *Superannuation (Resolution of Complaints) Act 1993*
- ♦ *Superannuation Industry (Supervision) Act 1993.*

Other regulators

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

Responsible Ministers

At 30 June 2012, the Ministers responsible for ASIC are the Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services and Superannuation, the Hon Bill Shorten MP, and the Parliamentary Secretary to the Treasurer, the Hon Bernie Ripoll MP.

Parliamentary oversight

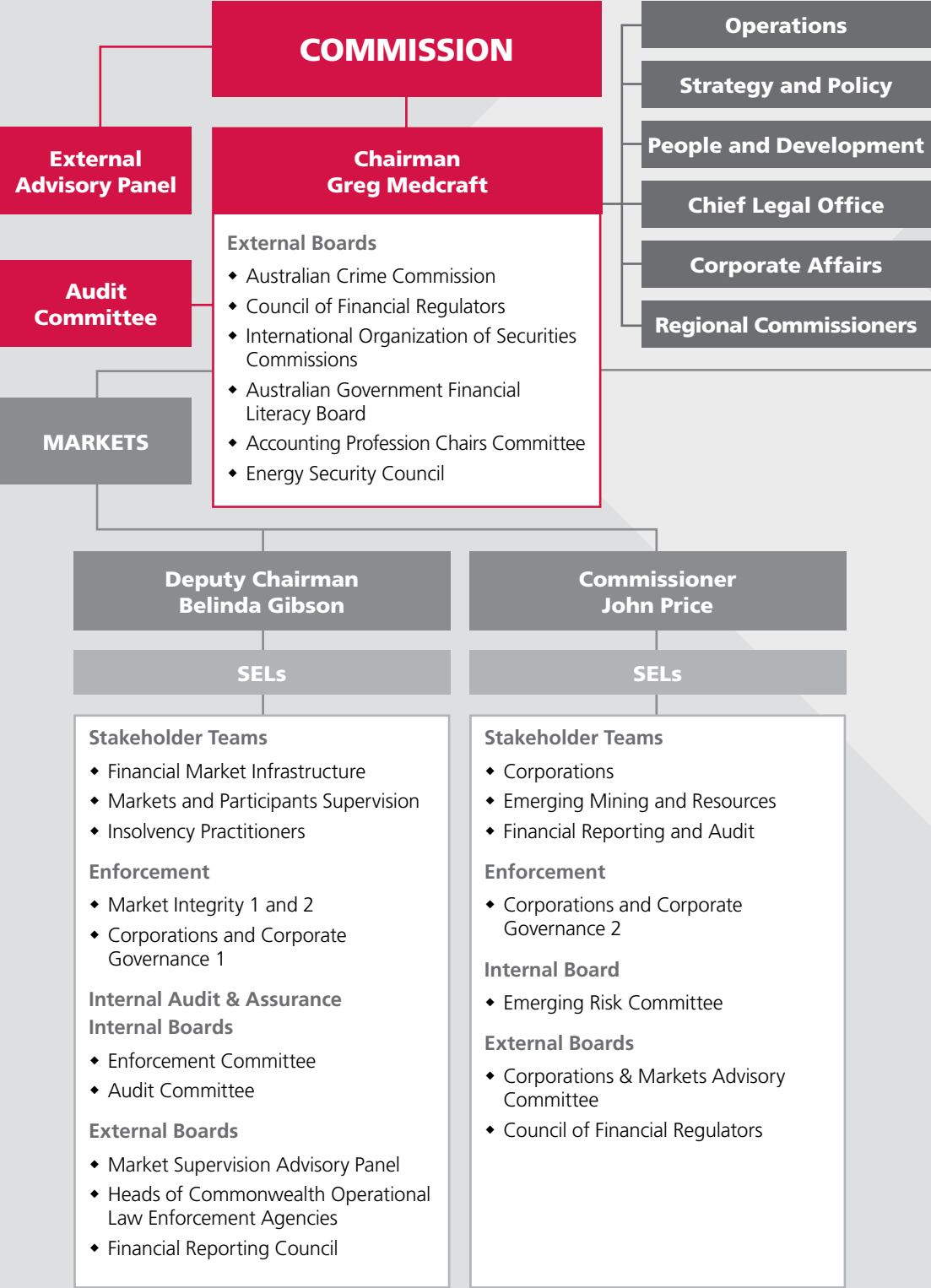
The Parliamentary Joint Committee on Corporations and Financial Services provides parliamentary oversight of ASIC. ASIC also appears before the Senate Standing Committee on Economics. ASIC appears before other parliamentary committees and inquiries as required.

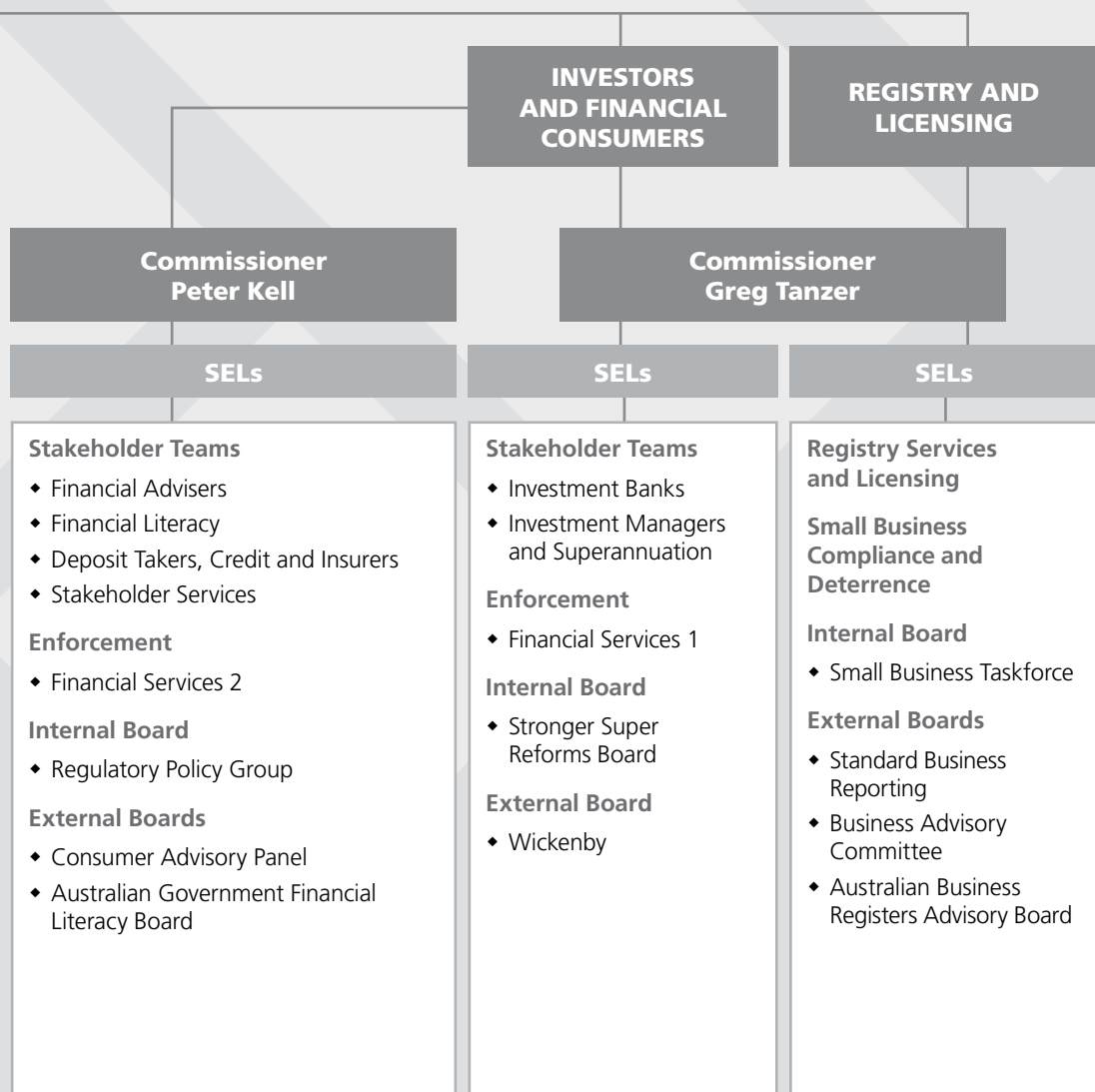
Relationship with states and territories

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

'ASIC contributes to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and efficient.'

Corporate structure at 30 June 2012





Regulated populations and key responsibilities, 2011–12¹

MARKETS

Corporations (including emerging mining and resources companies)

1.92 million registered companies, of which 2,200 are listed entities (including registered schemes and foreign companies)

ASIC staff: 54

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

Financial market infrastructure

17 authorised financial markets; 5 licensed clearing and settlement facilities

ASIC staff: 28

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



Insolvency practitioners

680 registered liquidators; 10,757 companies entering external administration per annum

ASIC staff: 24

- Ensuring that practitioners comply with the law.
- Promoting a fair and efficient insolvency market, confidence in insolvent company administration and ASIC’s supervision of registered liquidators.
- Implementing insolvency reforms and initiatives.
- Administering the Assetless Administration Fund.

Financial reporting and audit

4,985 registered company auditors; 28,900 companies which are required to produce financial reports

ASIC staff: 40

- Promoting market confidence in quality of financial reports by ensuring that financial reports and auditors comply with the law.

Market and participant supervision

137 market participants; 800 indirect participants; supervision of 7 markets

ASIC staff: 54 (includes market supervision)

- Ensuring that market participants and indirect participants comply with the law and meet their obligations as AFS licensees and under the market integrity rules (for participants).
- Supervising equities and derivatives markets for instances of market misconduct that disrupt market integrity which include market manipulation, insider trading, breaches of continuous disclosure obligations, and abnormal algorithmic trading.

Enforcement

Market integrity and corporate governance

ASIC staff: 194²

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

INVESTORS & FINANCIAL CONSUMERS

Deposit-takers, credit and insurers

*176 authorised deposit-takers;
6,004 credit providers (Australian credit licensees);
24,000 credit representatives;
\$68 billion in insurance premiums*

ASIC staff: 64 (includes credit reform)

- ◆ Ensuring deposit-takers, credit providers, intermediaries and trustee companies are complying with the law.
- ◆ Implementing national consumer credit reforms.

Financial literacy

Approximately 18 million financial services consumers³

ASIC staff: 39 (includes credit reform)

- ◆ Leading financial literacy strategy, supporting the Financial Literacy Board.
- ◆ Providing consumer and retail investor advice, information and education.
- ◆ Credit outreach program.

Financial advisers

AFS licensees licensed to provide personal advice (3,343 licensees) or general advice (1,316 licensees)

ASIC staff: 29

- ◆ Ensuring that research houses, financial advice licensees and their representatives comply with the law.
- ◆ Implementing and assisting industry with the Future of Financial Advice law reforms.
- ◆ Conducting projects on topical issues such as online advice, self-managed superannuation funds and consumer issues.
- ◆ Advising on and developing standards for internal / external dispute resolution schemes and industry standards for advisers.

Investment banks

*24 investment banks; 220 hedge fund managers;
44 retail OTC derivative providers;
25 credit rating agencies and research houses*

ASIC staff: 26

- ◆ Ensuring that investment banks, hedge funds, private equity providers, over-the-counter derivative providers and credit rating agencies comply with the law.
- ◆ Monitoring disclosure for complex products.

Misconduct and breach reporting

ASIC staff: 90

- ◆ Receiving and assessing reports of misconduct (12,454 received and 12,516 finalised in 2011–12).
- ◆ Receiving and assessing statutory reports (11,404 received and assessed in 2011–12).
- ◆ Receiving and assessing breach reports (1,344 received and 1,363 assessed in 2011–12).
- ◆ Handling requests to and from foreign regulators (429 received and 251 sent by ASIC in 2011–12).

Financial services (includes consumer credit)

ASIC staff: 128²

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

Investment managers and superannuation

More than \$1.0 trillion funds under management; 230 super fund trustees; 589 responsible entities; 4,289 registered managed investment schemes; 560 foreign financial service providers; 680 custodial service providers

ASIC staff: 43

- ♦ Ensuring that responsible entities, superannuation trustees and custodians comply with the law.
- ♦ Regulation and registration of managed investment schemes, including managed funds, listed and unlisted property trusts, mortgage funds, infrastructure schemes and agribusiness schemes.
- ♦ Managing implications of frozen funds
- ♦ Regulating exempted foreign financial service providers and foreign collective investment schemes and operators.

REGISTRY & LICENSING SERVICES

Registry and licensing services, Client Contact Centre, property law and unclaimed monies

71.2 million searches of ASIC registers. Licensing and registration services for 1.92 million companies, 1.48 million business names, 4,955 AFS licensees, 6,004 credit licensees, 4,985 registered company auditors, 680 registered liquidators 4,289 managed investment schemes. Over 600,000 calls handled by Client Contact Centre. 16,122 claims for unclaimed money received and \$56.8 million paid to owners. 1,552 new matters received and 1,390 matters finalised regarding property of deregistered companies

ASIC staff: 271 (includes registry, licensing, Client Contact Centre, property law, unclaimed money)

- ♦ Providing registry and licensing services for companies, AFS and credit licensees, liquidators and auditors, personal property securities, managed investment schemes.
- ♦ Providing public and non-public access to registry information.
- ♦ Providing Client Contact Centre for the public, consumers, regulated populations.
- ♦ Administering property of deregistered companies, resolving cases.
- ♦ Administering unclaimed money.
- ♦ Administering the National Business Names register.

¹ Data is indicative. See relevant sections of annual report for 2011–12 data. All staff figures are FTE and represent staff dedicated to respective populations. Excludes Strategy, Shared Services, People and Development, and statutory bodies.

² Plus 140 staff providing enforcement support services, legal counsel.

³ ABS, 2009.

Small business compliance and deterrence

ASIC staff: 33²

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



Financial summary and expenditure

Appropriations and revenue

ASIC received \$304 million in appropriation revenue, compared with \$324 million in 2010–11, and it received \$35 million in other revenue, compared with \$24 million in 2010–11. The decrease in appropriation revenue relates to a reduction in investigative matters funded from the Enforcement Special Account. The decrease in appropriation revenue was partially offset by a one-off increase in other revenue for specific projects and an increase in court cost recoveries in 2011–12.

Revenue for the Commonwealth

ASIC raised \$664 million for the Commonwealth in fees and charges, up 7% in 2011–12, largely due to the fee indexation increase (based on the CPI) for fees and charges levied under the Corporations Act, a full year of fees collected by ASIC from market operators and, from 28 May 2012, the collection of revenue for business names registration.

ASIC expenses

ASIC expenses were \$384 million in 2011–12, which was slightly lower than 2010–11.

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

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

	2011–12	2010–11	2009–10
Operating expenses			
Total	\$384m	\$385m	\$387m
Annual change on previous year	–	-1%	+31%
Fees and charges raised for the Commonwealth			
Total	\$664m	\$622m	\$582m
Annual change on previous year	+7%	+7%	+5%

Outcomes and expenditure

Parliament funds ASIC to achieve the following outcomes:

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

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

Additional funding for future years for specific initiatives

In the Portfolio Budget Statements for 2012–13 ASIC received additional funding over four years of:

- ♦ \$101.9 million increased operational funding
- ♦ \$43.7 million for enhanced market supervision
- ♦ \$23.9 million to implement the Future of Financial Advice reforms
- ♦ \$11.4 million for the modernisation and harmonisation of the insolvency practitioners' regulatory framework
- ♦ \$10.7 million to implement and maintain a database of self-managed superannuation fund (SMSF) auditors and develop a competency program for auditors
- ♦ \$1.3 million to continue Project Wickenby – a cross-agency tax compliance initiative to prevent abuse of secrecy jurisdictions.

ASIC outcomes and expenditure by year

Outcome	2011–12	2010–11	2009–10
Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks	\$249m	\$297m	\$302m
Streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services	\$135m	\$88m	\$85m

Internal service costs are apportioned to these outcomes (see pages 127–128).

ASIC's surveillance coverage of regulated populations in 2011–12

This chart provides a snapshot of ASIC's surveillance coverage in 2011–12. The chart shows the regulated population and the number of years it would theoretically take to cover the entire population through high intensity surveillances, based on the number of surveillances ASIC conducted in the 2011–12 financial year. In practice, ASIC's risk-based approach to surveillance means that some portion of the population would be touched multiple times while others would not be touched at all. This data is indicative only.

Only high intensity surveillances are shown. A surveillance is high intensity if it lasted for more than two days, and includes both on-site visits and desk-based reviews.

MARKETS

Corporations (including emerging mining and resources companies)

ASIC staff: 54

Surveillance coverage:

- ♦ 21,000 public companies, including 2,200 listed entities
- ♦ All control transactions for listed entities
- ♦ A significant proportion of prospectuses
- ♦ A small sample of entities in areas of emerging risk – *every year*
- ♦ Remaining entities – *reactive surveillances only*

32
industry meetings

Insolvency practitioners

ASIC staff: 24

Surveillance coverage:

- ♦ 680 registered liquidators – *4 years on average*

18
industry meetings

Financial market infrastructure

ASIC staff: 28

Surveillance coverage:

- ♦ 17 authorised financial markets – *every year*
- ♦ 5 licensed clearing and settlement facilities – *every year*

31
industry meetings

Financial reporting and audit

ASIC staff: 40

Surveillance coverage:

- ♦ 86 audit firms
- ♦ Big 4 – audit 94% of listed entities by market capitalisation – *1.5 years on average*
- ♦ Next 10 – audit 5% of listed entities by market capitalisation – *2.5 years on average*
- ♦ Remaining 72 – audit 1% of listed entities by market capitalisation – *10.3 years on average*
- ♦ Financial reports of 2,000 listed entities (excludes foreign companies) and 26,900 unlisted entities
- ♦ Top 500 listed entities – *3 years on average*
- ♦ Remaining 1,500 listed entities (excludes foreign companies) – *12 years on average*
- ♦ 100 unlisted entities with larger numbers of users – *every year*
- ♦ Remaining 26,800 unlisted entities – *reactive surveillances only*

74
industry meetings

Market and participant supervision


ASIC staff: 54
(includes market supervision)

Surveillance coverage:

- ♦ Monitoring of the ASX, Chi-X, NSX and ASX24 markets – *every day*
- ♦ 137 market participants – *3.3 years on average*
- ♦ 800 indirect market participants
- ♦ 100 larger entities (clients and volumes) – *4 years on average*
- ♦ 700 smaller entities – *reactive surveillances only*

47
industry meetings

Staff numbers are shown as full-time equivalents and represent total staff for that team. However, not all the staff are engaged in surveillance work. Surveillance is only one aspect of the work that each team undertakes.

 This chart also shows the number of times each team met with industry associations as part of ASIC's regular dialogue with industry. Engaging with industry ensures ASIC keeps abreast of developments and systemic risks within industry and the markets.

INVESTORS & FINANCIAL CONSUMERS

Financial advisers

ASIC staff: 29

Surveillance coverage:

- ◆ 3,343 Australian financial services licensees authorised to provide personal advice
 - ◆ Top 20 – 26% of all advisers – *1.7 years on average*
 - ◆ Next 30 – 10% of all advisers – *3.8 years on average*
 - ◆ Remaining 3,293 – *primarily reactive surveillances*
- ◆ 1,316 Australian financial services licensees authorised to provide general advice – *reactive surveillances only*
- ◆ 3 external dispute resolution schemes – *every year*

67
industry meetings

Investment managers and superannuation

ASIC staff: 43

Surveillance coverage:

- ◆ 589 responsible entities
 - ◆ Top 25 – 70% of funds under management – *every year*
 - ◆ 4 identified as most at risk of non-compliance – *every year*
 - ◆ 20 responsible entities in sectors where risks have been identified or where we have concerns – *21.6 years on average*
 - ◆ Remaining 540 – *reactive surveillances only*
- ◆ 230 super fund trustees
 - ◆ 3 identified as most at risk of non-compliance – *every year*
 - ◆ Remaining 227 – *reactive surveillances only*
- ◆ 20 major custodians – *2.9 years on average*

46
industry meetings

Investment banks

ASIC staff: 26

Surveillance coverage:

- ◆ 24 investment banks – *1.3 years on average*
- ◆ 220 hedge fund investment managers / responsible entities – *6.6 years on average*
- ◆ 44 retail OTC derivative providers – *every year*
- ◆ 6 credit rating agencies – *every year*

34
industry meetings

Deposit-takers, credit and insurers

ASIC staff: 64
(includes credit reform)

Surveillance coverage:

- ◆ 176 authorised deposit-taking institutions
 - ◆ Big 4 – *every year*
 - ◆ Remaining 172 – *13 years on average*
- ◆ 135 insurers – *7 years on average*
- ◆ 652 licensed non-cash payment facility providers – *primarily reactive surveillances*
- ◆ 28 trustee companies – *14 years on average*
- ◆ 5,828 non-ADI credit licensees (lenders and intermediaries) with 24,000 credit representatives – *37 years on average*

61
industry meetings

ASIC at work



Registry Services senior manager Sophie Morell demonstrating new online services to Chairman Greg Medcraft and Commissioner Greg Tanzer.



ASIC lawyer Daniel O'Neill printing out witness statements during an investigation in the Pilbara region, March 2012.



Each year ASIC hosts a forum for the financial services industry to share experiences, present ideas and engage in debate of topical regulatory issues.



Engaging with the media is an important way to shape behaviour and deter wrongdoing. Deputy Chairman Belinda Gibson discussing insider trading on the ABC's News24 channel.



ASIC takes its consumer advice and education services to rural areas throughout Australia. Lisa Millson, a member of ASIC's graduate program, at Farmworld Field Day, Victoria.