



ANNUAL REPORT

2012–2013

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



ASIC

Australian Securities & Investments Commission

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**FOR
GOOD
REASON**

- > Confident and informed investors and financial consumers
- > Fair and efficient financial markets
- > Efficient registration and licensing.



ASIC

Australian Securities & Investments Commission

GREG MEDCRAFT

Chairman

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

10 October 2013

Senator the Hon Arthur Sinodinos AO
Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear Senator Sinodinos

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2013.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* and the 'Requirements for Annual Reports' guide, approved by the Joint Committee of Public Accounts and Audit, and published by the Department of the Prime Minister and Cabinet on 24 June 2013.

I note that you are required under section 136 to cause the report to be tabled in each House within 15 sitting days of receiving it.

Yours sincerely

Greg Medcraft

Chairman

Chairman's report

ASIC has a growing regulatory remit and operates in a dynamic and complex environment. In particular, market-based financing is seen as a key source of funding economic growth in the next decade.

In this environment, we remain committed to achieving our strategic priorities:

Priority 1: Confident and informed investors and financial consumers

Priority 2: Fair and efficient financial markets

Priority 3: Efficient registration and licensing

It was against these priorities that our performance was measured in the recent ASIC Stakeholder Survey. Encouragingly, the survey found that overall stakeholders were positive about our performance and most considered we are performing better or the same as two years ago. You can find the survey on ASIC's website.

The forces of structural change, financial innovation-driven complexity and globalisation that are converging on our financial system create both opportunities and risks. As a regulator, we are working with industry and using our tools to harvest the opportunities that these forces create while mitigating the risks.

Our challenge is to respond quickly to the matters that require our attention, inform and educate investors and financial consumers so they can make confident and informed decisions and ensure we have the capacity to effectively regulate financial markets, financial products and financial services providers.

We also play an important role in facilitating Australian business. We continued to make improvements to our systems and processes to create more efficient registration and licensing.

Structural change

Australians now have around \$1.6 trillion in super and this is predicted to reach \$5 trillion by 2030, growing at twice the rate of the economy. In particular self-managed superannuation funds (SMSFs) are expected to grow to from 33% to 40% of total superannuation in the next five years.


ASIC regulates many of the products in which superannuation funds typically invest, including equities, fixed income and managed funds.

We also regulate gatekeepers who have a role to play in supporting those who invest in these products. These gatekeepers include directors, financial advisers, investment managers, custodians, research houses, credit rating agencies and auditors.

ASIC will be significantly impacted by the growth in superannuation. A key challenge for ASIC is to manage the increased workload resulting from more stakeholders and more products while retaining an effective, pro-active and forward-looking approach, which is essential if the system is to remain resilient.



Greg Medcraft, Chairman



Financial innovation-driven complexity

Constant innovation is the touchstone of financial services, whether that is products or markets or technology. The regulatory challenge is to assist industry in harvesting the opportunity from innovation in products, markets and technology while mitigating the risk.

ASIC's Emerging Risks Committee identifies issues that require special attention, and our internal taskforces bring together the knowledge and resources to develop the best response. Last March, we released a groundbreaking report on dark liquidity and high-frequency trading that drove positive changes in the behaviour of market participants, even before the introduction of new market rules.

In July 2012, ASIC established a Complex Products Working Group aimed at reducing the risk of complex products being mis-sold to investors. Steps we are taking to address this risk include enhancing disclosure requirements and educating investors about complex products such as hybrid securities and 'capital protected' and 'capital guaranteed' products. This is one of ASIC's ongoing campaigns.

In September 2012, ASIC released the first snapshot of its surveillance work as part of our commitment to improving transparency and increasing awareness. The snapshot outlined the analyses of ASIC's regulated populations and demonstrated how we verify that financial system gatekeepers are complying with their obligations.

The regulatory challenge is to harvest the opportunity from innovation while mitigating the risk

Globalisation

The global integration of financial markets facilitates the flow of capital across borders and spurs economic growth, but also creates risk and regulatory challenges. Regulation needs to be internationally consistent while being tailored for local conditions and capable of responding to misconduct that crosses national borders.

In 2012–13 ASIC continued to work with regional and international regulators to harmonise regulatory regimes, ranging from collaboration with New Zealand to introduce a mutual recognition framework for financial advisers and auditors, to work with the International Organization of Securities Commissions (IOSCO). We are contributing to IOSCO's work in developing principles for the regulation of exchange-traded funds, the supervision of collective investment schemes and the establishment of a task force to develop cross-border regulatory tools.

ASIC's people

The good work we do depends on the people who work at ASIC. They are our main asset. And they work at ASIC for good reason.

Our values statement – accountability, professionalism and teamwork – was developed by ASIC staff, and we are all committed to upholding these values. Part of this is developing our human resources, and in 2012–13 we focused on succession planning and talent development for middle and senior management. We have also adopted voluntary targets to increase the proportion of women in senior positions. This is an initiative I strongly support and promote.

As well as being outstanding regulators, our people make a significant contribution to the wider community. I'm proud of the fact we have one of the largest workplace-giving programs in the Australian Public Service. Our staff also volunteer their time to a range of charities, such as the Jawun Indigenous Corporate Partnerships program, which seconds people from across corporate Australia to help on specific projects in Indigenous communities.

Chairman's report continued

Commission changes

I would like to recognise the significant contribution of Belinda Gibson, who left ASIC in May 2013 after three years as Deputy Chair and two years before that as a Commissioner.

Belinda drove some of ASIC's most important projects during turbulent times – the move to supervise the ASX, competition in equity markets and our campaign to prosecute insider trading. I thank her for contribution and wish her the best for the future.

In June, we welcomed our new Commissioner, Cathie Armour. I look forward to working with Cathie and drawing on her extensive markets experience.

Outlook

ASIC's regulatory jurisdiction has grown substantially over recent years. To maintain our pro-active approach, our resources need to be adequate – and appropriately deployed. We will continue to be transparent about how we use these resources.

In this context, I welcome the current inquiry into ASIC's performance, which was referred by the Senate to its Economics References Committee on 20 June 2013, for report by 31 March 2014. While the inquiry's terms of reference are broad, we see it as an opportunity to give Government, the financial services sector and the public a better understanding of the tools and processes we use to fulfil our regulatory role and how we think they should be used going forward.

Following the recent federal election, we are considering our contribution to any review of the financial system. We are thinking about the current regulatory boundaries, our regulatory toolkit and the regulatory framework for particular sectors. For example, we are considering whether disclosure is the best way to address certain market failures, new forms and channels for disclosure – including e-learning – and what behavioural economics tells us about how consumers make decisions.

While the coming 12 months promises substantial challenge and opportunity, I know we will embrace this future head on, buoyed by the outstanding men and women who make ASIC the terrific organisation it is.



Greg Medcraft
Chairman

Key outcomes 2012–13

PRIORITY 1: Confident and informed investors and financial consumers

Engagement DETAILS: PAGES 22–24.

281 meetings with industry associations.

12 national roadshow events on the Future of Financial Advice and Stronger Super reforms.

1,071 relief applications received; **616** approved and **172** refused.

18 consultation papers published.

Surveillance DETAILS: PAGES 24–27.

871 high-intensity surveillances by Investors and Financial Consumers teams.

[Pro-active, risk-based surveillance](#) of e.g. financial advice (focusing on SMSFs and capital guaranteed products), responsible entities, superannuation trustees, and consumer credit providers.

Guidance DETAILS: PAGES 27–28.

31 new or revised regulatory guides published, including comprehensive guidance on the Future of Financial Advice and Stronger Super reforms and SMSFs.

[Disclosure requirements strengthened](#) for investment platforms sector and hedge funds.

[Financial requirements increased](#) for custodial or depository service providers.

Education DETAILS: PAGES 28–31.

3.7 million unique visits to ASIC's MoneySmart website; winner of two categories in the 2012 Interactive Media Awards.

90% of MoneySmart users surveyed reported taking specific action as a result of visiting the site.

293 MoneySmart Rookie education and training sessions, attended by over **12,000** people.

90 schools trialled MoneySmart Teaching Packages.

Enforcement DETAILS: PAGES 32–34.

92 investigations and **111** litigation and administrative actions, including **12** criminal proceedings, completed.

12 criminal convictions and **7** imprisonments secured.

\$136 million in additional compensation secured for Storm Financial investors.

Policy advice DETAILS: PAGE 35.

16 major policy submissions to Treasury and **12** major policy responses to requests from Government.

[Cross-border regulation and retail investor education policy work](#), with other regulators and IOSCO.

PRIORITY 2: Fair and efficient financial markets

Engagement DETAILS: PAGES 36–37.

345 meetings with industry associations.

Over **100** meetings and workshops with industry to develop a comprehensive regulatory response to dark liquidity and high-frequency trading.

2,023 relief applications received; **1,431** approved and **186** refused.

Surveillance DETAILS: PAGES 37–39.

1,286 high-intensity surveillances by Markets teams.

40,368 trading alerts produced as part of our real-time supervision of financial markets, with further inquiries into **180** trading matters and **52** referrals to Enforcement.

Guidance DETAILS: PAGES 40–41.

17 new or revised regulatory guides.

[New market integrity rules](#) to regulate suspicious activity reporting, short-sale tagging and trading in Commonwealth government securities.

Enforcement DETAILS: PAGES 42–44.

94 investigations and **33** litigation and administrative actions, including **13** criminal proceedings, completed.

10 criminal convictions and **2** imprisonments secured.

528 additional summary prosecutions, for less serious criminal offences.

[Actions taken on market manipulation and insider trading](#) and other breaches of the Corporations Act.

Policy advice DETAILS: PAGE 45.

9 major policy submissions to Treasury and **14** major policy responses to requests from Government.

[Work on OTC derivative reforms and international regulation of exchange-traded funds and retail structured products.](#)

Key outcomes 2012–13 continued

PRIORITY 3: Efficient registration and licensing

DETAILS: PAGES 46–53.

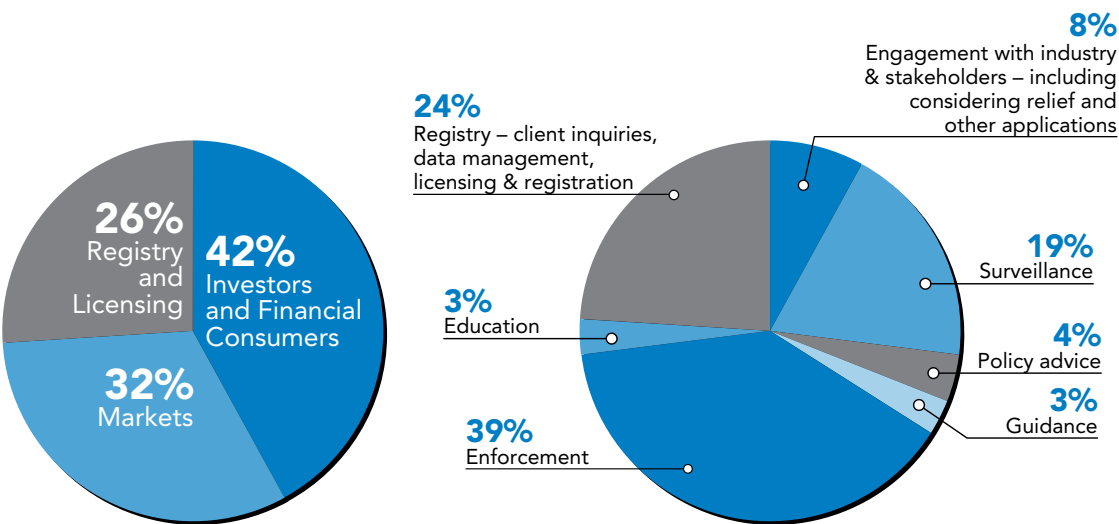
\$72.6 million paid to owners of unclaimed money.
2 million companies registered with ASIC, in total.
192,211 new companies registered in 2012–13.
84% of **2.4 million** forms were lodged online.
28.3 million free searches of ASIC registries through ASIC Connect.

1.74 million business names registered on national Business Names Register.
\$34 million – estimated savings in fees to register or renew business names (since introduction of national Business Names Register in May 2012).

ASIC's priorities – resource allocation

The following charts indicate the proportion of ASIC’s 2012–13 budget allocated to achieving each of our three priorities and to each of the tools we use to achieve these priorities – engagement, surveillance, guidance, education, enforcement and policy advice – as well as our registry responsibilities. They indicate the resources available to achieve the results detailed in this report.

The percentages are based on ASIC’s budgeted staff and supplier costs – totalling \$341.2 million. This figure reflects ASIC’s 2012–13 budget excluding statutory bodies, ASIC’s costs to support the statutory bodies and the implementation costs associated with new projects.



Commissioners

Greg Medcraft

Chairman, BComm

Greg Medcraft was appointed ASIC Chairman on 13 May 2011 for a five-year term.

Greg joined as ASIC Commissioner in February 2009. Prior to ASIC, Greg was Chief Executive Officer and Executive Director at the Australian Securitisation Forum (ASF).

Greg spent nearly 30 years in investment banking at Société Générale in Australia, Asia, Europe and the Americas. More recently, he was the Managing Director and Global Head of Securitisation, based in New York.

In 2002, Greg co-founded the American Securitization Forum and was its Chairman from 2005 until 2007 when he returned to Australia. The American Securitization Forum is an industry group representing some 350 member institutions comprising all major stakeholders in the US\$1 trillion US securitisation market. In January 2008, he was appointed Chairman Emeritus of the Forum.

Before joining Société Générale, Greg worked as a Chartered Accountant with KPMG.

Greg was elected by the IOSCO Board in May 2012 as its next Chair. His current term commenced in March 2013 and is due to finish in September 2014. In his capacity as IOSCO Board Chair, Greg is also a member of the Financial Stability Board, which reports to the G20.



Peter Kell

Deputy Chairman, BA (Hons)

Peter Kell commenced as Deputy Chair on 6 May 2013. Prior to this appointment he was a Commissioner from 7 November 2011.

From August 2008, Peter was Deputy Chair of the Australian Competition and Consumer Commission (ACCC). He was President of the International Consumer Protection Enforcement Network in 2009–10, and also served on the Consumer Policy Committee of the Organisation for Economic Co-operation and Development (OECD). Peter has been on the Australian Government Financial Literacy Board since its establishment, and is a member of the Commonwealth Consumer Affairs Advisory Committee.

Before joining the ACCC, Peter was Chief Executive of CHOICE (formerly the Australian Consumers Association) and a board member of the global consumer organisation Consumers International.

Between 1998 and 2004, he was ASIC's Executive Director of Consumer Protection and its New South Wales Regional Commissioner.



ASIC Commissioners, June 2013

Commissioners continued

Cathie Armour

BEd, LLB (Hons), LLM

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013.

Cathie has 18 years experience in legal counsel leadership roles in international financial institutions. Most recently, she was General Counsel for Macquarie Capital and an Executive Director of Macquarie Group, advising on equity, debt and private capital markets, mergers and acquisitions and financial investment transactions. She has also held senior compliance and operational risk positions at Macquarie Capital and at JP Morgan in Australia. Before she joined ASIC, Cathie was also a member of the ASX Tribunal.

Cathie previously worked in private legal practice for the forerunners of the firms King & Wood Mallesons and Allens in Sydney and for Milbank, Tweed, Hadley & McCloy in New York.



John Price

BA, LLB (Hons)

John Price commenced as an ASIC Commissioner on 21 March 2012.

Since joining ASIC in 1999, John has held a number of senior roles including, most recently, as Senior Executive Leader, Strategy and Policy. Other previous roles at ASIC include Senior Executive Leader, Corporations; Acting Executive Director, Regulation; and Director, Applications and Licensing.

In these roles, John has been closely involved in developing and implementing regulatory policy and the regulatory aspects of major transactions, as well as identifying and developing regulatory responses to emerging issues and risks. His regulatory experience includes matters relating to fundraising, mergers and acquisitions, financial services, and accounting and audit.

John is also a member of the Financial Reporting Council, the Council of Financial Regulators and the Corporations and Markets Advisory Committee.

Prior to joining ASIC, John worked in the Gold Coast and Brisbane offices of Corrs Chambers Westgarth, a national law firm.



Greg Tanzer

BEd, LLB (Hons)

Greg Tanzer commenced as an ASIC Commissioner on 5 March 2012.

He served as Secretary General of IOSCO from 2008 until early 2012.

Greg was previously Executive Director, Consumer Protection and International at ASIC, where he worked in various senior positions from 1992 to 2008.

Before joining ASIC, Greg worked in the Australian Government Attorney-General's Department and the Department of Finance.





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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)
- ♦ *Banking Act 1959*
- ♦ *Business Names Registration 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)
- ♦ *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 2013, the Ministers responsible for ASIC were the Treasurer, the Hon Chris Bowen MP, the Minister for Financial Services and Superannuation, the Hon Bill Shorten MP and the Hon Bernie Ripoll MP, Parliamentary Secretary to the Treasurer.

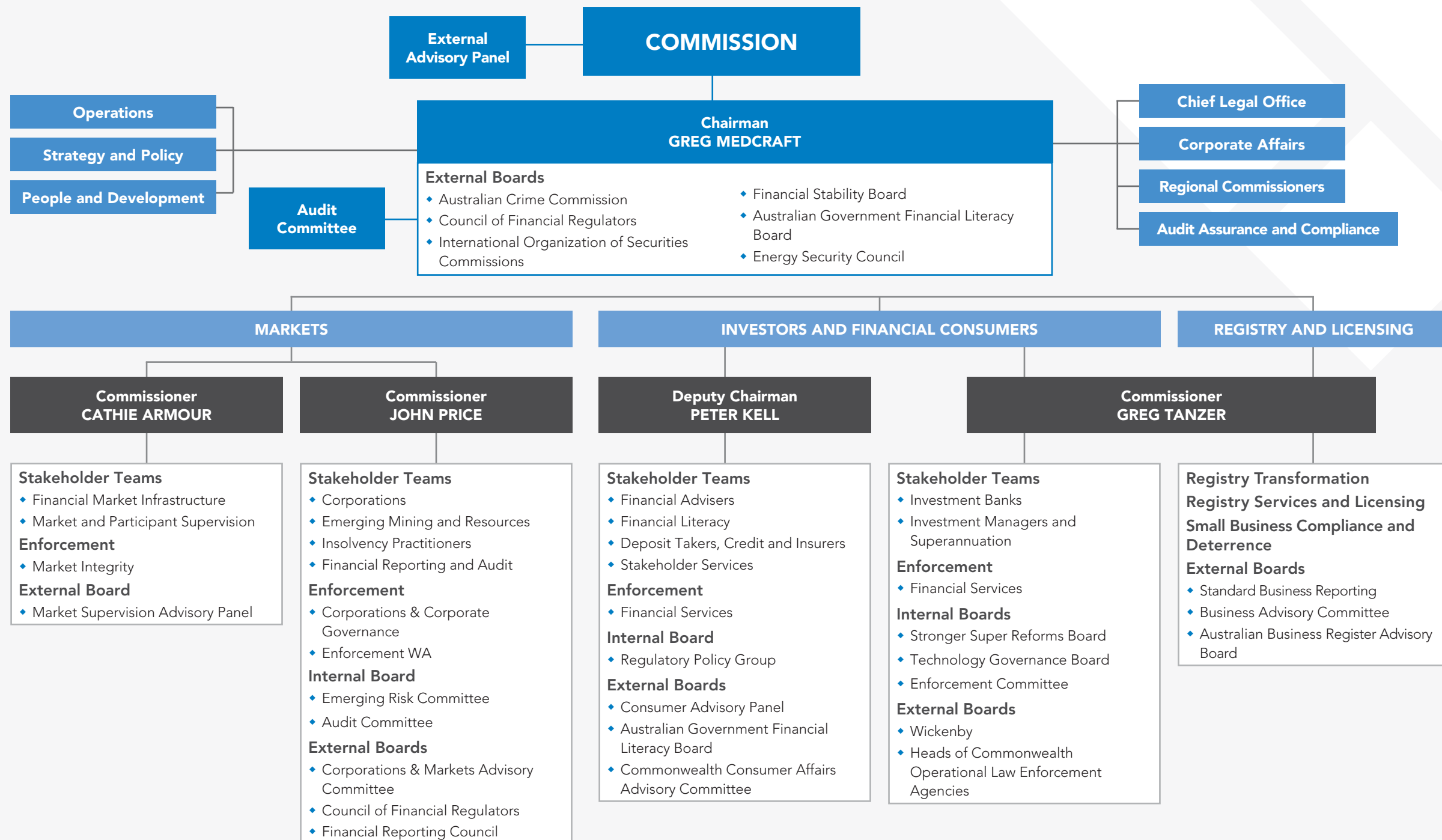
Parliamentary oversight

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

Relationship with states and territories

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

Corporate structure at 30 June 2013



Regulated populations and key responsibilities, 2012–13¹

INVESTORS AND FINANCIAL CONSUMERS

Deposit-takers, credit and insurers

173 authorised deposit-takers; 5,856 credit providers (Australian credit licensees); 28,201 credit representatives; \$68 billion in insurance premiums; 55 licensed general insurance companies with 7,461 reps; 641 non-cash payment facility providers; 13 trustee companies

ASIC staff: 65.5

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

Financial advisers

AFS licensees licensed to provide personal advice (3,394 licensees) or general advice (1,395 licensees), 2 ASIC-approved external dispute resolution schemes.

ASIC staff: 29

- ♦ Ensuring that financial advice licensees, insurers brokers and their representatives comply with the law.
- ♦ Overseeing the ASIC approved external dispute resolution schemes.
- ♦ Conducting projects on topical consumer protection issues.

Financial literacy

Approximately 20 million financial services consumers³

ASIC staff: 41 (includes consumer credit)

- ♦ Leading financial literacy strategy, supporting the Financial Literacy Board.
- ♦ Credit outreach program.
- ♦ Providing consumer and retail investor guidance, tools and education.

Investment banks

26 investment banks; 250 hedge fund managers/responsible entities; 43 retail OTC derivative providers; 7 credit rating agencies

ASIC staff: 23

- ♦ 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 offered via PDS.

Investment managers and superannuation

More than \$1.0 trillion funds under management; 200 super fund trustees; 483 active responsible entities; 4,152 registered managed investment schemes; 614 foreign financial service providers; 718 custodial service providers

ASIC staff: 40

- ♦ 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.
- ♦ Regulation of financial product disclosure and marketing material issued by responsible entities and super trustees.
- ♦ Regulating exempted foreign financial service providers and foreign collective investment schemes and operators.

Enforcement

Financial services (includes consumer credit)

ASIC staff: 127²

- ♦ 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 and advice.

MARKETS

Corporations (including emerging mining and resources companies)

2 million registered companies, of which 2,141 are listed entities (including registered schemes and foreign companies)

ASIC staff: 49

- ♦ 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

18 authorised financial markets; 6 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 operators for compliance with statutory obligations, and by setting standards through market integrity rules.
- ♦ Advising the Minister on applications for market and clearing and settlement licences, licence exemptions and operating rules.

Insolvency practitioners

685 registered liquidators; 10,746 companies entering external administration per annum

ASIC staff: 23.5

- ♦ 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.
- ♦ Administrative winding up of abandoned companies.

Financial reporting and audit

4,852 registered company auditors; 27,893 companies which are required to produce financial reports; 86 audit firms

ASIC staff: 38

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

Market and participant supervision

136 market participants; 800 securities dealers; supervision of 7 markets

ASIC staff: 67 (includes new integrated market surveillance system development)

- ♦ 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, including market manipulation, insider trading, breaches of continuous disclosure obligations, and abnormal algorithmic trading.

Enforcement

Market integrity and corporate governance

ASIC staff: 121²

- ♦ 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.

REGISTRY AND LICENSING SERVICES

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

68 million searches of ASIC registers. Licensing and registration services for 2 million companies, 1.74 million business names, 5,043 AFS licensees, 5,856 credit licensees, 4,852 registered company auditors, 685 registered liquidators 4,152 registered managed investment schemes. Over 700,000 calls handled by Client Contact Centre. 18,247 claims for unclaimed money received and \$72.6 million paid to owners. 1,317 new matters received and 1,478 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.
- ♦ Administering unclaimed money.
- ♦ 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 the national Business Names Register.

Enforcement

Small business compliance and deterrence

ASIC staff: 38²

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

Misconduct and breach reporting

ASIC staff: 90

- ♦ Receiving and assessing reports of misconduct from the public (11,522 received and 11,682 finalised in 2012–13).
- ♦ Receiving and assessing statutory reports from liquidators, administrators and receivers (11,320 received and 10,244 finalised in 2012–13).
- ♦ Receiving and assessing breach reports from licensees and auditors (1,191 received and 1,214 assessed in 2012–13).
- ♦ Handling requests to and from foreign regulators (481 received and 408 sent by ASIC in 2012–13).

¹ Data is indicative. See relevant sections of annual report for 2012–13 data. All staff figures are FTE and represent staff dedicated to respective populations. Excludes Strategy and Policy, Corporate Affairs, Operations, People and Development, and statutory bodies.

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

³ ABS, 2011.

ASIC's surveillance coverage of regulated populations in 2012–13

This chart provides a snapshot of ASIC's surveillance coverage in 2012–13. 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 2012–13 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. The 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.

INVESTORS AND FINANCIAL CONSUMERS

Financial advisers

90
industry meetings

Surveillance coverage:

3,394 Australian financial services licensees authorised to provide personal advice

- ♦ Top 20 – 0.8 years on average
- ♦ Next 30 – 1.8 years on average
- ♦ Remaining 3,344 – primarily reactive surveillances

1,395 Australian financial services licensees authorised to provide general advice – reactive surveillances only

2 ASIC-approved external dispute resolution schemes – every year

Investment banks

22
industry meetings

ASIC staff: 23

Surveillance coverage:

26 investment banks – once a year

250 hedge fund investment managers / responsible entities – 11.3 years on average

43 retail OTC derivative providers – every year

7 credit rating agencies – every year

Investment managers and superannuation

97
industry meetings

ASIC staff: 40

Surveillance coverage:

483 active responsible entities

- ♦ Top 25 – 70% of funds under management – every 2 years
- ♦ 9 identified as most at risk of noncompliance – every year
- ♦ 91 responsible entities in sectors where risks have been identified or where we have concerns – varies from year to year
- ♦ Remaining 358 – primarily reactive surveillances

200 super fund trustees

- ♦ 5 identified as most at risk of noncompliance – every year
- ♦ Remaining 195 – primarily reactive surveillances

20 major custodians – 2.9 years on average

Deposit-takers, credit and insurers

72
industry meetings

ASIC staff: 65.5

Surveillance coverage:

173 authorised deposit-taking institutions

- ♦ Big 4 – every year
- ♦ Remaining 169 – 13 years on average

141 insurers – 7 years on average

641 licensed non-cash payment facility providers – primarily reactive surveillances

13 trustee companies – 7 years on average

5,688 non-ADI credit licensees (lenders and intermediaries) with 28,201 credit representatives – 37 years on average

Staff numbers are shown as full time equivalents (FTE) 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.

MARKETS

Corporations (including emerging mining and resources companies)

97
industry meetings

ASIC staff: 49

Surveillance coverage:

21,690 public companies, including 1,983 listed entities (excludes foreign companies)

- ♦ 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

Insolvency practitioners

24
industry meetings

ASIC staff: 23.5

Surveillance coverage:

685 registered liquidators – 3.6 years on average

Financial market infrastructure

56
industry meetings

ASIC staff: 28

Surveillance coverage:

18 authorised financial markets – every year
6 licensed clearing and settlement facilities – every year

Financial reporting and audit

125
industry meetings

ASIC staff: 38

Surveillance coverage:

86 audit firms

- ♦ Big 4 audit 95% of listed entities by market capitalisation – 1.5 years on average
- ♦ Next 8 audit 4% of listed entities by market capitalisation – 2.5 years on average
- ♦ Remaining 74 audit 1% of listed entities by market capitalisation – 10.3 years on average

Financial reports of 1,983 listed entities (excludes foreign companies) and 26,000 unlisted entities

- ♦ Top 500 listed entities – 3 years on average
- ♦ Remaining 1,500 listed entities (excludes foreign companies) – 12 years on average
- ♦ 300 unlisted entities with larger numbers of users – 90 years on average supplemented by reactive surveillances

Market and participant supervision

43
industry meetings

ASIC staff: 67

(includes new integrated market surveillance system development)

Surveillance coverage:

Monitoring of the ASX, Chi-X, NSX and ASX24 markets – every day

136 market participants – 3.3 years on average
800 securities dealers

- ♦ 100 larger entities (clients and volumes) – 4 years on average
- ♦ 700 smaller entities – reactive surveillances and targeted reviews of high risk entities

Major enforcement outcomes

Major enforcement outcomes, 2012–13

Type of action	2012–13	2011–12
Litigation completed (total) ¹	144	179
Litigation completed successfully ²	95%	92%
New litigation commenced ¹	149	134
Investigations commenced	193	173
Investigations completed	187	183
Criminal proceedings completed	25	28
No. of people convicted	22	27
No. of people jailed	9	20
Non-custodial sentences/fines	13	8
Civil proceedings completed	15	24
Illegal schemes shut down or other action taken	39	1
People disqualified or removed from directing companies	72	84
People/companies banned from financial services or consumer credit	50 (financial services)	54
	38 (credit)	
Action against auditors/liquidators	7	7
No. of enforceable undertakings	20	22
Negotiated outcomes	17	17

1. Includes criminal and civil litigation and administrative actions. Excludes summary prosecutions, conducted by ASIC, for less serious criminal offences.

2. Includes criminal and civil litigation. Excludes administrative actions and summary prosecutions, conducted by ASIC, for less serious criminal offences.

Financial summary and expenditure

Appropriations and revenue

ASIC received \$350 million in appropriation revenue compared with \$304 million in 2011–12. In addition ASIC received \$17 million in other revenue compared with \$35 million in 2011–12. The increase in appropriation revenue relates to an increase in operational funding, an increase in expenditure for investigations funded by the Enforcement Special Account and funding for new responsibilities for enhanced supervision of Australia's financial markets and implementation of the Stronger Super and Future of Financial Advice reforms.

Revenue for the Commonwealth

ASIC raised \$717 million for the Commonwealth in fees and charges which has increased 8% in 2012–13. The increase in revenue is driven by a full year in 2012–13 of business names registration revenue and the introduction of the insolvency notices website on 1 July 2012.

Outcomes and expenditure

Parliament funds ASIC to achieve the following outcome:

Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.

ASIC expenses were \$411 million in 2012–13, which is 7% higher than in 2011–12. The increase in expenditure relates to increased responsibilities for enhanced market supervision and implementation of the Stronger Super reforms. There was also an increase in expenditure funded by ASIC's Enforcement Special Account.

Additional funding for future years for specific initiatives

In the 2013–14 Portfolio Budget Statements ASIC received additional funding over four years of:

- ♦ \$7.849 million (including \$1.591 million capital) to increase service levels in ASIC's Client Contact Centre
- ♦ \$5.914 million to implement ASIC's G20 commitments regarding over the counter derivatives
- ♦ \$2.576 million additional operational funding for the Superannuation Complaints Tribunal, and
- ♦ \$1.35 million to create an online registration regime for financial advisers giving tax advice.

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

	2012–13	2011–12	2010–11
Operating expenses			
Total	\$411m	\$384m	\$385m
Annual change on previous year	+7%	–	-1%
Fees and charges raised for the Commonwealth			
Total	\$717m	\$664m	\$622m
Annual change on previous year	+8%	+7%	+7%

ASIC at work



The ASIC Annual Forum 2013, held in March, attracted over 430 local and international delegates, including local and international regulators, academics and industry leaders.



ASIC Chairman Greg Medcraft hosts regular lunchtime sessions with staff to exchange ideas and opinions in an informal environment.



Registry Services Senior Manager Luke Keet (centre) chatting with participants at the 10th Corporate Registers Forum in April 2013.



The Board of the International Organization of Securities Commissions met in Sydney in March 2013, hosted by ASIC. Pictured at centre front are outgoing Chair Masamichi Kono and incoming Chair Greg Medcraft.



2

OUTCOMES IN DETAIL

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Priority 1 – Confident and informed investors and financial consumers



Engagement with stakeholders

Our stakeholders in the Investors and Financial Consumers area are diverse, and this is reflected in the number and range of meetings and events we held in 2012–13. These ranged from a series of national roadshows on financial education for young people to briefings on the implementation of the Future of Financial Advice (FOFA) and Stronger Super reforms. Teams in the Investors and Financial Consumers cluster held a total of 281 meetings with industry groups, ranging from the Financial Services Council and Financial Planning Association to the Property Council of Australia.

In 2012–13 ASIC released 18 consultation papers relating to Priority 1. These covered topics such as managed discretionary accounts, risk management systems of responsible entities, strengthening arrangements for holding of scheme property and other assets, and review of the National Financial Literacy Strategy.

Financial advisers

Taking the lead on FOFA reforms

The FOFA reforms aim to tackle conflicts of interest that have threatened the quality of financial advice. The FOFA reforms include the introduction of a best interests duty, a ban on conflicted forms of remuneration, an opt-in requirement for ongoing fee arrangements, and changes to ASIC's licensing and banning powers. Some elements of the reforms came into force on 1 July 2012 and compliance is mandatory from 1 July 2013.

ASIC took a lead role in informing stakeholders about the FOFA reforms, hosting roadshows during February and March 2013 in Brisbane, Sydney, Melbourne, Adelaide and Perth. The roadshows, hosted in conjunction with the Financial Services Institute of Australia, were well attended, with over 1,200 industry participants.

Senior ASIC staff outlined the FOFA regulatory requirements and also resolved some common misconceptions, working through the top 10 FOFA 'myths'. The roadshows included a panel session with industry leaders and participants discussing implementation issues arising from the reforms.

Financial adviser training and assessment

ASIC's ongoing work to improve the competence of financial advisers continues. In 2012–13 we worked on enhancing the minimum training standards for advisers. In June 2013 we released a consultation paper with recommendations such as improving generic and specialist knowledge requirements for financial planning, securities and superannuation, skill requirements for personal advice, and education level requirements for all advisers. ASIC also sought feedback on the timetable to implement the new standards and the appropriate training standards for providers of personal sickness and accident insurance and consumer credit insurance.

ASIC strongly supports the introduction of a national examination for financial advisers; however, in April 2013 we announced the decision to defer implementation of the proposed national examination. This decision was made to allow appropriate time for other reforms, such as the FOFA reforms, to be implemented effectively.



Engagement with new advisers

In 2012–13, 97 new AFS licences were issued with an authorisation to provide personal financial advice to retail clients. With a view to educating and informing advisers from the outset, ASIC visited 24 of these new licensees to build relationships and to help them understand and meet their obligations. During the visits, we asked questions about the AFS licensees' general business model, advice processes and their approach to risk and compliance. There was considerable discussion about the FOFA reforms. Given the positive feedback received, we propose to conduct similar visits during the next financial year.

Trans-Tasman mutual recognition

ASIC and New Zealand's Financial Markets Authority announced mutual recognition arrangements for Australian and New Zealand financial advisers in July 2012. The recognition arrangements mean individual financial advisers will be able to provide services in both countries. The agreement is a further step towards a more dynamic single economic market between Australia and New Zealand.

The Stronger Super reforms aim to create a new simple, low-cost default superannuation product

Investment managers and superannuation

Working collaboratively on Stronger Super

The Stronger Super reforms aim to create a new simple, low-cost default superannuation product, make the processing of everyday transactions easier, cheaper and faster, and strengthen the governance and integrity of the superannuation system. ASIC has engaged with the industry to facilitate the orderly introduction of the Stronger Super reforms. Our engagement with key stakeholders included:

- ♦ regular liaison meetings with industry to identify emerging issues, as well as roundtable meetings with industry in November 2012
- ♦ participation in a national roadshow in October 2012 to explain the new disclosure requirements, including the requirements of the new product dashboard for consumers.

ASIC issued regulatory guidance to help SMSF auditors through the registration process that started on 31 January 2013 and set ongoing competency standards. By 30 June 2013 we had registered 5,935 SMSF auditors.

With the assistance of industry representatives, we developed a competency exam, to be taken by all auditors registering after 1 July 2013. The exam is available at locations across Australia.

ASIC's continued work on Stronger Super also involves providing specialist policy advice to Treasury, and working closely with our co-regulators in superannuation, APRA and the ATO.

Priority 1 – Confident and informed investors and financial consumers *continued*

Promoting an efficient AQUA market

ASIC continued its engagement with the ASX and industry to promote a robust, orderly and efficient AQUA market, the ASX market for the quotation of managed funds and structured products. We reviewed a number of product disclosure statements and granted relief to issuers to facilitate quotation of exchange-traded funds (ETFs) on the AQUA market. In December 2012 we issued a consultation paper on streamlining the class relief to quote ETFs on AQUA. We also continued discussions with ASX and industry on potential enhancements to AQUA rules, to ensure the suitability of products admitted to quotation on AQUA and ongoing disclosure in respect of those products.

Deposit-takers, credit and insurers

ASIC continued to work closely with Treasury on the development of the national consumer credit regime, and to assist industry with the implementation of new obligations. Following the introduction of new requirements for lenders responding to financial difficulty experienced by their customers, we consulted on appropriate requirements for 'simple' hardship arrangements.

Investment banks

ASIC's Investment Banks team launched a new initiative, the Business Liaison and Engagement Program, intended to establish and maintain a proactive engagement with the investment banks' senior business decision-makers and responsible managers.

The program is designed to ensure that ASIC is well-informed on material business changes and culture across the investment banking sector and can identify emerging risks to the fair and efficient operation of the Australian financial markets. Since the program commenced in September 2012 the Investment Banks team has undertaken 42 meetings across 18 investment banks.

Other engagement – granting relief

ASIC seeks to facilitate business transactions by granting relief from the Corporations Act and National Credit Act where there is a net regulatory benefit, or any regulatory detriment is minimal and is outweighed by the commercial benefit. We received 1,071 applications for relief in 2012–13 relating to Priority 1.

Of these, 616 have been approved, 172 refused, 81 withdrawn and 202 are under consideration.

Surveillance

As part of our pro-active approach, ASIC undertakes extensive surveillance to monitor the activities of individuals and entities within the populations we regulate (see pages 16–17).

We take a risk-based approach, identifying significant and strategically important key industry participants or 'gatekeepers' to analyse and directing surveillance resources toward the risks that pose the greatest threat.

Financial advisers

ASIC's proactive, risk-based approach to surveillance of financial advice continued in 2012–13, this year focusing on SMSFs, capital guaranteed products and completing Phase 2 of our review of financial advice industry practice (focusing on the top 21–50 advice licensees). ASIC also continued reactive surveillance work, primarily as a result of reports of alleged misconduct provided by the general public, breach reports from licensees and auditors, and statutory reports from liquidators, administrators and receivers.

As a result of this work ASIC:

- ♦ reviewed 521 pieces of financial advice
- ♦ cancelled six AFS licences for failure to comply with the obligations of a financial advice business
- ♦ accepted an enforceable undertaking from Macquarie Equities Limited, following our identification of recurring compliance deficiencies (see also p. 33)
- ♦ banned four advisers
- ♦ imposed licence conditions on two AFS licensees
- ♦ contacted financial advice licensees who had failed to lodge annual financial statements and audit reports by the due date, resulting in compliance from 29 AFS licensees and cancellation of 14 AFS licences at the request of the licensee.

Investment managers and superannuation

ASIC's proactive risk-based surveillance focused on responsible entities and superannuation trustees and their compliance with their AFS licence obligations, a review of compliance with new financial resource requirements and reviews of product disclosure statements (PDSs), notably agribusiness disclosure as well as the new shorter PDS requirements. The outcomes of these reviews have included changes to disclosure and compliance practices for trustees and responsible entities.

ASIC also monitored the advertising of responsible entities and super trustees. We obtained corrective disclosure, for example, where risks were not clear, or where messages were unbalanced and too heavily in favour of benefits.

In July 2012 ASIC released a report on custodial and depository services in Australia following a review of the industry. In September 2012 ASIC released a report on our proactive surveillance of the adequacy of risk management systems of responsible entities, and in December 2012 we released a report on our proactive review of managed investment schemes that are money market funds.

We also undertook a review of disclosure made by defined benefit fund trustees. In January 2013 we issued an advisory to the industry suggesting that trustees could provide members with further information about the financial position of funds.

ASIC undertook reactive surveillance including of managed investment schemes in stress (e.g. frozen funds or entities in administration). This surveillance work led to a number of enforcement outcomes, including 10 licence cancellations, six licence suspensions, one banning, improvements in disclosure to investors and rectification of a number of significant breaches.

As part of an international effort coordinated by IOSCO, ASIC undertook a systemic risk survey of its 16 largest hedge fund managers. The aggregated results were used by IOSCO in their global analysis of the sector's potential systemic risk. A report of these global findings is expected to be presented to the Financial Stability Board in late 2013.

Deposit-takers, credit and insurance

In the third year of the consumer credit regime, ASIC continued its focus on ensuring that consumers could commit to and use credit with confidence.

Credit providers

In September 2012 ASIC launched a targeted surveillance campaign to identify entities engaging in consumer credit activities without a licence. In three months ASIC checked 90 unlicensed entities who appeared to be engaging in activities that require an Australian credit licence. One person was convicted of unlicensed trading. This initiative raised awareness for those in the industry of the requirement to hold a credit licence.

By checking that credit licensees submit true and complete annual compliance certificates, ASIC can identify any false statements and determine whether enforcement action is required. In the period from 1 March to 30 June 2013, ASIC conducted surveillance activities on annual compliance certificates lodged by 53 credit licensees.

Responsible lending – a focus on mortgage brokers

In March 2013 ASIC released a review of licensed credit assistance providers' monitoring and supervision of credit representatives. The review, which covered 18 credit licensees responsible for over 60% of mortgage broker representatives, prompted significant improvements to credit licensees' controls to ensure their representatives comply with national responsible lending laws. Our work saw improvements such as licensees commencing regular formal reviews of their representatives' compliance, upgrading IT systems to better track credit and ensuring direct access to representatives' assessments of whether a credit contract would be unsuitable.

Priority 1 – Confident and informed investors and financial consumers *continued*

Funeral insurance

Research commissioned by ASIC found that consumers did not understand some of the key features of funeral insurance, including age-based increases in premiums, total cost when compared to the real cost of a funeral, and the result of missing payments. In response to these concerns, ASIC reviewed funeral insurance advertising and took action against a leading insurer.

Comparison website review

ASIC has continued its focus on reviewing those financial product comparison websites that only compare a limited number of providers without disclosing this to consumers.

ASIC focused particularly on insurance comparison websites that were operated by entities related to some of the insurance brands being compared, without disclosing that fact clearly. Those operators have improved the disclosure on their websites. In response to ASIC's concerns, one operator (JustEzi Pty Ltd) removed its online material.

Advertising credit products

ASIC paid close attention to how financial products and credit were advertised during the year, to help ensure consumers could make informed financial decisions based on sound information.

ASIC's action during the year resulted in over 120 advertisements for credit, insurance and deposit products being withdrawn or amended. A particular focus was on advertising by payday lenders that does not accurately represent the cost of credit. We will also be targeting misleading advertising and sales practices by product issuers, in order to protect consumers searching for yield from the dangers associated with higher-risk products.

ASIC's action resulted in over 120 advertisements for credit, insurance and deposit products being withdrawn or amended

Investment banks

ASIC completed the review of eight investment banks out of the 24 identified in our current stakeholder population. These included reviews of the investment banks' compliance and corporate governance frameworks, new product approval processes, and controls for managing conflicts of interest and confidential information. ASIC also completed targeted reviews focusing on governance and supervisory frameworks for outsourced arrangements that may materially impact compliance with an AFS licensee's obligations.

The investment banks generally accepted our observations on areas that could be improved and took appropriate remedial action.

Other surveillance


In addition to establishing our Complex Products Working Group, aimed at reducing the risk of unsuitable products being mis-sold to investors, we undertook targeted surveillance on a range of complex products currently offered in the Australian market.

Hybrid products

Offers of hybrid securities raised more than \$10 billion in 2012–13. ASIC continued its response to the increased issuance and popularity of hybrids by working with issuers and their advisers to improve prospectus disclosure and ensure selling messages are not misleading, and by providing investor warnings and education through the media and on our MoneySmart website.

'Capital protected' and 'capital guaranteed' products

In May 2013 ASIC released a 'health check' report on the market for unlisted and unquoted 'capital protected' and 'capital guaranteed' retail structured products. The report found that, in some cases, the labelling and description of certain structured products as 'capital protected' could create a perception of safety that is inconsistent with the products' risks. It also found that the use of phrases such as 'conditional capital protection' or 'contingent protection' may be misleading for certain investments where capital is at risk.



Since the report's publication, ASIC has seen changes from a number of product issuers and advice providers in the promotion of structured products.

Issuers of CFDs and FX contracts

ASIC completed its review of the client money handling and reconciliation practices of 40 issuers of CFDs and FX contracts. The review identified a number of weaknesses, including 18 issuers who failed to properly designate client accounts as trust accounts, 11 issuers who failed to move money into a client money account within one business day of receiving it and 19 issuers with no formal escalation process for resolving variances in reconciliation. In April 2013, ASIC accepted an enforceable undertaking from City Index Pty Ltd relating to deficiencies in its client money handling practices (see also p. 34).

OTC derivative issuers

In July 2012, ASIC announced changes to the financial requirements for licensees who issue over-the-counter (OTC) derivatives to retail clients, including CFDs and FX contracts, to help ensure that they have the resources to manage operational risks and compliance obligations.

The changes aim to ensure these AFS licensees have adequate financial resources to operate their business in compliance with the Corporations Act and manage operational risks. They were introduced after an ASIC review of this sector found that poorly resourced issuers of retail OTC derivatives are less likely to carry out adequate supervisory arrangements and are more likely to encounter compliance breaches. Under the new requirements issuers are required to hold net tangible assets of the greater of \$500,000 or 5% of average revenue, rising to \$1 million or 10% of average revenue from 31 January 2014.

The increase to the minimum financial requirements for retail OTC derivative issuers also brings Australia in line with comparable jurisdictions, such as the United Kingdom and Singapore.

During 2012–13 we reviewed 42 issuers' compliance with the enhanced financial requirements, in the process improving nine issuers' deficient financial calculation, forecasting or risk management practices.

Guidance – setting rules, standards and expectations

Financial advisers

FOFA reforms

To help industry comply with the new requirements of the FOFA reforms, during 2012–13 ASIC released a suite of both new and updated regulatory guides. The regulatory guides cover complying with the best interests duty, understanding the various obligations in relation to giving information, general advice and scaled advice, understanding the practical operation of the ban on conflicted remuneration, guidance on how ASIC will apply its existing code approval guidelines to codes that remove the need for compliance with the opt-in requirement, and the fee disclosure statement obligations that will apply to AFS licensees and their representatives under the FOFA reforms.

Investment managers and superannuation

Stronger Super

For the MySuper and disclosure aspects of the Stronger Super reforms, we have issued information sheets in relation to intra-fund advice, disclosure of transfers to the new MySuper default fund arrangements, new obligations for trustees to distribute consistent information about their funds, as well as refreshing some existing guidance on transfers without consent. We have also created a dedicated webpage to answer frequently asked questions about Stronger Super, including MySuper, product dashboard and portfolio holdings disclosure requirements.

Priority 1 – Confident and informed investors and financial consumers *continued*

Self-managed super

ASIC has focused on providing guidance in relation to SMSFs, because of the rapid growth in this sector and the importance of ensuring that consumers are financially secure in retirement. In April 2013 ASIC released a report with practical tips to improve the quality of advice given to investors. The practical tips guide was developed after seeing improvements that could be made following the surveillance of 18 entities providing a financial service involving SMSFs and a review of over 100 investor files.

We also produced a consumer information brochure for distribution to members who request a rollover to an SMSF.

Hedge funds – ‘if not, why not’ benchmarks

ASIC issued a regulatory guide in September 2012 which sets out a number of ‘if not, why not’ benchmarks and principles on disclosures that hedge fund managers should make to their investors, given the more complex nature and higher risks posed to investors.

Investment platforms

Following a review of the investment platform sector, ASIC issued updated guidance and new class orders in June 2013 to strengthen disclosure requirements.

Platforms can assist retail investors to manage their investment portfolios, including through their advisers. Platform operators now have around \$90 billion in funds under management.

ASIC has moved to require platform operators to explain how they choose the different products on offer to investors through their platforms and made changes so that investors who invest through a platform are adequately protected compared with direct investors.

Custodial or depository service providers

ASIC also strengthened the financial requirements for custodial or depository service (custody) providers. As at December 2012, approximately \$2.065 trillion of assets of Australian investors were held in custody. Under the changes, custodians will be required to hold net tangible assets amounting to the greater of \$10 million or 10% of average revenue.

Deposit-takers, credit and insurance

Clear, accurate and balanced advertising is key to ensuring investors and financial consumers are confident and informed. In November 2012 ASIC expanded its regulatory guidance on advertising financial products and services to include guidance and best-practice examples relating specifically to credit products and services. The guidance is intended to help industry participants avoid engaging in misleading or deceptive conduct.

Education

ASIC hosted a National Financial Literacy Forum in April 2013, attended by 140 stakeholders from the business, community, education and government sectors, as the first stage of consultation on a new National Financial Literacy Strategy for 2014–16.

MoneySmart Teaching

ASIC’s MoneySmart Teaching team spent much of the year implementing the trial phase of MoneySmart Teaching under the Helping Our Kids Understand Finances initiative. The trial phase finished on 30 June 2013 and work has now begun to expand MoneySmart Teaching over the next four years.

During this year, over 90 MoneySmart schools across Australia trialled the MoneySmart Teaching Primary and Secondary professional learning packages. Approximately 8,000 teachers received professional learning, well exceeding the target of 6,000 teachers.

The MoneySmart Teaching website is resource-rich for educators and parents. It is aligned to the Australian Curriculum, with resources including professional learning packages, digital activities and videos.

MoneySmart Teaching



Over 90 schools across Australia trialled the MoneySmart Teaching Primary and Secondary materials in 2012–13



Priority 1 – Confident and informed investors and financial consumers *continued*

MoneySmart Rookie

Following the major success of the MoneySmart website, in June 2013 ASIC launched MoneySmart Rookie, ASIC's flagship financial education program for young people (16–25 year olds). Its aim is to help young people transition to financial independence and to understand the importance of making smart financial decisions.

ASIC took MoneySmart Rookie on the road, running 293 education and training sessions about money management, attended by over 12,000 community workers and consumers. ASIC also participated in 265 regional activities with communities throughout Australia.

The MoneySmart Rookie suite of resources includes educational videos, teacher lesson plans and interactive web content on topics such as first jobs, online transactions, car ownership, mobile phones and moving out of home.

MoneySmart website

ASIC's MoneySmart website remains a plank of Australia's National Financial Literacy Strategy – and its popularity, use and reputation continues to grow.

The website has had over 5 million visitors since its launch in March 2011. To June 2013, the website has helped around 420,000 Australians each month make smarter money decisions. Over 13,000 websites link to MoneySmart, which has reached over 8% of Australian adult internet users.

Our research shows that 89% of users rate the site useful and 90% said they had taken specific action as a result of visiting the site. In July 2012 MoneySmart was named 'Best in Class' at the 2012 Interactive Media Awards in two categories: 'Government' and 'Financial information'.

In October 2012 ASIC released the TrackMySpend app, which has been downloaded by 186,000 people to help keep track of their incidental and day-to-day spending. ASIC also launched the interactive Money Health Check, which helps people identify and address areas where their finances are not in order.



ASIC Indigenous Outreach Program team members with MoneySmart Rookie video presenter Aldi Godjali (centre) at the project launch on 18 June 2013.

Superannuation

Accurate and balanced information about superannuation options is a key ingredient in people's retirement planning. In 2012–13 we posted new content on our consumer website, MoneySmart, to reflect changes stemming from the Stronger Super reforms, particularly the introduction of the new default fund arrangements with MySuper. MoneySmart also sets out the issues to be considered when setting up a self-managed super fund. In future MoneySmart will make available data about superannuation funds to enable consumers to compare funds quickly and easily.

Indigenous financial consumers

ASIC's Indigenous Outreach Program assists Aboriginal and Torres Strait Islander consumers to be confident and informed when making financial decisions. This includes resources for Indigenous consumers and the organisations and professionals that support them.

The Indigenous Outreach team delivered workshops and training in over 30 urban, regional and remote locations during the year. The team responded to complaints from consumers about credit, banking and insurance, working with businesses or referring the matters to ASIC's enforcement teams for investigation.

We revised and updated all our Indigenous consumer publications and, for those who prefer receiving information in non-text forms, we produced four videos on key consumer issues, featuring popular Indigenous performers Last Kinection. We ran a radio campaign promoting ASIC's Money Talks series and, in conjunction with the Territory Insurance Office, we launched audio posters with messages about ATM fees in 12 Indigenous languages, for display in remote stores throughout the Northern Territory.

In April 2013 ASIC hosted a forum, supported by key industry bodies, to discuss superannuation issues for Indigenous consumers. The forum addressed issues Indigenous consumers face, such as difficulties with identification requirements, geographic isolation and, often, speaking English as a second language.

International financial literacy education

ASIC represents Australia on two expert groups sponsored by the Organization for Economic Cooperation and Development (OECD): the International Network for Financial Education (INFE) and the Programme for International Student Assessment (PISA).

This year ASIC helped develop the 2012 international PISA financial literacy testing of students worldwide, in which Australian students took part.



(L to R) ASIC's Indigenous Outreach Program manager Robynne Quiggin; Rod Little, Director, National Congress of Australia's First Peoples; Kate Rich, Financial Counsellor, Tangentyere Council and Sarah Bassiuouni, Solicitor, Public Interest Advocacy Centre, at the forum on superannuation for Indigenous consumers, held in April 2013.

Priority 1 – Confident and informed investors and financial consumers *continued*

Enforcement

Gatekeepers have a vital role in ensuring a well-functioning financial services industry, one which meets the community's expectations of honesty, diligence and competence. ASIC has continued to take strong enforcement action to maintain the confidence of investors and financial consumers throughout 2012–13.

In relation to Priority 1, in 2012–13 we completed 111 litigation and administrative actions, 92 investigations and 12 criminal proceedings. We secured 12 criminal convictions and seven imprisonments.

Honesty

Ensuring consumers and investors are confident and informed depends on gatekeepers not using their position to deceive, mislead, abuse or exploit the trust of clients and the investing public.

Trio Capital

Eugene Liu, a former director and chief investment strategist of Astarra Asset Management Pty Ltd (AAM), was permanently banned by ASIC in March 2013 from providing financial services.

AAM was appointed by Trio Capital Ltd (Trio) as the investment manager of the assets of Astarra Strategic Fund (ASF), a fund of hedge funds whose responsible entity was Trio. ASIC made findings that Mr Liu engaged in dishonest and misleading conduct while a director of AAM. Mr Liu has appealed to the Administrative Appeals Tribunal.

Investment scams

ASIC brought numerous civil proceedings to freeze funds and wind up companies involved in highly organised and sophisticated scams that target Australian residents using fraudulent financial services businesses. The scams used a combination of cold-calling and websites to convince investors they were legitimate entities.

In April 2013, ASIC obtained orders winding up three Gold Coast-based companies involved in a fraudulent financial services business. ASIC had previously frozen \$283,000 before obtaining the orders appointing a liquidator to the companies to redistribute these funds back to investors.

Unregistered offshore managed investment schemes

David Hobbs was ordered to pay a record penalty of \$500,000 and permanently banned from managing companies and providing financial services by the Supreme Court of New South Wales in February 2013.

Mr Hobbs led the operation of 14 unregistered offshore managed investment funds, including a \$30 million ponzi scheme, which targeted Australian investors and SMSFs. More than \$55 million was invested in the offshore schemes operated by Mr Hobbs and 12 others, including his wife, Jacqueline Hobbs.

Financial services

- ◆ Craig Gerard Dangar, a former self-managed superannuation adviser, was sentenced to concurrent suspended sentences of 18 months imprisonment after pleading guilty to two charges of obtaining financial advantage by deception. Mr Dangar pleaded guilty to obtaining a total financial advantage of \$250,000 by recommending two clients purchase a portion of his shares in a company while misrepresenting the true owner of the shares.
- ◆ Trevor Carll, a former South Australian financial planner, was sentenced to two years imprisonment after pleading guilty to one count of deception and two counts of dishonest dealings with documents.
- ◆ Susan Heathwood, a Sydney-based former financial adviser, was sentenced to 41 months in prison after pleading guilty to two counts of dishonest conduct in relation to financial services. The sentence was suspended on Ms Heathwood entering into a two-year good behaviour bond.

Consumer credit

ASIC's focus on the *National Consumer Credit Protection Act 2009* (National Credit Act) has resulted in its first conviction under that Act.

Daniel Nguyen, a former NSW-based mortgage broker, was convicted in January 2013 of 10 offences under the National Credit Act, with the court imposing a two-year good behaviour bond. Mr Nguyen pleaded guilty to nine offences of providing false information and documents to banks to secure approvals for home loans totalling more than \$3 million over five months, and to one offence relating to responsible lending.

ACM Group

ACM Group, one of Australia's largest debt collection companies, was found to have harassed and coerced eight debtors between November 2008 and June 2010, and also to have engaged in widespread and systemic misleading and deceptive conduct when recovering money.

After hearing 96 phone calls, mostly between ACM debt collectors and the debtors, and after viewing the ACM debt collector training manual, the Federal Court of Australia made findings in October 2012 of undue harassment or coercion.

Diligence

Gatekeepers must exercise their duties with proper care and attentiveness.

Storm Financial – compensation for investors

ASIC is pursuing compensation for investors affected by the collapse of Storm Financial and achieved some significant outcomes in 2012–13.

- ♦ The Commonwealth Bank of Australia (CBA) agreed to make up to \$136 million available to compensate losses suffered by many CBA customers who borrowed from the bank to invest through Storm. This was in addition to payments already made by the CBA of approximately \$132 million and other benefits paid to Storm investors under its CBA Resolution Scheme.
- ♦ ASIC settled its proceedings on behalf of Barry and Deanna Doyle in late May 2013, with Macquarie Bank and the Bank of Queensland agreeing to pay, without admission of liability, \$1.1 million to fully compensate the Doyles for their financial loss arising from their Storm investments.

Macquarie Equities Limited

In January 2013, ASIC accepted an enforceable undertaking from Macquarie Equities Limited (MEL) to rectify risk management and compliance deficiencies, following a surveillance that found recurring deficiencies by, and in the supervision of, MEL's advisers. An independent expert will also oversee this process.

ASIC identified the following deficiencies:

- ♦ client files not containing Statements of Advice
- ♦ advisers failing to demonstrate a reasonable basis for advice provided to clients
- ♦ poor client records and lack of detail in advice documents
- ♦ lack of supporting documentation on file to determine whether there was a reasonable basis for advice provided to the client
- ♦ failing to provide sufficient evidence clients were sophisticated investors.

Priority 1 – Confident and informed investors and financial consumers *continued*

Responsible lending obligations

- ♦ ASIC cancelled the credit licences of Zaam Rentals Pty Ltd and Mobile Rentals Pty Ltd, both Victoria-based household goods rental companies. ASIC found both companies failed to comply with the responsible lending obligations set out in the National Credit Act.
- ♦ ASIC cancelled the credit licence of Money Choice Pty Ltd and banned its director, Matthew George, after finding failures to comply with credit laws, responsible lending shortfalls and instances of unlicensed SMSF advice. Mr George was banned from engaging in credit activities for eight years and from providing financial services for three years.

New infringement notice powers

- ♦ City Index Australia Pty Ltd paid a total of \$13,200 in penalties under two infringement notices issued by ASIC for misleading representations made on its website and in an electronic newsletter. These were the first infringement notices to be issued under the Australian Consumer Law provisions in the ASIC Act.
- ♦ ASIC accepted an enforceable undertaking from Graham Rendell, the owner and operator of Perth-based lender Key Credit, following concerns regarding underlying weaknesses in Key Credit's compliance processes. Infringement notices issued to Key Credit were the first paid under the National Credit Act.¹

Competence

All AFS licensees and credit licensees must meet legislative and regulatory requirements for licensing and training.

ASIC may take administrative action to cancel or suspend a licensee's credit licence where, for example, a licensee has requested a suspension or cancellation, no longer engages in credit activity, or is insolvent.

During 2012–13 ASIC banned three persons from engaging in credit activities after they breached their licensee general conduct obligations.

Civil penalty proceedings under the National Credit Act

Nathan Elali, the director of EasyChoice Home Loans Pty Ltd, was ordered to pay a penalty of \$7,500 after the Federal Court in Sydney found in September 2012 that EasyChoice had advertised that it could provide credit, despite being unlicensed, in breach of s30 of the National Credit Act. This was ASIC's first civil penalty proceeding under the National Credit Act.

Independence

AFS licensees and credit licensees must have adequate arrangements in place for managing conflicts of interest.

Addwealth Financial Services

ASIC imposed additional conditions on the AFS licence of Addwealth Financial Services Pty Ltd after conducting a surveillance of its advice business. There were concerns that Addwealth Financial Services did not have adequate arrangements in place to manage conflicts of interest and may have failed to provide advice that was appropriate to clients' circumstances.

Failure to disclose

Jeremy Michael Reid entered into an ASIC enforceable undertaking under which he agreed not to provide financial services, not hold an AFS licence and not be employed by a financial services provider for two years.

The enforceable undertaking followed an investigation into his conduct between December 2007 and June 2008 as a director and CEO of Everest Capital Ltd, which was then the responsible entity of a number of managed investment schemes, including the Everest Babcock & Brown Income Fund. Mr Reid acknowledged ASIC's concerns including that he failed to disclose to other Everest directors that Everest had received redemption inquiries around the same time as parties related to Mr Reid had also submitted redemption requests.

1. Compliance with an infringement notice is not an admission of guilt or liability; and the recipient is not taken to have contravened the relevant legislative provisions.

Policy advice and implementation

ASIC has taken a very active role in policy advice and implementation in 2012–13, both domestically and internationally.

Domestic policy work

Major work undertaken includes our engagement with Treasury and APRA on the drafting of legislation to introduce the Stronger Super reforms (see page 23), and with Treasury on the FOFA reforms (see page 22) and the development of the national consumer credit regime (see page 24).

International regulation and cooperation

ASIC has played a particularly active role in the development of international regulatory policy this year. ASIC Chairman Greg Medcraft was appointed as Chair of the IOSCO Board in March 2013 and as IOSCO Board Chair also sits on the Financial Stability Board's Plenary and Steering Committee, the International Financial Reporting Standards Monitoring Board and is co-chair of the Committee on Payment and Settlement Systems–IOSCO Screening Group. ASIC will use these key positions to advance work in a number of areas, as detailed below and on page 45.

ASIC has drafted mandates to create a new IOSCO policy committee on retail investors and a new IOSCO taskforce on cross-border regulation. The Committee on Retail Investors has a primary mandate to conduct IOSCO's policy work on retail investor education and financial literacy, and a secondary mandate to advise the IOSCO Board on emerging retail invest or protection matters and conduct investor protection policy work as directed by the IOSCO Board. The Task Force on Cross-border Regulation will identify and consider cross-border regulatory tools and, if appropriate, develop guidance about how the tools could be used by IOSCO members.

ASIC continues to work closely with international financial regulators and other law enforcement agencies in relation to all its activities. ASIC makes and receives international requests in relation to investigations, compliance and surveillance (enforcement), policy research, general referrals, delegations and licensing or due diligence requests.

There has been an increase in all types of requests made by ASIC to its international counterparts, particularly in enforcement requests (from 167 in 2011–12 to 271 in 2012–13).

Requests received by ASIC to brief foreign regulator delegations have almost doubled (to 57), reflecting both the ASIC Chairman's involvement in international forums and the international interest in learning about how the Australian financial regulatory system coped during and in the aftermath of the global financial crisis. Popular topics for discussion included the regulation of markets, FOFA reforms and financial literacy.

International cooperation requests

Year	Requests by ASIC	Requests to ASIC
2010–11	297	507
2011–12	251	429
2012–13	408	481



Greg Medcraft congratulating ASIC lawyer Davis Zhang, who began a three-month secondment to the China Securities Regulatory Commission in June 2013

Priority 2 – Fair and efficient financial markets



Engagement with industry and stakeholders

The markets cluster has a well-developed relationship with industry, and held a total of 345 meetings with industry groups in 2012–13. The topics of discussion include emerging market issues such as high-frequency trading and dark liquidity, ASIC's new surveillance system, cost recovery of ASIC's market supervision expenditure, takeovers and continuous disclosure.

In 2012–13 we met with a broad range of stakeholders, including the Stockbrokers Association of Australia, Chartered Secretaries Australia, the Law Council of Australia, the Australian Institute of Company Directors, the Australian Financial Markets Association, the Financial Services Council, the Australian Council of Superannuation Investors and the Business Council of Australia.

Financial market infrastructure

ASIC taskforces on dark liquidity and high-frequency trading

In mid-2012, ASIC set up two internal taskforces to consider the impact of dark liquidity and high-frequency trading on the integrity of Australia's financial markets. Our focus was on the interests of listed companies, fundamental investors and Australia's competitiveness as a regional financial centre. A key aspect of the taskforces' work was consultation with industry, with over 100 meetings and workshops held to gather information and to discuss themes identified and the findings of the taskforces.

Corporations

In 2012–13 we again held bi-annual corporate finance liaison meetings in five states to communicate with stakeholders concerning issues and initiatives relating to fundraising, mergers and acquisitions and corporate governance.

We also held a series of industry meetings in November 2012 on takeovers law reform, in conjunction with Treasury and the Takeovers Panel.

Banksia taskforce and debentures reform

ASIC set up a taskforce in October 2012 following the appointment of receivers and managers to Banksia Securities Ltd. The taskforce, led by Commissioner John Price, reviewed Banksia's collapse and the regulation of the Australian unlisted debentures sector.

The taskforce is working closely on an ongoing basis with Banksia receivers and managers in a bid to get the best result for Banksia investors and retail clients.

In December 2012, the Government announced that ASIC and APRA would consult on reforms to regulate the debentures market.

In February 2013 ASIC published a consultation paper that sets out to strengthen debentures regulation. We received 24 formal responses and met with industry bodies, trustees, auditors, and Australian and foreign regulators about future regulation of the sector. We are working with Treasury and other relevant agencies to determine improvements to the regulatory regime, with the benefit of this consultation process.



Other engagement – granting relief

We received 2,023 applications for relief in 2012–13 relating to Priority 2. Of these, 1,431 have been approved, 186 refused, 237 withdrawn and 169 are under consideration.

Surveillance

Financial market infrastructure

Market assessment reports

Under the Corporations Act, ASIC must assess, at least once a year, whether a market licensee has adequate arrangements to operate its market and/or clearing and settlement facility.

During 2012–13 we conducted assessments and published reports on 31 market and clearing and settlement facility operators.

In May 2013, ASIC released its assessment report for the ASX Group covering the period 1 November 2011 to 30 June 2012. This report also assessed the outage in ASX Group's market announcements on 9 October 2012. Our report concluded ASX Group had met its statutory obligations; however, it also outlined seven areas for improvement or attention the ASX Group has agreed to address.

These areas relate to its technology and its arrangements for monitoring and enforcing compliance with its operating rules. The ASX Group also agreed to review its communication procedures, including the timing of future communications about system issues to market participants, improve its processes for monitoring its listing rules and to increase transparency to the market about its monitoring of long-term suspended entities. It also agreed to change its processes for reviewing prospectuses.

In November 2012, ASIC published its first annual assessment of Chi-X Australia, covering the period 4 May 2011 to 31 March 2012, which found Chi-X met its statutory obligations during its first year of operation. The report outlined nine areas for attention Chi-X has agreed to address. These relate to the sufficiency of its human and technological resources, monitoring and enforcing compliance with its operating rules and handling conflicts. Chi-X agreed to a number of changes including publishing its arrangements for managing conflicts on its website and improving its participant admission process.

Priority 2 – Fair and efficient financial markets *continued*

Market and participant supervision

Fair and efficient markets require market infrastructure that is robust, where the trading, clearing and settlement is orderly and efficient, and where market misconduct is minimised.

New market surveillance system

In 2012–13 ASIC continued to work towards rolling out our new real-time integrated market surveillance system. The Flexible Advanced Surveillance Technologies program will allow ASIC to adapt to a greatly increased message traffic, new technologies and trading techniques.

The introduction of the system by the end of 2013 will give ASIC enhanced surveillance tools, including better data analytics to identify suspicious trading by connecting patterns and relationships. The new system will also help ASIC handle the continued increase in trading messages generated by high-frequency and algorithmic trading.

Market participant supervision

ASIC's risk-based surveillance of stockbrokers and securities dealers continued this year. We conducted 64 assessment visits and 44 surveillances of equity trading market participants.

Our surveillances included reviews of market participants' compliance with market integrity rules and their representatives' compliance with client advice obligations, responses to breach reports and surveillance of high-risk activities.

Public reporting of market and participant supervision

As part of ASIC's commitment to transparency and accountability, we publish bi-annual reports on our supervision of financial markets and market participants.

We have published the fifth and sixth reports on our supervision of Australian financial markets and market participants, to report on our achievement of key regulatory and enforcement outcomes. These reports show that, in the period July 2012 to June 2013, there were 180 trading matters requiring further consideration, with 52 referred to ASIC's enforcement team for investigation.

We achieved nine enforcement outcomes for insider trading, one for market manipulation, one for continuous disclosure breaches, and there were nine infringement notices issued by the Markets Disciplinary Panel (MDP).

Corporations

Monitoring takeovers

ASIC continued its focus on takeovers this year, monitoring each of the 46 new takeover bids during 2012–13. Where necessary, ASIC intervened to seek further disclosure or other changes to ensure transactions abided by the rules and fundamental principles of takeovers law.

We also took action in the Takeovers Panel. We made a successful application to require shareholder approval for an underwriting arrangement under which the Chairman of Laneway Resources Limited, Stephen Bizzell, could potentially acquire up to 86% of the company by, in effect, converting debt to equity. We also participated in each of the 19 other applications made to the Takeovers Panel, making submissions in each case where the Panel conducted proceedings.

This year we also assessed the disclosure and terms of 32 new proposed acquisitions under court-approved schemes of arrangement, and seven associated options schemes, nine schemes to effect restructures and four creditor's schemes.

Improving prospectus disclosure

A significant structural shift is occurring towards market-based financing, that is, debt and capital markets as opposed to traditional bank lending. Good quality prospectuses are essential to ensure these markets operate fairly and efficiently.

This year ASIC either stopped, or improved disclosure on, 111 prospectuses. This involved extending the exposure period on 54 prospectuses. We also issued stop orders to prevent fundraising where we had concerns about the disclosure to investors. ASIC issued 16 interim stop orders and 17 final stop orders during 2012–13.

Financial reporting and audit

Reviews of financial reports

ASIC reviewed 450 financial reports of listed and unlisted entities, and also reviewed the financial reports of 300 proprietary companies. We released the findings and suggested areas directors and auditors should focus on for coming reporting seasons. These include large impairment write downs of goodwill and other assets, consolidating arrangements previously off-balance sheet, and disclosure of information that is useful and meaningful for investors and other users of financial reports on matters such as going concern.

Audit firm inspections

Auditors, as gatekeepers, play a vital role in ensuring investors remain confident and informed. During the year ASIC inspected 16 audit firms, focusing on audit engagement file reviews and quality control systems. ASIC also conducted surveillance of individual audits and auditors, based on market intelligence and other information.

ASIC's most recent public audit inspection report was issued in December 2012 and covered inspections of audit firms completed in the 18 months to 30 June 2012. We were disappointed there had not been an improvement in audit quality since our last report. We observed an increase in instances where auditors did not perform all of the work necessary to obtain reasonable assurance that the financial report was free of material misstatement. ASIC identified three broad areas for improvement:

- ♦ the sufficiency and appropriateness of audit evidence obtained
- ♦ the level of professional scepticism exercised
- ♦ the extent of reliance that can be placed on the work of other auditors and experts.

In response to our request, Australia's six largest auditing firms prepared action plans to improve audit quality.

Insolvency practitioners

Overview of liquidators registration

In May 2013, ASIC published its second annual overview of its regulation of registered liquidators. The report outlined the supervisory, enforcement and educative work of ASIC throughout 2012 and focused on three main themes: competence, independence and inappropriate gain, which includes excessive remuneration and drawing remuneration before obtaining appropriate approval.

Surveillance of registered liquidators

ASIC initiated seven proactive reviews this year, finalised a further 18 activities and escalated two activities for enforcement action.

In our remuneration monitoring work, we completed 30 reviews resulting in better disclosure to creditors, registered liquidators agreeing to reduce their fees, and registered liquidators adjourning meetings of creditors to provide further information to all creditors.

The law requires certain external administrators to prepare declarations about relationships and indemnities to fully inform creditors about their independence. During the year, we completed 31 activities that involved reviewing the adequacy of their declarations. In 61 % of cases, we found the declarations were inadequate, requiring registered liquidators to issue replacement declarations. Our work to educate the insolvency profession and improve standards in this area will continue in 2013–14.

**Auditors, as gatekeepers,
play a vital role in ensuring
investors remain confident
and informed**

Priority 2 – Fair and efficient financial markets *continued*

Guidance – setting rules, standards and expectations

Financial market infrastructure

Dark liquidity and high-frequency trading

In March 2013, ASIC released a report and a consultation paper examining the impact of dark liquidity and high-frequency trading on Australia's financial markets.

The work was run by two internal ASIC taskforces: one assessing dark liquidity in response to concerns about its impact on market integrity; the second on high-frequency trading addressing concerns about disorderliness and unfairness.

Some of the common negative perceptions about high-frequency traders (e.g. they create excessive price volatility, have high order-to-trade ratios and short resting times) were not supported by our analysis. ASIC's view was that most issues could be dealt with by existing regulations.

However, on dark liquidity, ASIC found there had been a change in the nature and use of dark liquidity. We found that broker-crossing systems (i.e. dark pools) are becoming more market-like and there are gaps in their regulation. In August 2013 we made a number of new market integrity rules to address these gaps.

Both taskforces referred a number of potential rule breaches to ASIC's Enforcement team for investigation. ASIC's evidence-based approach has been praised here and abroad, and we have already seen a change in trading behaviour as a result of our inquiries.



Media conference for dark liquidity and high-frequency trading report, March 2013.

New market rules responding to changing financial markets

In July 2012 ASIC released new market integrity rules for market participants requiring reporting to ASIC of suspicious activity and tagging orders and trades where the market participant is short.

In November 2012, ASIC released rules that are being implemented in stages until May 2014, to enhance:

- ♦ market participant controls for automated trading (e.g. a 'kill switch' to immediately suspend orders) and for extreme price movements (e.g. automating 'circuit breakers')
- ♦ data provided to ASIC for surveillance purposes (e.g. identifying client accounts and whether a participant is acting for itself or on behalf of a client)
- ♦ price formation by requiring non-pre-trade transparent trades to be done with meaningful price improvement, which encourages more trading to occur on public markets.

ASX trading of government bonds

From May 2013, Australian government bonds became available for trading on the ASX for the first time. In preparation for the change, ASIC put in place the regulatory framework, market integrity rules and guidance, ASX operating rule changes and investor education tools needed to prepare the market and retail investors for retail trading in these bonds.

Licensing of carbon market participants

In July 2012, emission units recognised under the carbon pricing mechanism were acknowledged as financial products under the Corporations Act and any traders in emissions units needed to apply for an AFS licence.

To help new and existing entrants to the carbon markets, ASIC developed a range of resources, including guidance on applying for or varying an AFS licence, general guidance on how the financial services regime applies to emissions units and carbon markets and a dedicated carbon emissions unit webpage on

www.asic.gov.au.

Corporations

Consolidating takeovers guidance

In June 2013, ASIC released four comprehensive regulatory guides updating and consolidating our policies on takeovers, previously in 17 different guides. The guidance covers takeover bids, substantial holdings, compulsory acquisition and buy-outs. The guides consolidate the bulk of ASIC's policies covering Chapters 6–6C of the Corporations Act.

Making annual reports more useful to investors

In March 2013, ASIC released a regulatory guide to improve the disclosure in listed entities' annual reports. The guidance aims to encourage insightful, clear communication rather than increase the quantity of disclosure.

The operating and financial review (OFR) forms part of a listed entity's annual report and contains information about the entity's operations, financial position, business strategies and future prospects.

Winding up abandoned companies and helping employees access entitlements

In November 2012, ASIC released guidance on ASIC's power to wind up an abandoned company under new powers in the Corporations Act.

The guidance also outlines ASIC's approach to assisting employees to access the Government's General Employee Entitlements Redundancy Scheme after an abandoned company has been wound up.

Emerging mining and resources companies

Improving reporting in the exploration and mining sector

ASIC worked with the resources industry – the Joint Ore Reserves Committee (JORC), the Australian Industry Group and the AIG and Australasian Institute of Mining and Metallurgy), the equivalent professional organisations in Canada and South Africa, leading mining companies (BHP and Rio Tinto), small exploration and mining companies – and the ASX on the recent updates to the ASX Listing Rules and the JORC Code. ASIC identified improvements to be made in existing disclosure (and valuation

practices). The updates have strengthened reporting on reserves and resources in the mining, oil and gas industries.

Financial reporting and audit

Auditor registration, resignations, removal and replacements

ASIC released a suite of reports, regulatory guides and a consultation paper relating to auditors. The consultation paper seeks views on whether ASIC should fundamentally change its approach to consenting to the resignation, removal and replacement of auditors.

ASIC released a further two regulatory guides – the first on an auditor's obligation in reporting to ASIC; the second an updated guide to auditor registration, taking into account the *Trans-Tasman Mutual Recognition Act 1997*.

Funding liquidator actions

In November 2012, ASIC updated its guidance on ASIC's approach to funding liquidator investigations, reports and actions from the Assetless Administration Fund (AA Fund). It includes details on how to apply for funding, ASIC's approach to funding liquidator investigations, reports and actions and the liquidator's rights to request a review of our funding decision.



ASIC's Emerging Mining and Resources team, shown here on a visit to a training underground mine at Perth Technical College, includes a geologist and other staff with the specialist skills needed to undertake regulation of this sector.

Priority 2 – Fair and efficient financial markets *continued*

Enforcement

Directors, company officers, auditors, insolvency practitioners and other market participants play a key role in ensuring Australia's financial markets are fair and efficient. ASIC will take enforcement action against these gatekeepers where they fail to perform their duties with sufficient honesty, diligence, competence or independence.

In relation to Priority 2, in 2012–13 we completed 33 litigation and administrative actions, 94 investigations and 13 criminal proceedings, and secured 10 criminal convictions and two imprisonments.

In addition, we prosecuted 528 individuals in relation to 966 offences relating to failure to provide assistance to an external administrator.

Honesty

The fairness and efficiency of financial markets depends on gatekeepers not using their positions to gain an improper advantage. ASIC enforcement actions in 2012–13 included actions against insider trading and making false statements.

Insider trading

Insider trading has been a strong focus for ASIC over the last few years and enforcement action this year has resulted in eight convictions. The more notable outcomes are:

- ♦ Bo Shi Zhu, also known as Calvin Zhu, the former Hanlong Mining Investment Pty Ltd vice-president who pleaded guilty to three counts of insider trading, was sentenced in February 2013 to two years and three months jail, with a minimum sentence of 15 months
- ♦ Ulf Ronnie Lindskog was sentenced on 14 March 2013 in the County Court of Victoria after being convicted of four insider trading charges. Mr Lindskog had purchased shares in Spotless Group Ltd while possessing inside information regarding proposed takeover bids for Spotless. He was sentenced to 12 months imprisonment, wholly suspended, and fined \$15,000.
- ♦ Norman John Graham, the former head of stockbroking firm Lonsec, was convicted in May 2013 on two charges of insider trading and fined \$30,000. Mr Graham had sold shares in the listed fishery company, Clean Seas Tuna, knowing the company was set to announce a

loss of more than \$10 million for the six months to December 2010.

The court may also recognise a person's attempts to cooperate when deciding on an appropriate sentence. In 2012–13, a number of persons convicted of insider trading received discounts off their sentences for cooperating with ASIC and pleading guilty at the earliest opportunity.

Making false or misleading statements

- ♦ Peter Couper, the former CFO of Bill Express Limited's parent company, was jailed following an ASIC appeal against a suspended jail sentence imposed on him over his role in the collapse of the payments processor. In April 2013 Mr Couper was sentenced to 22 months in jail, to be released after 60 days, and fined \$10,000. The charges related to falsified books of Bill Express, providing misleading information to Bill Express's auditor, and providing false or misleading information to ASIC.
- ♦ In September 2012, ASIC warned consumers under its new Australian Consumer Law public warning notice power about activities of Robert George McClelland regarding his promotion of Roadships Holdings, Inc. and Cycclone Magnetic Engines. ASIC was concerned he had influenced investors by suggesting the share price would increase substantially once they were listed on the US NASDAQ exchange or the German DAX index, despite no reasonable basis for the statements.

Competence

Auditors, liquidators, directors and other office holders have a responsibility to carry out their duties in a timely manner and are expected to have the skills and knowledge to carry out their duties competently.

Wickham auditor

Brian Patrick Kingston was the auditor of Wickham Securities Limited, a property lender which collapsed in December 2012 with debts of \$30 million. Three months earlier, Mr Kingston had issued an unqualified audit opinion on the company's financial report.

ASIC cancelled Mr Kingston's registration and he agreed to an enforceable undertaking to never reapply for registration or act as an auditor.

Registered liquidators

- ♦ Paul Anthony Pattison was disqualified in January 2013 from managing corporations for four years following ASIC inquiries into three failed companies of which he was the sole director. Mr Pattison's registration as a registered liquidator was cancelled in a separate decision in February 2013. Mr Pattison has applied to the Administrative Appeals Tribunal for a review of this decision.
- ♦ ASIC's proactive liquidator compliance program has identified a number of registered liquidators that in ASIC's view had failed to properly carry out their duties. In 2012–13 we have accepted enforceable undertakings from:
 - ♦ Geoffrey Stewart Turner, in October 2012, preventing him from practising as a registered liquidator for life
 - ♦ Arthur John Forrest, in November 2012, who agreed to voluntarily cancel his registration
 - ♦ Ian Lawrence Struthers, in February 2013, who agreed to the cancellation of his registration as a liquidator for a minimum of three years.
- ♦ Peter Roger Grealish's registration as a registered liquidator and as an official liquidator was cancelled following his conviction on charges relating to honesty and sentencing by the District Court of New South Wales, in April 2013, to 12 months jail.
- ♦ ASIC referred four confidential matters to the Companies Auditors and Liquidators Disciplinary Board (CALDB) in 2012–13. The CALDB has the power to cancel or suspend the registration of a liquidator or auditor.

Diligence

Gatekeepers such as directors, liquidators, external administrators and auditors must exercise their duties with proper care and attentiveness.

Centro auditor

ASIC accepted an enforceable undertaking in November 2012 from former Centro auditor, Stephen John Cogle, a Melbourne partner of PricewaterhouseCoopers, preventing Mr Cogle from practising as a registered auditor until 30 June 2015.

Mr Cogle was the lead auditor for Centro Properties Group and Centro Retail Group for the 2006–07 financial year. In the case of Centro Properties, the financial report failed to properly classify A\$1.514 billion of interest-bearing liabilities as 'current' liabilities, and failed to disclose substantial guarantees to lenders, totalling in excess of US\$2.8 billion, given after the balance date. The Centro Retail financial report failed to properly classify approximately A\$600 million of interest-bearing liabilities as current liabilities.

ABC Learning auditor

ASIC accepted an enforceable undertaking in August 2012 from Pitcher Partners auditor Simon Green following an investigation into Mr Green's 2007 audit of ABC Learning Centres Limited.

Under the enforceable undertaking, Mr Green is prevented from practising as a registered auditor for five years.

Liquidator Assistance Program

External administrators are entitled to a failed company's books, records, reports and assistance from officeholders and related individuals. In 2012–13 ASIC received 1,484 requests from external administrators for help in obtaining these entitlements. We received 1,410 such requests in 2011–12.

ASIC seeks compliance from, and may prosecute, individuals who have not provided the required information or help to external administrators. In 2012–13, 502 individuals complied, a compliance rate of 45% (up from 44% in 2011–12 and 40% in 2010–11).

In the same period, 528 individuals (126 more than in 2011–12) were prosecuted in relation to 966 offences relating to failure to provide assistance to an external administrator. These prosecutions resulted in approximately \$1.15 million in fines and costs.

Priority 2 – Fair and efficient financial markets *continued*

Director disqualifications

ASIC may also administratively disqualify individuals who have been directors of at least two failed companies over the previous seven years, where the liquidator has reported that unsecured creditors will receive less than 50 cents in the dollar.

In 2012–13, 57 directors were disqualified from managing corporations. Of those, 74% were facilitated by liquidator's reports funded by the Assetless Administration Fund. This fund is administered by ASIC and functions to assist liquidators to conduct preliminary investigations of companies that have few or no assets.

James Hardie

In November 2012 the NSW Court of Appeal imposed pecuniary penalties from \$20,000 to \$25,000 and disqualification from acting as company directors for periods of 26 to 37 months on the non-executive directors of James Hardie. The court also re-imposed the \$75,000 fine and seven-year disqualification on Peter Shafron, the company secretary and general counsel.

These outcomes follow a decision of the High Court to uphold findings of the trial judge that the directors of James Hardie did approve the draft ASX announcement made by the company and, in doing so, breached their duty to the company. The High Court also upheld the finding that Mr Shafron had failed to discharge his duties as an officer of James Hardie.

Failure to lodge annual reports

ASIC monitors the lodgement of annual reports by companies, registered schemes and disclosing entities that are required to report.

In 2012–13 ASIC obtained 26 civil orders to enforce notices, issued by ASIC, requiring compliance with annual reporting obligations. In addition, 49 companies complied with their lodgement requirements following ASIC intervention.

ASIC may prosecute companies that do not lodge their annual or half-yearly reports. In 2012–13, 13 companies were convicted of 46 counts of failing to comply with their reporting obligations and were fined a total of \$146,625.

Markets Disciplinary Panel infringement notices

The Markets Disciplinary Panel (MDP) is a peer review body that exercises ASIC's power to issue infringement notices and accept enforceable undertakings in relation to alleged breaches of the market integrity rules. The market integrity rules are made by ASIC and apply to market operators and market participants.

The MDP issued nine infringement notices in 2012–13, all of which were complied with.¹

These included infringement notices issued to:

- ♦ Merrill Lynch Equities (Australia) Limited, for not ensuring it had in place: organisational and technical resources for its automated order processing system, including appropriate automated filters; and processes to record any changes to the filters to enable automated orders to be submitted into the ASX's trading facility, without interfering with the efficiency and integrity of ASX's market or the proper functioning of that facility. Merrill Lynch paid a \$120,000 penalty.
- ♦ Barclays Bank PLC, for erroneously withdrawing \$AUD 13.8 million of client money from the Barclays' Client Segregated Account instead of its own account, without authorisation, and failing to return the client money for five business days. Barclays paid an \$80,000 penalty.

1. Compliance is not an admission of guilt or liability; and the recipient is not taken to have contravened subsection 798H(1) of the Corporations Act.

Policy advice and implementation

Leading takeover law reform

ASIC raised with Treasury a number of takeover law reform proposals relating to creep provisions, the use and disclosure of equity derivatives, and the rules on the announcement of takeover proposals.

In November 2012 ASIC and industry participated in roundtable discussions hosted by Treasury on takeover law reform.

International regulation and cooperation

ASIC has continued its work with international regulators and is heavily involved in key IOSCO reform work streams relevant to ASIC's fair and efficient markets priority. ASIC's work has ranged from input into the final report on global developments in securitisation regulation to work on progressing OTC derivative reforms and developing principles for the regulation of exchange-traded funds.

ASIC is also working within IOSCO on retail structured products, analysing trends and developments, regulatory issues and responses concerning these products. A consultation report was published in April 2013 and a final report will be published by the end of 2013.

ASIC is the Chair of the IOSCO Assessment Committee monitoring policy implementation, notably on systemic risk identification and mitigation and reviewing regulatory boundaries. The Committee aims to publish its first thematic review report on the implementation of Principles 6 and 7 of the IOSCO Objectives and Principles of Securities Regulation later in 2013. The Assessment Committee continued to progress its Country Review program and detailed discussions with Trinidad and Tobago and Pakistan.

ASIC has also worked with the European Securities and Markets Authority (ESMA) to finalise a memorandum of understanding (MOU) between ASIC and European Union (EU) regulators, allowing Australian fund managers to access EU markets under the Alternative Investment Fund Managers Directive. ASIC

has also finalised an MOU with the French regulator Autorité des marchés financiers (AMF), on mutual assistance and information exchange on enforcement and supervision of cross-border regulated entities.

On 5 October 2012, the European Commission decided the Australian legal and supervisory framework for credit rating agencies should be considered equivalent to the legal and supervisory framework of the European Parliament and of the European Council on credit rating agencies.

Implementing G20 commitments to reform OTC derivative markets

An ASIC-wide team has worked with the Council of Financial Regulators (CFR) agencies in 2012–13 to implement Australia's G20 commitments to reform OTC derivatives markets.

Under the G20 commitments, all OTC derivatives transactions should be reported to trade repositories, and all standardised OTC derivatives transactions should be centrally cleared and, where appropriate, traded on exchanges or trading platforms.

The Australian laws to implement these reforms came into force in January 2013. During the year, ASIC has:

- ♦ finalised a regulatory regime for licensed derivative trade repositories
- ♦ finalised a rules regime for mandatory derivative trade reporting
- ♦ worked with the CFR agencies on two reports on the Australian OTC derivatives market, which included recommendations on mandatory clearing and mandatory trade reporting and platform trading
- ♦ liaised with foreign regulators on cross-border implementation of OTC derivatives reform.

OTC clearing

In line with the G20 commitments and developments in financial market infrastructure, services for clearing of OTC derivatives were established in Australia this year. Both ASX and LCH (the world's biggest OTC clearing facility) received authorisation for these services here. ASIC worked closely with the RBA and Government to support these important initiatives.

Priority 3 – Efficient registration and licensing



ASIC's third priority focuses on the effectiveness of Australia's business registration and licensing regimes. This includes overseeing company registration and notifications, the Australian financial services (AFS) licensing and credit licensing regimes, business names registration, and SMSF auditor and liquidator registration.

In 2012–13 ASIC implemented a small business engagement strategy to raise awareness of licensing and compliance obligations. We also made substantial progress towards more efficient registration and licensing, using technology to cut costs and provide improved services, including a new online SMSF auditor register and improved national Business Names Register.

Engagement with small business

ASIC's small business team conducted over 45 meetings with industry representatives, Commonwealth and state government agencies, business advisers and small businesses in 2012–13, to discuss regulatory initiatives, ASIC's role, and the assistance available to help small business understand and comply with the law.

ASIC also conducted an online survey seeking feedback from small businesses regarding ASIC's engagement with the sector and how ASIC can keep small businesses better informed. More than 1,500 small businesses took part. Based on the survey findings, ASIC has developed a strategy which focuses on engagement, assistance and regulatory initiatives to raise awareness, enhance compliance and target illegal phoenix activity.

The survey results revealed that small business operators rank accountants as their primary and preferred source of information about their business and compliance obligations. Accordingly, the small business engagement team conducted a national roadshow, in partnership with the ACCC and ATO, for members of the Institute of Public Accountants and CPA Australia, on the obligations of small businesses and illegal phoenix activity.

Doing more business online

One of ASIC's priorities is to increase the proportion of business done online. This reflects ASIC's view that online transactions are easier and cheaper for business. In 2012–13, 83.8% of the 2.4 million forms lodged with ASIC were submitted online, up from 75.5% last year. New services, such as the national Business Names Register, have substantially cut the cost of doing business.

These new services are accessed via the **www.asic.gov.au** website, and traffic to the site increased from an average of 297,480 visits per week in June 2012 (the month after the launch of the online Business Names Register, on 28 May 2012) to an average of 344,263 visits per week in June 2013, an increase of 15%.

ASIC consulted with its Registry and Licensing Business Advisory Committee (see page 146) and held focus groups seeking customer input to help design new and improved online services for ASIC Connect.



Social media and online help

ASIC continues to use Facebook, Twitter and YouTube social media channels to raise awareness of our registry services and directly connect with customers. In 2012–13, ASIC Connect's Facebook following increased to almost 1,500 people. We published 139 posts and responded to 1,151 customer comments.

We also increased our following on ASIC Connect's Twitter feed to 4,400 people, publishing 223 tweets and responding to 579 comments during the year.

We published two new instructional videos on YouTube – one on how to renew business name registration, and another on how to update a business name address. Our five instructional videos were viewed a total of 36,000 times in 2012–13.

ASIC also published 13 new easy-to-understand online user guides for business names and SMSF auditors, which were downloaded an average of 18,500 times each month.

Companies register

During 2012–13 the number of companies registered with ASIC grew to 2.0 million – the highest number ever recorded.

The number of new companies that registered with ASIC in 2012–13 totalled 192,211. This was an increase of 9.1% compared to the previous year. There has been a steady increase in the number of company registrations each year since 2008–09.

The rate of company deregistration also continues to increase, with 105,627 companies deregistered during 2012–13, a jump of 8.7% from 2011–12.

The number of companies entering external administration remained steady: A total of 10,746 companies entered external administration during 2012–13 and 10,757 did so in 2011–12.

ASIC Connect

ASIC's new online user interface, ASIC Connect, was launched in March 2012, and 2012–13 was its first full year of operation. ASIC Connect allows customers to conduct ASIC registry searches online via ASIC's website and pay search fees by credit card.

Over 28.3 million free searches and 250,700 paid searches were conducted through ASIC Connect in 2012–13. The paid searches generated over \$3.7 million in revenue.

A total of 4.4 million searches were conducted through information brokers, a 2% increase over the 2011–12 year.

The availability of the ASIC Connect online search has seen a 56% decrease in paper searches conducted directly with ASIC (on paper and over the counter). These fell from 27,492 in 2011–12 to 12,028 in 2012–13.

Australian Charities and Not-for-profits Commission (ACNC)

ASIC and the ACNC have signed a memorandum of understanding (MOU) to consolidate and strengthen the working relationship between the two agencies. The MOU will help deliver streamlined regulation for registered charities that are also registered with ASIC as companies.

Priority 3 – Efficient registration and licensing *continued*

National Business Names Register

ASIC launched the new national Business Names Register on 28 May 2012 and 2012–13 was the first full year of operation.

The Business Names Register replaces the eight previous state and territory services, so that businesses only need to register their name once to be registered throughout Australia. The national Business Names Register is also cheaper, especially for customers with multiple business names. At its one-year anniversary, the national Business Names Register had saved business \$34 million in reduced fees to register or renew a name.

This year ASIC bedded down and significantly improved key services introduced at the launch of the Business Names Register, including:

- ♦ finalising the transition from 'smart forms' for some transactions to ASIC Connect online services
- ♦ completing data migration of records from states and territories, and significantly changing how joint-venture partnerships are recorded on the ASIC register
- ♦ commencing to issue business name renewal notices and associated renewal processes
- ♦ launching the new joint registration service enabling customers to register an Australian Business Number (ABN) and apply for a business name via the Australian Business Register (ABR)
- ♦ updating our cancellation and transfer processes for business name holders closing or selling their business
- ♦ systems enhancements, website content updates, and new and improved communication products to improve services and the register, based on known defects and customer feedback
- ♦ internal changes to improve the efficiency of back-office processing and inquiry management.



ASIC is a founding member of the Corporate Registers Forum, which brings together organisations that manage company and corporate registers in 38 countries. At the 10th annual Forum, held in New Zealand in April 2013, ASIC received special recognition for its work in assisting other countries as they work to bring their registry services online.

National Business Names Register – key statistics

Measure	2012–13	28 May to 30 June 2012	Notes
Business names registered on the national Business Names Register at 30 June	1,740,780	1,488,898	
Business names newly registered with ASIC	274,349	19,131	38% were 1 year registrations, 62% were 3 year registrations. Over 25% of registrations are done after 5 pm
Business names registration requests received via ABR joint service	18,583	0	This is 5.7% of total registrations in 2012–13
Business names cancelled	39,921	1,684	100% were customer-initiated cancellations. An ASIC-initiated cancellations program is expected to commence in 2013–14
Business Name Register updates	91,210	9,098	
Business name renewal notices issued by ASIC	593,168	0	As part of our transitional strategy, issue of renewal notices commenced in October 2012
Business names renewed	282,697	0	Customers may choose not to renew if, for example, they no longer require the business name
Business name registrations received online (%)	99.99%	100%	Prior to commencement of the national Business Names Register, online registration was only available in two of the states and territories
Business names registered by next business day	87%	71.4% ¹	From the date ASIC receives the application
Searches of the national Business Names Register	16.0m	2.1m	Of the 16m searches in 2012–13, 15.4m (or 97%) were free (no fee required)
Access to Business Names Register	99.49%	98.2% ²	The percentage of time – between the hours of 8.30 am and 7 pm AEST, Monday to Friday – that the Business Names Register was available to search
Cost to register a business name – 1 year	\$30	\$30 ¹	Fees increased to \$33 and \$76 on 1 July 2013. Prior to the implementation of the Business Names Register, registration of a single business name in every state and territory for three years cost more than \$1,000 in total.
Cost to register a business name – 3 years	\$70	\$70 ¹	

1. From 28 May 2012, the date on which the national Business Names Register was launched.

2. From 4 June 2012, the date on which the ASIC Connect business names registration service was introduced.

Priority 3 – Efficient registration and licensing continued

Establishing the SMSF auditors register

ASIC's new register of self-managed super fund (SMSF) auditors went live on 31 January 2013, allowing auditors doing SMSF audits to apply for registration online using ASIC Connect.

The new register is part of the Government's Stronger Super reforms. ASIC has worked closely with Government and industry on measures, including the register, to improve integrity and community confidence in the sector.

From the launch of the auditors register to 30 June 2013, SMSF auditors could apply for registration under transitional arrangements, which may exempt them from some registration requirements. Under these arrangements, registered company auditors are not required to undertake a competency exam, nor are they required to complete 300 hours of work auditing SMSFs. From 1 July 2013, however, registration is mandatory.

SMSF auditor register – key statistics

2012–13	
SMSF auditors registered at 30 June	5,935
Refusals	1 ¹
Applications for SMSF auditor registration received by ASIC at 30 June	7,194
Applications received online	100%
Searches of SMSF auditor register	42,444
Searches conducted online	100%
Applications registered within 28 days of receipt of full application	98%
Cost to register as an SMSF auditor	\$100

1. A further 159 applications were rejected as incomplete, or withdrawn voluntarily by the applicant prior to ASIC decision.

New website for insolvency and other notices

On 1 July 2012, ASIC launched a stand-alone website for publishing notices on insolvency. The website provides a single point for searching almost all notices on external administration and company deregistration. These notices had previously been published in the print media. In the first year of operation, 3,382 registered users published 29,709 notices and ASIC published 112,942 notices of intention to deregister a company. From 1 July 2013, the cost to publish a notice on the website changed. The vast majority of notices that previously attracted a fee of \$400 now cost only \$145.

Insolvency notices website – key statistics

2012–13	
Number of registered users	3,382
Notices published by registered users	29,709
Notices of intention to deregister published by ASIC	112,942
Visits to the website	430,495

Client Contact Centre

The Client Contact Centre handled 716,382 calls in 2012–13, 19% more than in 2011–12. Over 80% of calls were answered on the spot and 19.5% were referred to specialist staff.

Over 75% of inquiries submitted via the website were answered within two business days. The majority of inquiries dealt with by the Client Contact Centre related to business names (45%) and companies (37%), as outlined in the table below.



Laura Lewis and Steven Scott at work in ASIC's Client Contact Centre.

Topic	Number of inquiries	Percentage of all inquiries dealt with by Client Contact Centre
Business names	389,099	45%
Companies ¹	319,574	37%
General issues ²	118,187	14%
Infoline	10,800	1%
Online complaints	7,467	1%
Financial services	7,258	1%
Credit	5,817	1%
SMSF	2,800	< 1%
Auditor	2,087	< 1%
Liquidator	759	< 1%
Managed investment schemes	591	< 1%

1. All company-related inquiries including registration, renewal, forms lodgement, fee payments, changes to officers.

2. General issues includes all other call types not included in the table, including calls about unclaimed money and about matters that do not relate to ASIC.

ASIC is committed to ensuring that its business customers receive an efficient and effective service from the Client Contact Centre. Given increased call volumes and handling times, ASIC acted to alleviate call congestion, establishing an additional 150 telephone lines over the course of the year. ASIC also appointed 17 new Client Contact Centre staff, an increase of 19% in staffing.

The Government announced in its May 2013 budget that ASIC would be provided with an additional \$7.8 million over two years to improve our Client Contact Centre service levels to support the online business names registration service. The increased funding will be used for more staff to answer the phones and an improved technology platform.

Priority 3 – Efficient registration and licensing continued

Unclaimed money

ASIC maintains a register of unclaimed money from banks, credit unions, building societies, life insurance companies and friendly societies, as well as shares that have not been collected from companies. ASIC's register can be searched by the public and claims can be made to ASIC's Unclaimed Money team.

In December 2012 the Commonwealth laws that govern unclaimed money were amended to:

- ♦ change the period when money in inactive bank accounts and matured life insurance policies becomes unclaimed from seven to three years (exemptions include children's accounts)
- ♦ require the Commonwealth to pay interest on claims for unclaimed money from 1 July 2013
- ♦ remove the Companies and Unclaimed Moneys Special Account, so money received by ASIC under the Corporations Act is transferred directly to the Consolidated Revenue Fund.

In 2012–13, ASIC received about \$641 million in unclaimed money. This was substantially more than the \$108 million received in 2011–12 and reflects legislative changes in December 2012 that reduced the period for money in active accounts to be deemed unclaimed from seven to three years. A total of \$72.6 million was paid out in claims in 2012–13, compared with \$56 million in the previous year.

ASIC continues to actively reunite owners of unclaimed money with their funds by finding and writing to 12,616 potential owners. A media campaign in November 2012 contributed to an increased number of claimants being able to locate and claim money themselves.

The following tables show the total claims by type of unclaimed money and the number of claims (and value) where owners were reunited with previously unclaimed money.

Amount paid to owners of unclaimed money, 2012–13

Claims by type	2012–13 (\$)	2011–12 (\$)
Company	27,600,678 ¹	19,329,228
Banking	40,479,162	32,768,797
Life insurance	4,466,125	4,602,327
Deregistered company trust money	31,868	129,807
Total	72,577,833	56,830,159

1. In December 2012 the Government changed the administrative arrangements that apply to unclaimed money under the Corporations Act. The \$27.601 million represents total Company claims for 2012–13 which are disclosed in ASIC's financial statements as payments from the Companies and Unclaimed Moneys Special Account or an expense in the Schedule of Administered Items.

Company unclaimed money¹ – number of claims and amounts paid to owners, 2012–13

Source	2012–13		2011–12	
	No. of claims	\$ value	No. of claims	\$ value
Money recovery agency	1,592	6,324,791	1,521	6,624,423
ASIC reuniting	367	889,522	1,102	3,796,478
Other ²	6,874	20,386,365	2,600	8,907,327
Total	8,833	27,600,678	5,223	19,329,228

1. Company unclaimed money is paid to ASIC in accordance with the provisions of the Corporations Act.

2. Where a claimant has become aware of the unclaimed money through means other than a money recovery agency or ASIC's active reuniting work, including their own search of the MoneySmart website.

Managing property vested in ASIC

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

In 2012–13 ASIC continued a more proactive approach to administering vested property, including encouraging parties to apply to ASIC to purchase that property where appropriate.

ASIC's website was updated with detailed information about how to make an application to ASIC to deal with such property.

ASIC accounts for any proceeds on realisation of the property in accordance with its statutory duties by transferring the proceeds into the Official Public Account. These proceeds are treated like any other unclaimed money for which ASIC is responsible.

The number of new matters received in 2012–13 decreased to 1,317 and the number of matters finalised rose to 1,478. The following table shows vested properties of deregistered companies by number of cases.

Vested properties of deregistered companies (by number of cases)

	2012–13	2011–12
Total new matters	1,317	1,552
Total finalised matters	1,478	1,390
Property disposals		
Transferred	201	289
Sold	15	19
No longer vested ¹	609	505
Other ²	72	120
Total property disposals	897	933

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, withdrawn or has lapsed.

Assessing misconduct and other reports

Misconduct reports from the public

ASIC encourages members of the public with concerns about financial services misconduct to report these concerns to us.

We record and assess every report of alleged misconduct that ASIC receives and aim to acknowledge receipt of every report within three business days. We make a range of preliminary inquiries and conduct an initial assessment to see if the misconduct alleged suggests a breach of a law that we administer has been broken.

In many cases, there may be insufficient evidence (or likelihood of such evidence ever being obtainable) to warrant ASIC commencing a formal investigation or surveillance. In that circumstance, we contact the person who reported the matter to ASIC and tell them (to the extent possible) why ASIC has come to that decision. We retain the information reported to us on our databases, for review if further reports are made or additional information or evidence becomes available.

ASIC is less likely to take action where the substance of the matter would be better addressed by another agency or by private dispute resolution between those involved. In many cases, ASIC may also decide that it is more effective to deal with a concern through engaging with stakeholders, issuing guidance to the market or using another one of our regulatory tools, rather than by conducting a surveillance or investigation.

Since 2010, we have been working to improve public understanding of our jurisdiction and the matters that ASIC can and cannot deal with, to simplify reporting processes, and to ensure we respond promptly and consistently to those who lodge reports with us.

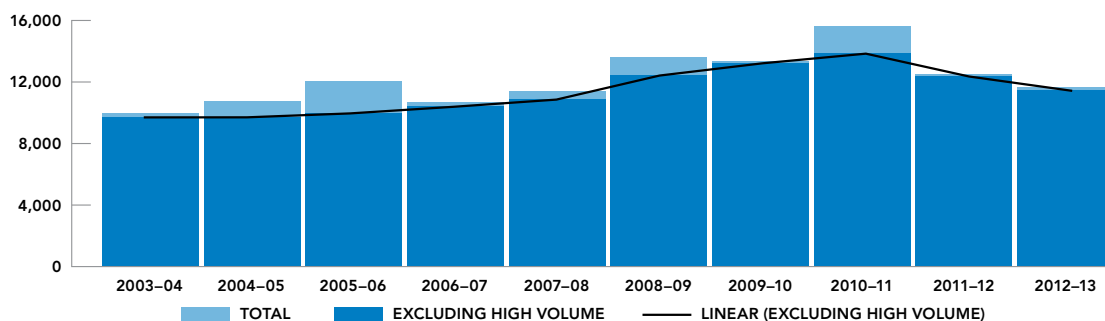
In October 2012, we published one information sheet that clearly explains how we deal with reports of misconduct and four others that explain ASIC's role in relation to specific concerns that are frequently reported to us – frozen funds and hardship payments, disputes about employee entitlements, disputes about goods and non-financial services and disputes between officeholders and/or members of small proprietary companies.

These information sheets assist us in providing timely and consistent responses to the misconduct reports we receive. We have also updated the www.asic.gov.au website to more clearly explain what matters ASIC deals with.

In 2012–13 we finalised 76% of misconduct report assessments in 28 days, an improvement on the 72% in 2011–12 and ahead of our target of 70%.

The following chart shows the total number of reports finalised each year together with the underlying trend after high-volume matters have been removed. High-volume matters are those where ASIC has received 100 or more reports of misconduct about the same entity and the same issue.

Misconduct reports – by trend



In 2012–13 ASIC dealt with 11,682 reports of alleged misconduct, 7% fewer than in 2011–12.

The decline in misconduct reports since 2010–11 has largely occurred in the area of corporate governance – insolvent trading – accompanied by a decline in statutory reports lodged by external administrators. As has been reported in other media, there appears to have been an increased tolerance by creditors of payment delays by small companies. Further, the

continued high level of insolvency appointments, following the global financial crisis, may indicate that directors are prepared to arrange for a more orderly winding-down of company affairs and that creditors have a greater acceptance that company failures are the result of economic circumstances.

There was little change from the previous year in the relative proportions of matters by category reported to ASIC.

Misconduct reports – by category

Category	2012–13	2011–12
Corporations and corporate governance		
Failure to provide books and records or a report as to affairs to an insolvency practitioner	11%	10%
Insolvency matters	6%	8%
Contractual issues (includes concerns about non-provision of goods and services, quality of goods and services)	5%	6%
Insolvent trading – unlisted	4%	6%
Insolvency practitioner misconduct	3%	3%
Other (e.g. directors' duties, contractual issues, internal disputes)	12%	11%
Subtotal	41%	44%
Financial services and retail investors		
Credit	16%	16%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	5%	4%
Managed investment schemes	3%	4%
Potential scam	2%	4%
Other (e.g. superannuation, insurance, advice, breach of licence conditions, misleading or deceptive conduct, unconscionable conduct)	16%	15%
Subtotal	42%	43%
Market integrity – including insider trading, continuous disclosure, misleading statements, market manipulation	6%	6%
Registry integrity – including incorrect address recorded on ASIC's register or lodging false documents with ASIC	9%	5%
Other issues	2%	2%
Total	100%	100%

Assessing misconduct and other reports continued

Misconduct reports – by outcome

	2012–13	2011–12
Total misconduct reports finalised	11,682	12,516
Outcome		
Referred for compliance, surveillance or investigation ¹	27%	26%
Resolved ²	19%	21%
Analysed and assessed for no further action ³	35%	33%
No jurisdiction ⁴	14%	15%
No breach or offences	5%	5%
Total	100%	100%

1. The matters ASIC takes into account in deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.

2. This can involve referral to an external dispute resolution 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.

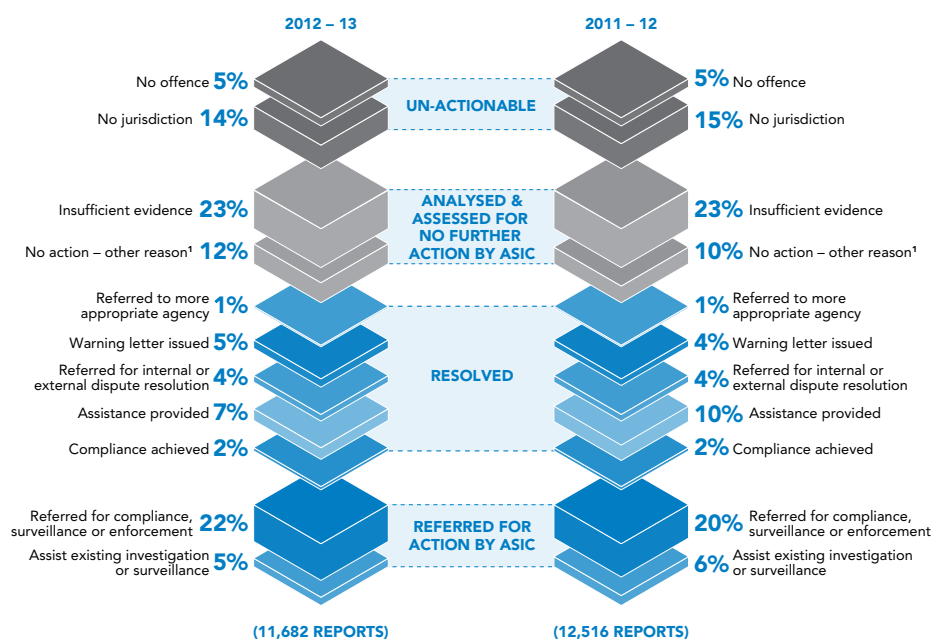
3. Preliminary inquiries made and information provided analysed and assessed for no further action by ASIC, due to insufficient evidence or other reason e.g. another agency or law enforcement body or third party (e.g. a liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.

4. Where relevant, ASIC directs reporter to appropriate agency or solution.

NOTE: Where ASIC receives reports about the same entity and issue we merge these matters.

The following figure provides a more detailed view of how we handle the reports of misconduct we receive.

Misconduct reports – by outcome



1. Reasons for decision to take no further action include that another agency, law enforcement body or third party is better placed to action, or is already taking action.

Breach reports from licensees and auditors

The Corporations Act requires AFS licensees to tell ASIC in writing within 10 business days about any significant breach (or likely breach) of their obligations. Failure to report a significant breach (or likely breach) in itself is a significant breach.

AFS licensees must have clear and well understood processes for identifying and reporting breaches. Responsible entities of managed investment schemes are also subject to specific breach reporting requirements.¹

As part of their breach report, licensees advise how they identified the breach, how long it lasted, what steps they have taken to rectify the breach and what steps they have taken or will take to ensure compliance in the future.

As part of our assessment of the breach report we will consider the steps the licensee has taken and may decide that no action on our part is required.

ASIC also receives breach reports from auditors, where (among other things) they have reasonable grounds to suspect a breach of the Corporations Act in relation to the company to which they are appointed.²

In 2012–13 we dealt with slightly fewer auditor breach reports and breach reports relating to managed investment schemes and AFS licensees than in 2011–12. In 2012–13 more than half of the reports were finalised by being referred for specialist review within ASIC.

Breach reports – by type and outcome

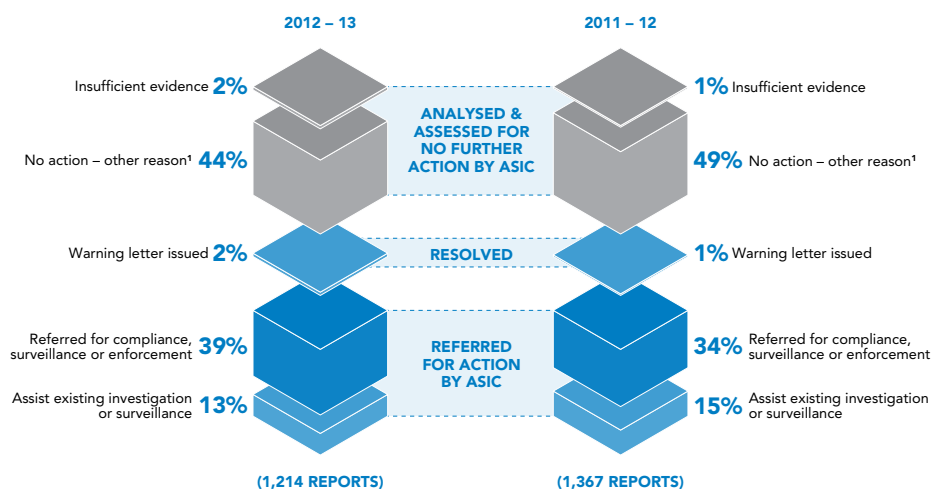
	2012–13	2011–12
Type		
Auditor breach reports	314	350
Breach reports related to AFS licensees and registered entities of managed investment schemes	900	1,017
Total breach reports finalised	1,214	1,367
Outcome		
Referred for compliance, investigation or surveillance	52%	49%
Resolved	2%	1%
Analysed and assessed for no further action	46%	50%
Total	100%	100%

1. For more information about breach reporting by AFS licensees see ASIC Regulatory Guide 78.

2. For more information about the matters that require an auditor to report a breach of the law to ASIC, see section 311 of the Corporations Act 2001.

Assessing misconduct and other reports continued

Breach reports – by outcome



1. As part of their breach report, licensees advise what steps they have taken to rectify the breach and to ensure compliance in future. ASIC considers the steps taken and may decide that no action by ASIC is required.

Statutory reports from liquidators, administrators and receivers

Liquidators, administrators and receivers (external administrators) are required to report to ASIC if they suspect that company officers have been guilty of an offence or, in the case of liquidators, if the return to unsecured creditors may be less than 50 cents in the dollar. An initial report is generally lodged electronically under Schedule B of Regulatory Guide 16 *External administrators: Reporting and lodging*. Many of these initial reports do not report misconduct and are not assessed further.

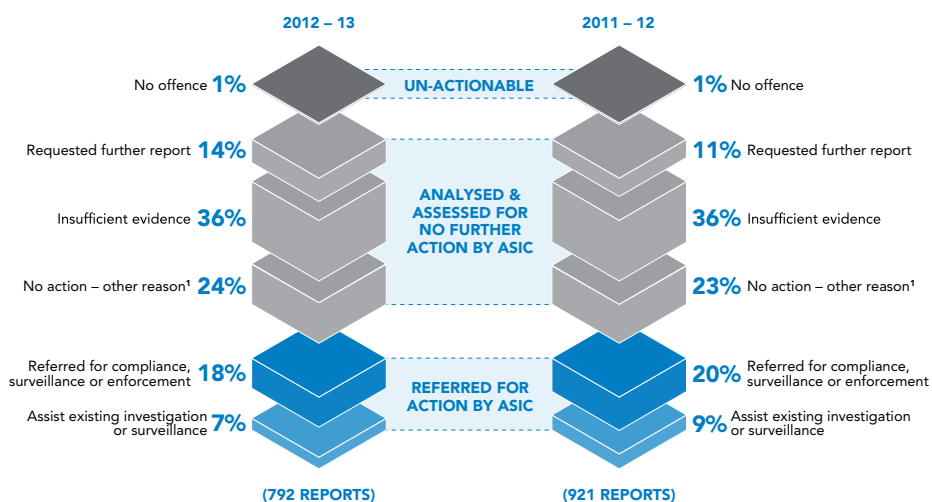
Where misconduct is reported, ASIC will determine whether to request a supplementary report. Supplementary reports are typically detailed free-format reports setting out the results of the external administrator's inquiries and the evidence to support the alleged offences. Generally, ASIC can determine whether to commence a formal investigation on the basis of a supplementary report. External administrators can submit a supplementary report at any time.

The number of reports received has decreased in 2012–13, despite the number of insolvencies remaining at the same level as the previous year. In 2012–13, a total of 25% of these reports were referred for compliance, investigation or surveillance, compared with 29% in 2011–12. In more than half of the cases identified as 'Analysed, assessed and recorded', ASIC determined, after conducting preliminary inquiries, that there was insufficient evidence to warrant commencing a formal investigation. In another fifth of these cases, ASIC requested a further report from the external administrator.

Statutory reports – by type and outcome

	2012–13	2011–12
Initial reports from liquidators, administrators and receivers		
Reports alleging misconduct	6,985	7,607
Reports not alleging misconduct	2,467	2,876
Initial reports – outcomes		
Supplementary reports requested	10%	10%
Analysed and assessed for no further action	90%	90%
Total	100%	100%
Supplementary reports received by ASIC		
Supplementary reports alleging misconduct	792	921
Supplementary reports – outcomes		
Referred for compliance, investigation or surveillance	25%	29%
Analysed and assessed for no further action	74%	70%
Identified no offences	1%	1%
Total	100%	100%
Total statutory reports received (initial + supplementary)	10,244	11,404

Supplementary statutory reports – by outcome



1. Reasons for decision to take no further action include that another agency, law enforcement body or third party is better placed to take action, or is already taking action.

Performance against Service Charter

ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and its stakeholders and sets performance targets for each. The following table sets out our performance against the key measures outlined in the Service Charter.

ASIC Service Charter performance

Service	Service Charter target	2012–13	2011–12
General phone queries	We aim to answer your telephone queries on the spot	80.5% of calls answered on the spot (576,513 of 716,382) 19.5% (139,869) referred to specialist staff	87% of calls answered on the spot (525,741 of 600,889) 13% (75,148) referred to specialist staff
General email queries	We aim to reply to email queries ¹ within two business days	77% replied to in two business days (111,399 of 144,204)	73% replied to within two business days (17,611 of 24,224)
General correspondence about our public database and registers, including fee waivers	We aim to acknowledge receipt within 14 days of receiving it, with full response within 28 days	85% replied to in 28 business days (17,387 of 20,478)	91% replied to within 28 business days (18,719 of 20,629)
Registering a company	We aim to complete company registrations within one business day ²	98% completed in one business day (200,326 of 204,035) 97% of paper forms completed in one day (17,753 of 18,217) 98% of electronic forms completed in one day (182,573 of 185,818)	98% completed within one business day (182,503 of 185,559) 97% of paper forms completed within one day (18,357 of 18,905) 98% of electronic forms completed within one day (164,146 of 166,654)
Updating company information and status	We aim to enter critical changes to company information in the corporate register within two business days	98% entered within two business days (995,676 of 1,013,048) 91% of paper forms entered in two business days (105,997 of 116,733) 99% of electronic forms entered in two business days (889,679 of 896,315)	98% entered within two business days (1,053,821 of 1,075,984) 91% of paper forms entered within two business days (153,631 of 169,142) 99% of electronic forms entered within two business days (900,190 of 906,842)

1. Email queries lodged via the 'Ask us a question' webmail facility on ASIC's website.

2. Includes all applications received, regardless of whether applications approved or a company registered.

Service	Service Charter target	2012–13	2011–12
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	92% registered within 28 days (123 individual applications and 16 authorised audit companies)	91% registered within 28 days (98 individual applications and 15 authorised audit companies)
Registering as a liquidator	We aim to decide whether to register a liquidator or official liquidator within 28 days ³	100% of liquidator applications decided within 28 days (37 of 37 applications) 98% for official liquidators (44 of 45 applications)	92% of liquidator applications decided within 28 days (34 of 37 applications) 95% for official liquidators (35 of 37 applications)
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 28 days ³	79% of licences granted within 28 days (374 of applications 472) 83% of licence variations decided in 28 days (649 of 784 applications) ⁴	85% of licences granted within 28 days (357 of 420 applications) 88% of licence variations decided within 28 days (803 of 917 applications) ⁴
Registering a managed investment scheme	By law we must register a managed investment scheme within 14 days of receiving a complete application	100% registered in 14 days (205 of 205)	100% registered within 14 days (191 of 191)
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 28 days ³	83% of all licence applications decided within 28 days (313 of 375) 91% of licence variations decided in 28 days (160 of 175)	90% of all licence applications decided within 28 days (350 of 391) 94% of licence variations decided within 28 days (149 of 159)
Applying for relief from the Corporations Act or National Credit Act	For applications that do not raise new policy issues, we aim to give an in-principle decision within 21 days of receiving all necessary information and fees (target: 70%)	71% of in-principle decisions made within 21 days (1,935 of 2,744 applications) ⁴	73% of in-principle decisions made within 21 days (1,897 of 2,594 applications) ⁴
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, we aim to respond within 28 days of receiving all relevant information (target: 70%) ⁵	76% finalised within 28 days (8,828 of 11,682)	72% finalised within 28 days (8,954 of 12,516)

3. Applications taking more than 28 days are generally complex ones, requiring, for example, additional policy work or legal review.

4. Includes all applications, including those where we did not initially receive all the information needed to make a decision.

5. Reports taking more than 28 days are generally complex ones or ones requiring considerable additional work.

Regional activities

Regional Commissioners



Peter Cuzner
Australian
Capital Territory



Chris Van Homrigh
New South Wales



Duncan Poulson
Northern
Territory



Brett Bassett
Queensland



Mark Bielecki
South Australia



Julie Read
Tasmania



Warren Day
Victoria



Bruce Dodd
Western Australia

In 2012–13 ASIC's regional commissioners led a range of initiatives in each state and territory. The regional commissioners act as ASIC's local ambassadors, engaging with business and local communities, including through regular stakeholder liaison meetings, and promoting ASIC initiatives. This year the regional commissioners played a major role in the rollout of the MoneySmart Teaching program and the delivery of FOFA and Stronger Super roadshows.

Australian Capital Territory

- ♦ ASIC promoted the MoneySmart consumer and MoneySmart Teaching websites and resources at the ACT Multicultural Festival.
- ♦ ASIC's Outreach Education team worked extensively with more than 20 ACT-based organisations in the community and education sectors.

New South Wales

- ♦ ASIC presented to the Brazilian Institute of Corporate Governance international study tour, hosted by The Australian Institute of Company Directors.
- ♦ ASIC promoted consumer rights information to seniors at the Royal Easter Show, in partnership with other state and federal government organisations.

Northern Territory

- ♦ ASIC delivered a keynote presentation on Minimising Risk at an NT Chamber of Commerce event in Alice Springs, as part of ongoing work to help small businesses in the Northern Territory better understand their obligations and responsibilities.
- ♦ ASIC hosted a one-day workshop for stakeholders, 'Increasing the Commercial Capacity of Indigenous Organisations'.
- ♦ ASIC worked with Yolgnu Radio to raise awareness of unclaimed money belonging to residents and organisations in Arnhem Land.
- ♦ Audio posters produced by ASIC, with messages about ATM fees in 12 Indigenous languages, were distributed nationally as part of the Government's fee-free ATM trial.

Queensland

- ♦ ASIC hosted regional meetings with Certified Practising Accountants, the Institute of Chartered Accountants and the local business community in Townsville.
- ♦ ASIC made presentations on its services to the Association of Certified Fraud Examiners, Australasian Compliance Institute and the Small Enterprise Association of Australia and New Zealand.
- ♦ ASIC continued its involvement in the Queensland Regulators and Consumers Forum, with three meetings held to exchange views and promote the discussion of emerging trends and local intelligence.
- ♦ ASIC hosted public education sessions and made presentations at schools focused on MoneySmart financial literacy resources.

South Australia

- ♦ ASIC attended the Lucindale Field Days to provide information for business people and consumers about ASIC and on topics such as managing money, credit, superannuation, investing and scams.
- ♦ The national launches of MoneySmart Teaching for primary and secondary schools were both held in Adelaide, with teachers from selected schools all over Australia attending a two-day conference.
- ♦ Throughout the year ASIC liaised with local business groups in the financial services sector including bankers, financial advisers, accountants and insolvency practitioners.

Tasmania

- ♦ ASIC's Financial Literacy Outreach Team established a Tasmanian Consumer Law Consultative Forum, with two meetings held in the first year. The forum attracted a wide range of participants from both Government and the private sector.
- ♦ ASIC hosted bi-monthly insolvency discussions with the Insolvency and Trustee Service Australia, the Australian Tax Office and local insolvency practitioners and lawyers.
- ♦ ASIC's MoneySmart team gave presentations on financial literacy to a variety of community and government stakeholders.

Victoria

- ♦ ASIC's work to promote MoneySmart and registry programs in regional areas included a MoneySmart stand at the Elmore Field Day. ASIC staff, including graduates, engaged with the local community about making wise financial decisions and promoted our financial literacy resources.
- ♦ This year we also conducted a number of presentations to young professional groups, including Leo Cussen Graduates, to raise awareness of ASIC's role, powers and priorities among young professionals intending to practise law and other professions.
- ♦ ASIC made connections with agencies whose work intersects with ASIC's, including the Victorian Commission for Gambling and Liquor Regulation and the Victoria Police. In May, ASIC signed a Memorandum of Understanding with Victoria Police, to facilitate communication, and referral of matters where appropriate. The document was developed by ASIC as a potential blueprint for similar arrangements with other state police agencies across Australia.

Western Australia

- ♦ ASIC visited Geraldton, Bunbury and Albany to present on a range of issues to local businesses. Our presentations covered the national Business Names Register, FOFA and credit practices. These sessions were held with assistance from the local Chambers of Commerce and Industry.
- ♦ Throughout the year ASIC delivered presentations or took part in panel discussions with a wide range of key stakeholders, including the Institute of Chartered Accountants, the Australian Government Solicitor, the University of Western Australia, the Law Society of WA and the WA Chamber of Minerals and Energy.

Regional activities continued



Brock Collins, Tien Hoang, Joshua Fisher and Asher Brooks, members of ASIC's 2012 graduate program, working at the ASIC stall at the Elmore Field Day in October 2012.



ASIC's regional commissioner for the Northern Territory, Duncan Poulson (left), and senior teacher Jo Masters, showcasing MoneySmart Teaching materials in Darwin.



ASIC's regional commissioner for South Australia, Mark Bielecki, discussing investment matters with visitors to the Lucindale Field Day, March 2013.



2012 Graduate Tien Hoang at the Elmore Field Day.



3

PEOPLE, COMMUNITY AND ENVIRONMENT

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ASIC's people

Building capabilities

ASIC launched a number of programs aimed at building leadership capability this year.

Senior executive development

Senior executive staff participated in a number of leadership seminars throughout the year. A peer-coaching group was established for these executives under the guidance of a business coach.

Unconscious bias program

Our senior executive leaders and specialists attended an unconscious bias program designed to create a greater awareness and understanding of cognitive biases and the associated impact on decision-making.

Senior managers development

Over 80 ASIC senior managers attended a one-day program on building strategic skills. The workshops were designed to extend participants' existing skills in technical problem solving, analysis and research.

Sixty senior managers took up an invitation to develop their leadership and management skills by participating in business coaching, with a particular focus on leadership and management skills.

Management training

A range of other management development programs were delivered throughout the year, including programs specifically designed for employees seeking to move into a management role.

Professional networks and communities of practice

ASIC's professional networks were reviewed, and recommendations are being implemented to increase their capacity to promote and share knowledge and skills.

The Legal Network is the largest of ASIC's professional networks, with 355 members. It maintains three Communities of Practice, on civil litigation, company law and criminal law. This network offers our legal staff Continuous Professional Development (CPD) opportunities.

The Investigations Network offers monthly Communities of Practice events for its 144 members on new and emerging investigative topics. A recently developed online portal provides investigations-related resources such as templates, guidelines and policies. A number of new and redesigned learning programs have been delivered nationally to the investigative teams.

The Accounting/Auditor Network, which has 148 members, was revitalised to better support our accountants' capability through both formal means of communication and support for accountants across ASIC's offices. There is now a focus on developing a Community of Practice.

Stakeholder engagement

A number of teams across ASIC have undertaken a program to refine their engagement strategies for both internal and external stakeholders. The program included content on communication styles, transactional analysis, assertiveness and dealing with the different interpersonal styles of our customers. Teams had the opportunity to develop their skills in representing the organisation professionally and assisting the public efficiently.

Integrated leadership system

ASIC is aligning its business and professional development activities with the Australian Public Service Integrated Leadership System (ILS). This year a number of learning initiatives aligned with the ILS were offered to all staff across the organisation, on topics including practical resilience, personal efficiency, how to communicate effectively and mastering goals.

Upgrading to a new payroll system

ASIC's new payroll system (an upgrade of PeopleSoft HRMIS) went live in November 2012. The new system was delivered on schedule and under budget. The new system has improved payroll processing times, reduced business continuity risks and improved integration with ASIC's IT architecture.

Focus on workplace safety

In 2012–13 ASIC continued to respond to the new national Work Health and Safety laws. We have strengthened our internal governance through our health and safety representatives, harassment contact officers, workplace health and safety committees and first aid officers.

In response to legislative changes that focus on creating a safe workplace free of bullying and harassment, we implemented an awareness program. The half-day program is compulsory for all staff and is further complimented by an online learning module. As of 30 June, 2,098 ASIC employees have undertaken the program.

As well as focusing on the rehabilitation of injured workers, we took a number of preventative steps to reduce health and safety risks. We increased the number of ergonomic assessments, conducted comprehensive health assessments for senior staff, provided flu vaccinations and participated in both the 'RU OK? Day' program and the 10,000 Steps Challenge.

Managing and retaining talent

This year we reviewed our performance management policy and provided managers with training and resources to conduct effective performance conversations.

We continued to embed our talent and succession framework, identifying succession plans for critical senior executive positions and managing high-potential talent through development plans and on-the-job experiences.

Our graduate program remains a key strategy for building ASIC's workforce capability. Over 2,400 graduates applied for the 2013 program, with 20 graduates, from a range of disciplines including law, commerce, business, economics and accounting, commencing the 12-month program in January.

Focus on diversity

At ASIC, we are committed to a diverse and inclusive workplace.

In 2012–13 we reviewed many of our people management frameworks, policies and practices to ensure they support our commitment to a diverse workforce. This has included refining our diversity and inclusion policy, reviewing our flexible working arrangements practices, and ensuring our recruitment, selection and promotion processes and practices are truly based on merit.

Information on our performance under the Commonwealth Disability Strategy can be found in the *State of the Service Report* and the *APS Statistical Bulletin*, available at www.apsc.gov.au.

Women in leadership

The fair inclusion of women in leadership positions is a major part of our diversity agenda for 2013–15.

The Commission has endorsed voluntary targets, proposed by the Women in ASIC committee, to increase the proportion of women in leadership and senior positions. We are aiming for 50% of Senior Executive Service and Executive positions to be occupied by women by 2015 and will report on our progress against these targets next year. The targets are based on calendar year.



ASIC's Leah Holmes working at the Kwinana Supporting Youth Forum in Perth, September 2012.

ASIC's people continued

These targets were announced by the Chairman at our annual International Women's Day event. At the event, Deputy Chairman Belinda Gibson presented research findings on

women in leadership roles in Australia and a panel discussion was held, with senior women sharing their career-defining moments and the challenges associated with gender diversity.

Targets for women in leadership

	Actuals, as at 30 June 2013	2013 target	2014 target	2015 target
Senior Executive Service	36%	44%	47%	50%
Executive Level 2	44%	47%	50%	
Executive Level 1	50%	50%		

Indigenous cadetship

In 2012–13 we established an Indigenous cadetship program at ASIC, through the Department of Education, Employment and Workplace Relations Indigenous Cadetship program, as part of our commitment to reconciliation, engagement and the provision of professional opportunities for Indigenous people in the financial services sector.

The program aims to provide real-world experience in a relevant field to Aboriginal and Torres Strait Islander university students while they are undertaking their studies. Each cadet completes 12 weeks work per year while studying full-time at university. ASIC's first Indigenous cadet commenced in November 2012, has completed a term with the Indigenous Outreach Program and is now gaining experience with the Corporations team.

Performance payments, 2012–13, by classification¹

Classification	No. of recipients	Aggregate	Payment range		
			Minimum	Maximum	Average
ASIC 4	310	\$942,396	\$549	\$11,952	\$3,040
Exec 1	440	\$2,242,496	\$696	\$16,874	\$5,097
Exec 2	511	\$4,012,525	\$1,054	\$22,511	\$7,852
SES	45	\$722,402	\$4,661	\$25,411	\$15,200
Total	1,305	\$7,866,216	\$549	\$25,411	\$6,028

1. Includes payments for the 2011–12 performance year which were paid in 2012–13, plus pro rata payments for the 2012–13 performance year for staff who left ASIC in 2012–13.

Industrial arrangements for ASIC staff, as at 30 June 2013

Classification	ASIC Act s120(3) contract	AWA ¹	EA ²	Total
ASIC 1			29	29
ASIC 2			278	278
ASIC 3			258	258
ASIC 4			374	374
Exec 1			467	467
Exec 2			510	510
SES	25	16	6	47
Total	25	16	1,922	1,963

1. Australian Workplace Agreement.

2. Enterprise Agreement.

Salary ranges per annum, 2012–13

Classification	Minimum per annum	Maximum per annum
ASIC 1	\$41,174	\$45,507
ASIC 2	\$47,884	\$57,288
ASIC 3	\$61,036	\$69,964
ASIC 4	\$73,034	\$82,680
Exec 1	\$95,712	\$110,711
Exec 2	\$108,424	\$151,930
SES	\$151,930	\$291,482

ASIC's people continued

ASIC employees, by location^{1,2}

Classification	Vic.		NSW		Qld		WA		SA		ACT		Tas.		NT		Total	
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Chairman			1	1													1	1
Deputy Chairman			1	1													1	1
Member	1	2	2	1													3	3
SES	13	12	25	27	1	1	1	1	2	2		2	1	1			43	46
Exec 2	130	138	229	227	30	35	28	26	8	10	5	5	6	8			435	448
Exec 1	107	107	201	194	35	42	27	32	13	16	4	3	6	4	2	1	393	400
ASIC 4	184	134	175	126	55	37	24	20	21	17	2	4	1	2			463	340
ASIC 3	84	119	57	65	26	27	9	11	9	10	2	2	3	2	2	2	192	239
ASIC 2	173	153	27	19	15	14	8	8	19	12	3	4	2	2			247	211
ASIC 1	52	26	1		1	1	1	1									55	28
Contractors ³	3	1	9	19		1											12	22
Total	747	692	726	682	163	158	98	98	71	67	18	21	16	18	4	3	1,844	1,738

1. Average number over 12 months on FTE basis.

2. Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.

3. Includes non-payroll contractors, secondments and agency staff.

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

Commissioners, by gender¹

Classification	Ongoing full-time				Ongoing part-time				Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		Female		Male		Female		Male			
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Chairman											1	1					1	1
Deputy Chairman									1	1							1	1
Member											3	3					3	3
Appointee total									1	1	4	4					5	5

1. Average number over 12 months on FTE basis.

ASIC's people continued

Employees under ASIC Act, by gender^{1,2}

Classification	Ongoing full-time				Ongoing part-time				Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		Female		Male		Female		Male			
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Exec 1				1														1
SES	1	3							6	7	19	18					27	28
Contractors ³									2	8	8	14	2				12	22
ASIC Act total	1	3		1					8	15	27	32	2				39	50

1. Average number over 12 months on FTE basis.

2. Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.

3. Includes all non-payroll IT contractors, secondments and agency staff.

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

Employees under Public Service Act 1999, by gender^{1,2}

Classification	Ongoing full-time				Ongoing part-time				Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		Female		Male		Female		Male			
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
ASIC 1	7	6	3	1	4	3			19	11	5	3	15	4	1		55	28
ASIC 2	117	103	37	34	55	50	5	4	16	12	8	4	7	4	2	2	247	211
ASIC 3	89	130	58	69	10	16	2	1	18	11	15	10					192	239
ASIC 4	216	163	170	120	34	27	1	2	31	21	9	5	1	2			463	340
Exec 1	120	140	198	200	41	32	4	4	7	6	18	10	2	2	3	5	393	399
Exec 2	110	130	226	234	55	43	8	9	9	9	25	22	2	1		1	435	448
SES	6	5	8	9	1	3	1					1					16	18
Public Service Act total	666	676	700	668	201	174	20	19	100	70	80	55	27	13	7	8	1,800	1,682

1. Average number over 12 months on FTE basis.

2. Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.

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

Combined totals for Commissioners, and employees under ASIC Act and under Public Service Act 1999, by gender¹

Classification	Ongoing full-time				Ongoing part-time				Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male		Female		Male		Female		Male			
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Total	667	679	701	669	201	174	20	19	109	86	110	91	29	13	7	8	1,844	1,738

1. Average number over 12 months on FTE basis.

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

ASIC in the community

The ASIC in the Community program provides a range of opportunities for ASIC's people to make a positive impact in the communities in which we live and work. ASIC in the Community also provides opportunities for ASIC's people to connect around common interests and shared experiences.

ASIC in the Community is a national program, made of up three elements:

- ♦ Workplace giving and fundraising
- ♦ Volunteering and pro bono work
- ♦ National speakers program.

Workplace giving and fundraising

ASIC's workplace giving program is designed to make donating simple and tax effective. Our fundraising activities encourage employees to raise funds for causes they are passionate about.

In 2012–13, ASIC employees donated a total of \$130,000, either through workplace giving or fundraising events.

Workplace giving

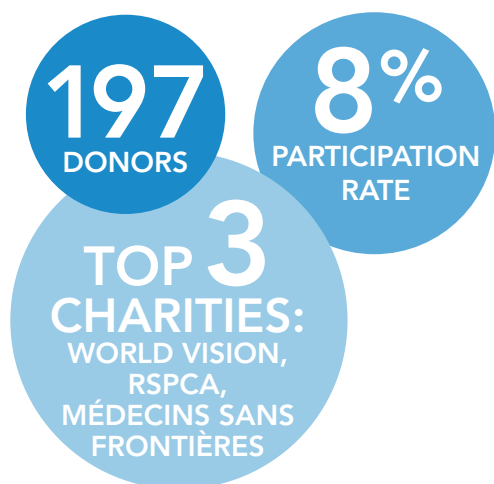
The benefits of workplace giving include automatic tax deductibility, ease of giving and a steady flow of funds for the charity. In 2012–13, 8% of ASIC employees donated a total of \$89,000 to 32 charities through workplace giving.

Fundraising

ASIC employees raised a total of \$41,000 in 2012–13 through fundraising events, ranging from Pink Ribbon fundraisers and Australia's Biggest Morning Tea to Movember.

Fundraising highlights

- ♦ The ASIC Melbourne Office Olympics and Ride to Cure Cancer raised \$6,340.
- ♦ Nineteen ASIC men in teams around the country transformed into Mo-Bros for Movember, raising over \$6,000 for men's health.
- ♦ Australia's Biggest Morning Tea events raised \$3,500 for cancer research.
- ♦ During October, Pink Ribbon Fundraisers were held in seven offices, raising nearly \$5,000 for the National Breast Cancer Foundation.



ASIC's Dom Moraes and rider Martin Joy raised \$6,000 for cancer research when they took part in the Ride to Conquer Cancer in Melbourne in October 2012.

Volunteering and pro bono work

ASIC recognises the many benefits that volunteering can provide for our people and our community, and supports volunteering by providing one day's paid leave per calendar year for all employees.

In 2012–13, 369 employees took up ASIC's one day of approved volunteering leave.

ASIC in the Community facilitates a number of regular volunteering and pro bono work options for all employees. These include:

- ♦ 25 mentors taking part in I-Track, the Smith Family's online youth mentoring project in Sydney, Melbourne and Brisbane.
- ♦ ASIC employees in Sydney volunteering at the Exodus Loaves and Fishes Restaurant, serving meals to homeless and marginalised people.
- ♦ ASIC lawyers in Sydney, Brisbane, Perth and Melbourne providing pro bono legal services to the National Children's and Youth Law Centre.
- ♦ staff from ASIC's Traralgon office regularly volunteering with the Meals on Wheels program.

National speakers program

ASIC invites speakers from our key charity partners to communicate the impact of our support and to inspire new supporters.

Recent highlights of the national speakers program include:

- ♦ In November 2012, Nick Farr Jones AM (former Wallabies captain) and Dr Daniel Chen from the Garvan Institute spoke on men's health and wellbeing.
- ♦ In April 2013, Alexandra Brassert from Médecins sans Frontières and Alexandra Mar from Habitat for Humanity spoke on their organisations' development assistance work.

Our Big Kitchen volunteering



Some of the 130 ASIC staff who prepared 860 meals for those in need.

In May 2013, 130 ASIC employees from the Market and Participant Supervision and Financial Market Infrastructure teams volunteered at Our Big Kitchen (OBK) in Bondi, Sydney.

An initiative of the Jewish community, Our Big Kitchen offers meals to anyone in need, be it someone with a family crisis, illness, or even victims of natural disasters.

The volunteering formed part of the Markets teams' development session, thus creating ASIC's largest group to ever volunteer at one time. On one day, the ASIC teams cooked 860 meals and copious amounts of cookies – certainly a change of pace for ASIC's analysts and project managers.

Indigenous awareness and action at ASIC

Aboriginal and Torres Strait Islander people are one of ASIC's key stakeholder groups. We are committed to developing programs and resources to provide services to Aboriginal and Torres Strait Islander consumers and investors in a manner that is equitable, responsive and relevant to their needs.

Engaging with Indigenous consumers and investors

Our Indigenous Outreach Program has continued its work identifying and addressing financial services problems facing Indigenous consumers and investors, and raising awareness of these issues within ASIC and with key stakeholders.

Our Reconciliation Action Plan (RAP), in effect since 2009, includes a commitment to responding to serious misconduct from financial services providers targeting Indigenous communities. ASIC has taken a number of regulatory actions that send a clear message to businesses that vulnerable consumers should not be further disadvantaged by unscrupulous traders.

Indigenous suppliers

We have re-affirmed our commitment to supplier diversity by incorporating commitments into our third RAP and maintaining our membership of Supply Nation (formerly AIMSC), which provides a direct purchasing link between corporate purchasers such as ASIC and Indigenous suppliers. ASIC made a number of purchases through Supply Nation this year, including video and sound production, as well as catering and graphic design.

Indigenous cadetships

As part of our Indigenous Employment Strategy, we have recruited our first Indigenous Cadet through the Department of Education, Employment and Workplace Relations Indigenous Cadetship program (see p. 68).

Supporting Indigenous communities

ASIC in the Community and the Indigenous Outreach Program collaborate on a number of events focusing on reconciliation, including NAIDOC (National Aboriginal and Islander Day Observance Committee) Week and Reconciliation Week. ASIC in the Community also supports seven Indigenous charities through its workplace giving scheme.

ASIC continues to offer opportunities for staff members to undertake secondments with Jawun Indigenous Corporate Partnerships. Jawun forms partnerships between corporations and Indigenous communities by seconding individual employees from across corporate Australia to assist with specific projects. In 2012–13, four ASIC staff completed secondments in East Kimberley and North East Arnhem Land. The secondees were nominated as part of the ASIC leadership program and were selected on the basis of the skills, knowledge and expertise they could contribute to the locally driven projects.



Cathy Binnington (second from left) was the second ASIC employee to participate in the Jawun Corporate Secondment Program. As part of her secondment in June–July 2012, Cathy worked with Wunan, an organisation that provides sustainable housing, education and employment support programs to Indigenous communities in the East Kimberley.

Environmental performance

Summary

During 2012–13, an Environmental Management Improvement Plan was implemented in all ASIC offices. The plan establishes an improved strategic and operational approach to increasing ASIC's sustainability. As part of the plan, over 300 site-based and national initiatives were identified, which the property and business services team continued to work on. Subsequently, 40% of the initiatives identified were delivered in 2012–13.

Key statistics

ASIC energy consumption, 2010–11 to 2012–13

Descriptor	2012–13	% change from 2011–12	2011–12	2010–11
Light and power – ASIC tenancies (kWh)	4,178,094	-8%	4,536,095	4,982,162
MJ per person	7,373	-6%	7,840	8,493
Light and power – ASIC computer centres (kWh)	1,183,106	-1%	1,197,011	1,368,348
MJ per m ²	8,184	+6%	7,698	7,928
Transport energy (GJ)	536	-15%	633	653

Environmental performance in detail

Energy efficiency

ASIC continues to seek to improve its energy efficiency within its portfolio by reviewing ways to further reduce energy consumption and emissions through process improvements or new initiatives.

ASIC's Sydney office has been the primary focus for 2012–13. Several new initiatives were introduced, including improvements in the use and functionality of lighting and air-conditioning sensors, as well as the removal or replacement of inefficient lighting. The office also saw the introduction of 'perimeter daylight harvesting' to automatically reduce artificial lighting when there is sufficient natural light available.

The introduction of these initiatives has resulted in an energy reduction within the Sydney office of over 15% when compared with the same period in the previous year.

During 2011–12, ASIC joined the 10% Challenge – an initiative of Do Something! Campaign – which aims to reduce energy consumption by 10%. Using the base year of 2009–10, and building on the continual improvements already made as well as implementing various energy efficient practices, ASIC exceeded the 10% challenge in December 2012 by achieving a 13% reduction in overall energy consumption since 2010.

Waste

Accurate reporting of waste and recycling is difficult as ASIC leases all of its premises, predominantly within multi-tenanted buildings. However, recycling arrangements have been established in all ASIC's offices for paper and co-mingled products.

As part of ASIC's commitment to reduce landfill and help safeguard our environment from contamination, ASIC has introduced mobile phone, fluorescent light and battery recycling programs in all its offices.

Environmental performance *continued*

Water

The landlord for the ASIC Sydney office has recently introduced the use of grey water in all toilets within the building, which is expected to provide significant water consumption savings.

Information technology

A 'centralisation' program has commenced that will result in a significant amount of dated IT equipment being retired and the majority of equipment removed from local offices and distributed to one of two data centres.

The centralisation project will allow ASIC to reduce the size of its local office server rooms while also reducing power and cooling requirements in the buildings. It is expected that this change will positively impact ASIC's National Australian Built Environment Rating System (NABERS) ratings for a range of sites.

ASIC has also proposed to replace the current 'virtual machine' desktops with an all-in-one desktop terminal in 2013–14. We anticipate that the new desktops will draw 50% less power than ASIC's current terminals.

Travel

ASIC is a contributor to the Greenfleet biodiversity program, which offsets its vehicle emissions by planting native trees to establish a biodiverse forest. Greenfleet has planted 170 native trees to offset the 45.31 tonnes of CO₂ emissions ASIC generated from 1 February 2012 to 31 January 2013.

The Government has set a target of 28% of all fleet vehicles achieving a Green Vehicle Guide rating of 10.5 or better. Ninety four percent of ASIC's fleet meets this target, with over a third of the total fleet being hybrid vehicles.

The kilometres travelled in our vehicle fleet have reduced by 31%, due in part to an increased uptake in the use of car sharing options in Melbourne, Sydney and Brisbane.

ASIC's use of video conferencing increased by 4% in 2012–13. We continue to promote video conferencing as a preferred alternative to air travel.

Property

ASIC is committed to ensuring that sustainability measures are included in lease agreements. As at June 2013, 75% of ASIC's property leases featured sustainable initiatives.

In order to comply with the Commonwealth Property Management Framework and reduce its environmental footprint, ASIC has actively reduced its property portfolio to improve its space efficiency. During 2012–13, ASIC divested 2.06% of total occupied space, resulting in a:

- ♦ 10% reduction in space at the Brisbane office
- ♦ 15% reduction in space at the Perth office
- ♦ 17% reduction in space at the Hobart office
- ♦ 11% reduction in space at the Melbourne office.

This reduction has significantly contributed to reductions in energy usage.

ASIC strives to continue to build on our environmental achievements by exploring new opportunities to reduce energy and emissions, waste and water consumption.

The implementation of ASIC's Environmental Management Improvement Plan will be a key mechanism to improve environmental performance during 2013–14.



4

FINANCIAL STATEMENTS

Financial Statements

FOR THE YEAR ENDED 30 JUNE 2013

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INDEPENDENT AUDITOR 'S REPORT

To the Parliamentary Secretary to the Treasurer

Report on the Financial Statements

I have audited the accompanying financial statements of the Australian Securities and Investments Commission for the year ended 30 June 2013, which comprise: a Statement by the Chairman and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Administered Schedule of Comprehensive Income; Administered Schedule of Assets and Liabilities; Administered Reconciliation Schedule; Administered Cash Flow Statement; Schedule of Administered Commitments and Contingencies; and Notes to and forming part of the financial statements comprising a Summary of significant accounting policies and other explanatory information.

Chairman's Responsibility for the Financial Statements

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

Auditor's Responsibility

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

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Australian Securities and Investments Commission's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Australian Securities and Investments Commission's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Chairman of the Australian Securities and Investments Commission, as well as evaluating the overall presentation of the financial statements.

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

Independent Auditor's Report

Independence

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

Opinion

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

- (a) have been prepared in accordance with the Finance Minister's Orders made under the Financial Management and Accountability Act 1997, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Securities and Investments Commission's financial position as at 30 June 2013 and of its financial performance and cash flows for the year then ended.

Report on Other Legal and Regulatory Requirements

Note 35 *Compliance with statutory conditions for payments from Consolidated Revenue Fund* discloses information on the Australian Securities and Investments Commission's review of its exposure to risks of not complying with statutory conditions on payments from special appropriations and special accounts, and annual appropriations which fund statutory payments. Non-compliance with statutory conditions may lead to a contravention of section 83 of the Constitution, which requires that no money shall be drawn from the Treasury of the Commonwealth except under an appropriation made by law.

As disclosed in Note 35, 2012-13 payments in breach of section 83 of the Constitution totalling \$20,484.36 were made under the Remuneration Tribunal Act 1973 out of Appropriation Act No. 1 2012-13 (Departmental Item).

Australian National Audit Office



Carla Jago

Executive Director

Delegate of the Auditor-General

Canberra

15 August 2013

Statement by Chief Executive and Chief Financial Officer



In our opinion, the attached financial statements for the year 30 June 2013 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

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

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

G. J. Medcraft
Chairman

15 August 2013

A handwritten signature in black ink, appearing to read 'E. L. Hodgson', with a small dot at the end.

E. L. Hodgson
Chief Financial Officer

15 August 2013

Statement of Comprehensive Income


FOR THE YEAR ENDED 30 JUNE 2013

EXPENSES	Notes	2013 \$'000	2012 \$'000
Employee benefits	3A	231,579	217,848
Supplier expenses	3B	127,571	120,078
Depreciation and amortisation	3C,34	51,355	45,665
Finance costs	3D	285	514
Write-down and impairment of assets	3E	479	383
Total expenses (A)	32A	411,269	384,488
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Rendering of services	4A	2,679	3,559
Royalties	4B	190	185
Other revenue	4C	13,805	30,846
Total own-source revenue		16,674	34,590
Gains			
Other gains	4D	405	181
Total gains (B)		17,079	34,771
Net cost of services (A) – (B)		394,190	349,717
Revenues from Government	4E	350,030	304,259
(Deficit) attributable to the Australian Government		(44,160)	(45,458)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to profit or loss			
Changes in asset revaluation reserve		–	2,740
Total comprehensive (loss) attributable to the Australian Government	34	(44,160)	(42,718)

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

Balance Sheet

AS AT 30 JUNE 2013



	Notes	2013 \$'000	2012 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	5A	1,062	8,777
Trade and other receivables	5B	107,963	89,481
<i>Total financial assets</i>		109,025	98,258
Non-financial assets			
Leasehold improvements	6A,6D	47,716	55,612
Plant and equipment	6B,6D	21,678	26,428
Intangibles	6C,6D	117,737	130,977
Other non-financial assets	6E	8,873	8,799
<i>Total non-financial assets</i>		196,004	221,816
Total assets		305,029	320,074
LIABILITIES			
Payables			
Suppliers	7A	33,080	39,159
Other payables	7B	56,642	60,552
<i>Total payables</i>		89,722	99,711
Provisions			
Employee provisions	8A	65,758	56,694
Other provisions	8B	9,204	8,888
<i>Total provisions</i>		74,962	65,582
Total liabilities		164,684	165,293
Net assets		140,345	154,781
EQUITY			
Contributed equity		232,149	202,425
Reserves		9,213	9,213
Accumulated (deficit)		(101,017)	(56,857)
<i>Total equity</i>		140,345	154,781

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

Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2013

		Accumulated surplus/(deficit)		Asset revaluation reserve		Contributed equity		Total equity	
	Notes	2013 \$'000	2012 \$'000	2013 \$'000	2012 \$'000	2013 \$'000	2012 \$'000	2013 \$'000	2012 \$'000
Opening balance		(56,857)	(11,399)	9,213	6,473	202,425	143,564	154,781	138,638
Comprehensive income									
Revaluation									
Leasehold improvements		–	–	–	809	–	–	–	809
Plant and equipment		–	–	–	1,931	–	–	–	1,931
(Deficit) for the period		(44,160)	(45,458)					(44,160)	(45,458)
Total comprehensive (loss) / income attributable to the Australian Government	34,6D	(44,160)	(45,458)	–	2,740	–	–	(44,160)	(42,718)
Transactions with owners									
Contributions by owners									
Equity injections – Appropriations		–	–	–	–	15,790	4,465	15,790	4,465
Departmental capital budget		–	–	–	–	13,934	58,646	13,934	58,646
Distribution to owners									
Returns of capital:									
Finance Minister's determination No. 1 of 2011–12 Schedule 1		–	–	–	–	–	(4,250)	–	(4,250)
Sub-total transactions with owners		–	–	–	–	29,724	58,861	29,724	58,861
Closing balance attributable to the Australian Government		(101,017)	(56,857)	9,213	9,213	232,149	202,425	140,345	154,781

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

Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2013

	Notes	2013 \$'000	2012 \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		341,987	319,312
Services		5,522	8,895
Net GST received		13,788	19,221
Other cash received		7,885	31,032
<i>Total cash received</i>		<u>369,182</u>	<u>378,460</u>
Cash used			
Employees		221,001	211,883
Suppliers		143,359	129,007
Transfers to the Official Public Account		10,907	36,042
<i>Total cash used</i>		<u>(375,267)</u>	<u>(376,932)</u>
Net cash from / (used by) operating activities	9	<u>(6,085)</u>	<u>1,528</u>
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles		31,354	56,346
Net cash (used) by investing activities		<u>(31,354)</u>	<u>(56,346)</u>
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity		29,724	58,861
Net cash from financing activities		<u>29,724</u>	<u>58,861</u>
<i>Net increase / (decrease) in cash held</i>		<u>(7,715)</u>	<u>4,043</u>
Cash and cash equivalents at the beginning of the reporting period		8,777	4,734
Cash and cash equivalents at the end of the reporting period	5A	<u>1,062</u>	<u>8,777</u>

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

Schedule of Commitments

AS AT 30 JUNE 2013

BY TYPE	2013 \$'000	2012 \$'000
Commitments payable		
Capital commitments		
Intangibles ¹	209	2,543
<i>Total capital commitments</i>	<u>209</u>	<u>2,543</u>
Other commitments		
Operating leases ²	193,746	225,767
Other commitments (goods and services)	42,900	46,337
<i>Total other commitments</i>	<u>236,646</u>	<u>272,104</u>
Less: commitments receivable		
GST recoverable on commitments	20,477	24,968
Sublease revenue receivable	969	–
<i>Total commitments receivable</i>	<u>21,446</u>	<u>24,968</u>
Net commitments by type	<u>215,409</u>	<u>249,679</u>
BY MATURITY		
Commitments payable		
Capital commitments		
One year or less	209	2,543
<i>Total capital commitments</i>	<u>209</u>	<u>2,543</u>
Operating lease commitments		
One year or less	31,530	30,556
From one to five years	116,139	121,885
Over five years	46,077	73,326
<i>Total operating lease commitments</i>	<u>193,746</u>	<u>225,767</u>
Other commitments (goods and services)		
One year or less	40,520	42,599
From one to five years	2,380	3,737
<i>Total other commitments</i>	<u>42,900</u>	<u>46,336</u>
Less: commitments receivable		
One year or less	6,534	6,650
From one to five years	10,723	11,651
Over five years	4,189	6,666
<i>Total commitments receivable</i>	<u>21,446</u>	<u>24,967</u>
Net commitments by maturity	<u>215,409</u>	<u>249,679</u>

1. Outstanding contractual payments for purchases of intangibles.

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

Nature of lease	General description of leasing arrangement
Leases for office accommodation	Subject to fixed increases and annual or bi-annual rent reviews.
Motor vehicles – senior executives	No contingent rentals exist. There are no purchase options available to ASIC.
Office equipment	No contingent rentals exist. There are no purchase options available to ASIC.

Commitments are GST inclusive where relevant.

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

Schedule of Contingencies

AS AT 30 JUNE 2013

	Notes	2013 \$'000	2012 \$'000
CONTINGENT ASSETS			
Claims for costs		757	709
Total contingent assets	10	757	709
CONTINGENT LIABILITIES			
Claims for costs		–	350
Total contingent liabilities	10	–	350

Details of all contingent liabilities and assets, including those not included above because they cannot be quantified, are disclosed in Note 10: Contingent liabilities and assets.

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

Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2013

EXPENSES	Notes	2013 \$'000	2012 \$'000
Grants	17A	2,203	1,823
Write-down and impairment of assets	17B	43,401	43,040
Other expenses ^{1,2}	17C	501,873	103,144
<i>Total expenses administered on behalf of Government</i>		<i>547,477</i>	<i>148,007</i>
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Non-taxation revenue			
Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act fees and fines	18	717,415	663,610
Banking Act unclaimed monies ¹	18	520,442	61,227
Life Insurance Act unclaimed monies ¹	18	31,083	8,769
Corporations Act unclaimed monies ²	18	331,300	12,899
<i>Total own-source revenue administered on behalf of Government</i>		<i>1,600,240</i>	<i>746,505</i>
Net contribution to budget		1,052,763	598,498

1 ASIC has responsibility for the administration of monies received from banking and deposit taking institutions as well as life insurance institutions and friendly societies. In 2012–13 the Government changed the definition of these unclaimed monies to include accounts or policies that have been inactive for more than three years (previously the inactive period was seven years). This has resulted in an abnormal increase in administered revenue and the provision for claims payable in 2012–13.

2 ASIC has responsibility for the administration of unclaimed monies under section 1341 of the *Corporations Act 2001*. In 2012–13 the Government changed the administrative arrangements for these unclaimed monies which are now transferred to the Official Public Account (OPA) on a daily basis (previously these funds remained in a trust fund maintained by ASIC for a period of six years, Note 30B refers). This has resulted in an abnormal increase in administered revenue and the provision for claims payable in 2012–13.

The above Schedules should be read in conjunction with the accompanying notes including reporting of administered activities in accounting policy Note 1.20.

Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2013



ASSETS	Notes	2013 \$'000	2012 \$'000
Financial assets			
Cash and cash equivalents	19A	3,560	1,373
Receivables	19B	107,869	104,716
<i>Total assets administered on behalf of Government</i>	25	111,429	106,089
LIABILITIES			
Payables			
Suppliers	20A	18,719	15,045
Provisions	20B	502,571	64,514
<i>Total liabilities administered on behalf of Government</i>		521,290	79,559
		(409,861)	26,530

Administered Reconciliation Schedule

AS AT 30 JUNE 2013

	2013 \$'000	2012 \$'000
Opening administered assets less administered liabilities	26,530	90,297
Surplus (deficit) items:		
Plus: Administered income	1,600,241	746,505
Less: Administered expenses	(547,477)	(148,007)
Administered transfers to/from Australian Government:		
Appropriation transfers from Official Public Account:		
Special (unlimited) and ordinary appropriations	72,497	42,405
Transfers to Official Public Account	(1,561,652)	(704,670)
Closing administered assets less administered liabilities	(409,861)	26,530

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

Administered Cash Flow Statement

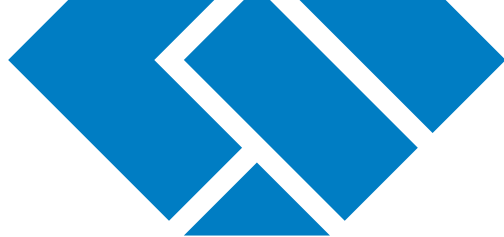
FOR THE YEAR ENDED 30 JUNE 2013

	Notes	2013 \$'000	2012 \$'000
OPERATING ACTIVITIES			
Cash received			
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act and Superannuation Industry (Supervision) Act		674,580	618,270
Corporation Act unclaimed monies		331,300	12,899
Banking Act unclaimed monies		520,442	61,227
Life Insurance Act unclaimed monies		31,083	8,769
Net GST received		35	83
<i>Total cash received</i>		<u>1,557,440</u>	<u>701,248</u>
Cash used			
Refunds paid to:			
Company shareholders		18,871	1,259
Deposit taking institution account holders		40,479	32,769
Life insurance policy holders		4,466	4,602
Grants		2,282	2,147
<i>Total cash (used)</i>		<u>(66,098)</u>	<u>(40,777)</u>
Net cash from operating activities	21	<u>1,491,342</u>	<u>660,471</u>
<i>Net increase in cash held</i>		<u>1,491,342</u>	<u>660,471</u>
Cash and cash equivalents at the beginning of the reporting period		1,373	3,167
Cash from Official Public Account for:			
– Appropriations		72,497	42,405
		<u>73,870</u>	<u>45,572</u>
Less: Cash to Official Public Account for:			
– Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act fees and charges		678,686	621,775
– Corporations Act unclaimed monies		331,441	12,899
– Banking Act unclaimed monies		520,442	61,227
– Life Insurance Act unclaimed monies		31,083	8,769
		<u>(1,561,652)</u>	<u>(704,670)</u>
<i>Cash and cash equivalents at end of the reporting period</i>	19A	<u>3,560</u>	<u>1,373</u>

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

Administered Schedule of Commitments and Contingencies

AS AT 30 JUNE 2013



ADMINISTERED COMMITMENTS

As at 30 June 2013 ASIC has \$0.211m administered commitments payable (2012: \$0.171m). The commitments payable at 30 June 2013 relate to services from registered insolvency practitioners to investigate suspected breaches of the directors' duties and fraudulent misconduct. The administered commitments payable at 30 June 2013 were due within 1 year.

As at 30 June 2013 ASIC has \$0.021m administered commitments receivable (2012: \$0.016m). The administered commitments receivable at 30 June 2013 relate to GST refundable.

ADMINISTERED CONTINGENT ASSETS

There were no administered contingent assets as at 30 June 2013 (2012: nil).

ADMINISTERED CONTINGENT LIABILITIES	Notes	2013 \$'000	2012 \$'000
Liabilities – Refunds to claimants			
Banking Act unclaimed monies	22	426,983	296,529
Life Insurance Act unclaimed monies	22	49,617	47,655
Corporations Act unclaimed monies	22	276,289	276,568
Total administered contingent liabilities		752,889	620,752

Details of each class of contingent liabilities in the above table are disclosed in Note 22.

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

Note 1: Summary of significant accounting policies

1.1 Objectives of the Australian Securities and Investments Commission

The Australian Securities and Investments Commission (ASIC) is an independent Commonwealth Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001*, and other legislation, throughout Australia. ASIC's objectives as outlined in the section 1(2) of the ASIC Act include:

- ♦ the promotion of confident and informed participation of investors and consumers in the financial system;
- ♦ the maintenance, facilitation and improvement in the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy; and
- ♦ to administer the laws that confer functions and powers on it effectively and with a minimum of procedural requirements.

ASIC collects and administers revenue under the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009* and prescribed fees set by the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003*, the *National Consumer Credit Protection Act 2009*, the *Business Names Registration (Fees) Regulations 2010* and *Superannuation Industry (Supervision) Act 1993*. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items. Administered items are distinguished by shading in these financial statements.

ASIC's financial results are reported in the context of the Government's outcomes (Note 32 refers). Any intra-government costs included in arriving at the amount shown as 'net cost/contribution of outcome' are eliminated in calculating the Federal budget outcome for the Government overall.

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

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 appropriations by Parliament for ASIC's administration and programs.

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

Monitoring of constitutional and other legal requirements

The Australian Government continues to have regard to developments in case law, including the High Court's most recent decision on Commonwealth expenditure in *Williams v Commonwealth* (2012) 288 ALR 410, as they contribute to the larger body of law relevant to the development of Commonwealth programs. In accordance with its general practice, the Government will continue to monitor and assess risk and decide on any appropriate actions to respond to risks of expenditure not being consistent with constitutional or other legal requirements.

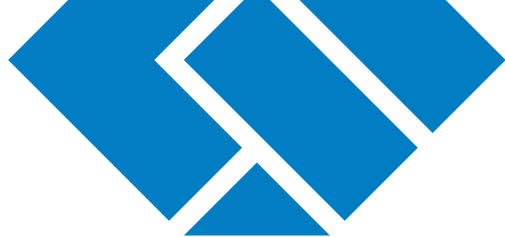
1.2 Basis of preparation of the financial statements

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

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

- ♦ Finance Minister's Orders (FMOs) for Financial Reporting (incorporating policy and guidance) for reporting periods ending on or after 1 July 2011;
- ♦ Finance Minister's Amendment Orders (Financial Statements for reporting periods ending on or after 1 July 2012); and
- ♦ Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no



Note 1: Summary of significant accounting policies (continued)

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.

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to ASIC or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executor contracts are not recognised unless required by an accounting standard. Liabilities and assets that are not recognised are reported in the Schedule of Commitments or the Schedule of Contingencies (other than unquantifiable contingencies, which are reported at Note 10).

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

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

1.3 Changes in accounting policy

ASIC changed its accounting treatment in 2012–13 to recognise transfers between the Companies Unclaimed Monies Special Account (CUMSA) and the Official Public Account (OPA) in the Administered Schedule of Comprehensive Income. The change is retrospective and requires the restatement of the comparative information presented for the year ended 30 June 2012 (Note 17C and 18 refers). On 5 December 2012 the CUMSA was abolished.

ASIC has recognised a provision for claims payable for the Banking Act, Life Insurance

Act and Corporations Act in accordance with AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*. The change in the accounting treatment for probable refunds that are to be paid to claimants is reflected in ASIC's Schedule of Administered Items. The change is retrospective and requires the restatement of the comparative information presented for the year ended 30 June 2012 (Note 20B refers).

1.4 Significant accounting judgements and estimates

ASIC has recognised a provision for likely future claims of unclaimed monies collected by ASIC up to the reporting date. The outstanding amount of unclaimed monies unlikely to be refunded is disclosed as a contingent liability. The provisions and contingent liabilities are both determined by the use of an actuary. The provision has been estimated assuming the historic claims pattern experienced since 2004 (when records became available on ASIC's website) will continue at the same rate despite the reforms to unclaimed monies in 2012–13 (Note 1.20 refers).

1.5 New Australian Accounting Standards

Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. The following new accounting standards, amendments to standards and interpretations were issued by the Australian Accounting Standards Board prior to the signing date are applicable to the current reporting period, but have not had a material financial impact on ASIC.

- ♦ AASB 2011-9 *Presentation of Items of Other Comprehensive Income*
- ♦ AASB 2011-10 to *Australian Accounting Standards arising from AASB 119 (September 2011)*
- ♦ AASB 2012-5 *Amendments to Australian Accounting Standards arising from Annual Improvements 2009-2011 Cycle*
- ♦ AASB 2012-2 *Amendments to Australian Accounting Standards – Disclosures – Offsetting Financial Assets and Financial Liabilities*

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2013

Note 1: Summary of significant accounting policies (continued)

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

Future Australian Accounting Standard requirements

New standards, amendments to standards or interpretations that have been issued by the Australian Accounting Standards Board and are effective for future reporting periods, are expected to have a material financial impact on ASIC.

- ♦ AASB 13 *Fair Value Measurement*
- ♦ AASB 2011-8 *Amendments to Australian Accounting Standards arising from AASB 13*
- ♦ AASB 2011-10 *Amendments to AASB 119 Employee Benefits (September 2011)*
- ♦ AASB 9 *Financial Instruments*
- ♦ AASB 2012-6 *Amendments to Australian Accounting Standards – Mandatory Effective Date of AASB 9 and Transition Disclosures*
- ♦ AASB 2012-3 *Amendments to Australian Accounting Standards – Offsetting Financial Assets and Financial Liabilities*
- ♦ AASB 1055 *Budgeting Reporting*

1.6 Revenue

Revenues from Government

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

Appropriations receivable are recognised at their nominal amounts.

Other types of revenue

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

- ♦ the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- ♦ the probable economic benefits associated with the transaction will flow to ASIC.

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

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

Parental Leave Payments Scheme

ASIC has offset amounts received under the Parental Leave Payments Scheme by amounts paid to employees under that scheme, because these transactions are only incidental to the main revenue-generating activities of ASIC. Amounts received by ASIC not yet paid to employees are presented gross as cash and a liability (payable).

1.7 Gains

Resources received free of charge

Resources received free of charge are recognised as gains when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature, (i.e. whether they have been generated in the course of the ordinary activities of ASIC).

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

Sale of assets

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

1.8 Transactions with the Government as owner

Departmental capital budget (DCB)

Introduced from 1 July 2010, the DCB funds ASIC's business-as-usual asset replacements (i.e. assets below \$10m) and payout of make-good provisions.



Note 1: Summary of significant accounting policies (continued)

Equity injections

Equity injections are used to fund the replacement of major project assets (i.e. assets over \$10 million) and new assets approved through the Commonwealth budget process.

Restructuring of administrative arrangements

Net assets received from or relinquished to another Government entity under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other distributions to owners

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

1.9 Employee benefits

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

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within 12 months of balance date are measured at their nominal amounts.

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

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

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of ASIC is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time leave is taken, including ASIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary as at 31 October 2012. Actuarial reviews of long service leave are undertaken on a five-yearly basis. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations.

Superannuation

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

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

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

There are a minority of employees who are members of either a state government or private superannuation schemes. All employees who are members of state government superannuation schemes were originally employed by the various state governments and were transferred to ASIC at its inception in 1989.

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

Note 1: Summary of significant accounting policies (continued)

1.10 Leases

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

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

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

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

1.11 Finance costs

All finance costs are expensed as incurred.

1.12 Cash

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

1.13 Financial assets

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

Financial assets are recognised and derecognised at transaction date.

Effective interest method

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

Income is recognised on an effective interest rate basis.

Loans and receivables

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

Impairment of financial assets

Financial assets are assessed for impairment at each balance date.

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

1.14 Financial liabilities

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

Financial liabilities are recognised and derecognised at transaction date.

Other financial liabilities

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

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

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).



Note 1: Summary of significant accounting policies (continued)

1.15 Contingent liabilities and contingent assets

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

1.16 Acquisition of assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

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

Asset recognition threshold

Purchases of leasehold improvements, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located, if it is contractually required. 'Make good' provisions in property leases are accounted for on this basis. These costs are included in the value of ASIC's leasehold improvements with a corresponding restoration provision recognised.

1.17 Leasehold improvements, plant and equipment

Revaluations

Fair values for each class of asset are determined as shown below:

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

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

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in the surplus/(deficit). Revaluation decrements for a class of assets are recognised directly in the surplus/(deficit) except to the extent that they reverse a previous revaluation increment for that class.

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

Depreciation

All depreciable leasehold improvements, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives using the straight-line method of depreciations.

Depreciation rates (useful lives), residual values and depreciation methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Note 1: Summary of significant accounting policies (continued)

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2013	2012
Leasehold improvements	Lease term	Lease term
Plant and equipment (owned)	2 to 95 years	2 to 95 years

Impairment

Leasehold improvements, plant and equipment are assessed for impairment at the end of each financial year. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if ASIC were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

1.18 Intangibles

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

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of ASIC's software is 2 to 10 years (2012: 2 to 10 years).

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

1.19 Taxation

ASIC is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

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

1.20 Reporting of administered activities

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

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards and Interpretations.

Reforms to unclaimed monies in 2012–13

Banking Act and Life Insurance Act administration

ASIC is responsible for the administration of unclaimed monies from banking, deposit and life insurance taking institutions.

Prior to 31 December 2012, in accordance with the *Banking Act 1959* and *Life Insurance Act 1995* monies from accounts and matured life insurance policies that were inactive for seven or more years were transferred to the Commonwealth and deposited into the Official Public Account (OPA). Effective 31 December 2012 the Government's reforms of unclaimed monies have reduced the inactivity period from seven years to three years. Refunds are paid to successful claimants out of the OPA.

Corporations Act administration

ASIC is responsible for the administration of unclaimed monies under section 1341 of the *Corporations Act 2001*.

Prior to 5 December 2012, these unclaimed monies were held in ASIC's Companies and Unclaimed Monies Special Account (CUMSA) for six years before being transferred to the OPA. On 5 December 2012, the Government abolished the CUMSA and since then unclaimed company monies are transferred to the OPA on a daily basis. Refunds are paid to successful claimants out of the OPA.



Note 1: Summary of significant accounting policies (continued)

Revenue

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

Administered revenue is generated from fees and fines under the *Corporations (Fees) Act 2001*, *Corporations (Review Fees) Act 2003*, *National Consumer Credit Protection (Fees) Regulation 2010*, *Business Names Registration (Fees) Regulation 2012* and *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; and
- ♦ the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

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

ASIC also receives unclaimed monies 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.

Expenses

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.

Administered cash transfers to and from the OPA

Revenue collected by ASIC for use by the Government rather than ASIC is administered revenue. Collections are transferred to the OPA maintained by the Department of Finance and Deregulation (DoFD). Conversely, cash is drawn from the OPA to make payments under

Parliamentary appropriation on behalf of the Government. These transfers to and from the OPA are adjustments to the administered cash held by ASIC on behalf of the Government and reported as such in the Schedule of Administered Cash Flows and in the Administered Reconciliation Schedule. Accordingly the Schedule of Administered Items largely reflects the Government's transactions, through ASIC, with parties outside the Government.

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* (FMO 31.1).

The impairment allowance is raised against receivables for any doubtful debts and any probable credit amendments, and is based on a review of outstanding debts at balance date. This includes an examination of individual large debts and disputed amounts with reference to historic collection patterns.

The impairment allowance expense is the result of estimation techniques to determine an estimate of current receivables which are unlikely to be collected in future.

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

Provisions

The other 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. The estimate of future claims for repayment was calculated using a methodology determined by an independent actuary. ASIC has recognised the provision for claims payable under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.

Contingent liabilities

The contingent liability disclosed in the Schedule of Administered Commitments and Contingencies represents an estimate of unclaimed monies that are unlikely to be refunded, but not considered remote.

Note 1: Summary of significant accounting policies (continued)

1.21 Expenditure of boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001* and the *Superannuation (Resolution of Complaints) Act 1993*, ASIC is required to support the Companies Auditors and Liquidators Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of this board and the tribunal are included in the Statement of Comprehensive Income of ASIC (Note 27 refers).

1.22 Comparative figures

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

1.23 Rounding

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

- ♦ remuneration of senior executive officers;
- ♦ remuneration of auditors; and
- ♦ compensation and debt relief.

1.24 Insurance

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

Note 2: Events after the balance sheet date

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

Note 3: Expenses

	2013 \$'000	2012 \$'000
Note 3A: Employee benefits		
Wages and salaries	175,378	167,173
Superannuation ¹		
Defined-benefit schemes	12,182	10,223
Defined-contribution schemes	16,128	14,157
Leave and other entitlements	26,505	25,167
Separation and redundancies ²	1,386	1,128
Total employee benefits	231,579	217,848

1. Contributions to defined benefit superannuation schemes are at rates calculated to cover existing and emerging obligations. The employer contribution rate for the Commonwealth Superannuation Scheme was 14.3% (2012: 15.9%), the Public Sector Superannuation Scheme was 14.1% (2012: 11.1%), the PSS Accumulation Scheme was 15.4% (2012: 15.4%), and the superannuation productivity benefit was approximately 2.0% to 3.0% (2012: 2.0% to 3.0%). The contribution is calculated based on the relevant salary for super at the time the contributions are made.

2. The majority of separation and redundancies are calculated on the basis of two weeks pay for every year of service for each employee with a minimum of four weeks and a maximum of 48 weeks.



Note 3: Expenses (continued)

	2013 \$'000	2012 \$'000
Note 3B: Suppliers		
Goods and services		
Legal and forensic costs	24,247	15,332
Office, computer and software expenses	20,703	23,305
Property-related outgoings	8,468	8,837
Consultants and specialist services	10,202	12,221
Travel	4,265	4,519
Communications	7,523	5,814
Recruitment	1,103	1,066
Information costs	8,553	6,818
Learning and development	3,890	4,998
Security	2,763	2,368
Postage and freight	2,577	1,892
Other goods and services	6,265	6,671
Total goods and services	100,559	93,841
Goods and services are made up of:		
Provision of goods – related entities	5	7
Provision of goods – external parties	2,917	2,818
Rendering of services – related entities	8,907	4,473
Rendering of services – external parties	88,730	86,543
Total goods and services	100,559	93,841
Other supplier expenses		
Operating lease rentals from external entities:		
Minimum lease payments	24,359	23,860
Sublease payments	553	757
Workers compensation premiums	1,845	1,373
Fringe benefits tax	255	247
Total other supplier expenses	27,012	26,237
Total supplier expenses	127,571	120,078
Note 3C: Depreciation and amortisation		
Depreciation:		
Leasehold improvements	8,340	9,373
Plant and equipment	6,614	5,494
Total depreciation	14,954	14,867
Amortisation:		
Intangibles – Computer software	36,401	30,798
Total amortisation	36,401	30,798
Total depreciation and amortisation	51,355	45,665

Note 3: Expenses (continued)

	Note	2013 \$'000	2012 \$'000
Note 3D: Finance costs			
Unwinding of restoration provision discount	8B	285	514
Total finance costs		285	514
Note 3E: Write-down and impairment of assets			
Impairment of financial instruments		71	46
Write-off of plant and equipment		408	287
Write-off of intangibles		–	50
Total write-down and impairment of assets		479	383

Note 4: Income

	2013 \$'000	2012 \$'000
Revenue		
Note 4A: Rendering of services		
Rendering of services – related entities	870	848
Rendering of services – external parties	1,809	2,711
Total rendering of services	2,679	3,559
Note 4B: Royalties		
ASIC publications	190	185
Total royalties	190	185
Note 4C: Other revenues		
Cost recoveries ¹	2,442	3,550
Receipts for special projects ²	9,515	26,129
Professional and witness fees	66	118
Sublease rent and property recoveries	879	143
AusAID revenue ³	–	25
Receipt from the Department of Treasury ⁴	–	81
Recovery of doubtful debts relating to prior year	5	308
Workers compensation refunds relating to prior year	129	316
Miscellaneous	769	176
Total other revenue	13,805	30,846

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

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

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

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



Note 4: Income (continued)

Gains	Notes	2013 \$'000	2012 \$'000
Note 4D: Other gains			
Proceeds on sale of assets – plant and equipment		205	–
Resources received free of charge	14	200	181
Total other gains		405	181

As a prescribed agency ASIC receives audit services from the Australian National Audit Office free of charge. The fair value of that service is \$200,000 (2012: \$181,000) for the reporting period.

Revenues from Government

Note 4E: Revenues from Government

Appropriations:

Departmental outputs		324,833	292,184
Departmental Special Account	30A	25,197	12,075
Total revenues from Government		350,030	304,259

Note 5: Financial assets

	Notes	2013 \$'000	2012 \$'000
Note 5A: Cash and cash equivalents			
Cash on hand or on deposit		1,062	8,777
Total cash and cash equivalents	15A	1,062	8,777

The 2013 cash balance is within the cash limit set by Department of Finance and Deregulation.

Note 5B: Trade and other receivables

Goods and Services:

Goods and services – related entities		809	173
Goods and services – external parties		886	4,271
Total receivables for goods and services		1,695	4,444

Credit terms for goods and services were within 30 days. (2012: 30 days)

Appropriations receivable:

Appropriations receivable	16	102,003	80,999
Total appropriations receivable		102,003	80,999

Other receivables:

GST receivable from the Australian Taxation Office	16	4,481	4,226
Total other receivables		4,481	4,226
Total trade and other receivables (gross)		108,179	89,669

Less impairment allowance account:

Goods and services		216	188
Total impairment allowance account		216	188
Total trade and other receivables (net)		107,963	89,481

Receivables are expected to be recovered in:

No more than 12 months		107,963	89,481
Total trade and other receivables (net)		107,963	89,481

Note 5: Financial assets (continued)

	2013 \$'000	2012 \$'000
Receivables are aged as follows:		
Not overdue	107,574	88,948
Overdue by:		
Less than 30 days	341	185
30 to 60 days	24	37
More than 90 days	240	499
Total receivables (gross)	108,179	89,669
The impairment allowance account is aged as follows:		
Overdue by:		
More than 90 days	216	188
Total impairment allowance account	216	188
Reconciliation of the movement in the impairment allowance account		
Opening balance	188	450
Amounts recovered and reversed	(43)	(308)
Increase recognised in net surplus / (deficit)	71	46
Closing balance	216	188

Note 6: Non-financial assets

	2013 \$'000	2012 \$'000
Note 6A: Leasehold improvements		
Work in progress	5	55
Fair value	91,146	90,652
Accumulated depreciation	(43,435)	(35,095)
Total leasehold improvements	47,716	55,612

All revaluations are conducted in accordance with the revaluation policy stated at Note 1.17. An independent valuation was conducted in 2011–12 by Rodney Hyman Asset Services Pty Ltd as at 30 June 2012.

The carrying value of leasehold improvements was reviewed at 30 June 2013. No indicators of impairment were found for leasehold improvements at 30 June 2013.

Note 6B: Plant and equipment

Fair value	54,740	54,789
Accumulated depreciation	(33,062)	(28,361)
Total plant and equipment	21,678	26,428

All revaluations are conducted in accordance with the revaluation policy stated at Note 1.17. An independent valuation was conducted in 2011–12 by Rodney Hyman Asset Services Pty Ltd.

The carrying value of plant and equipment assets was reviewed at 30 June 2013. No indicators of impairment were found for plant and equipment at 30 June 2013.

Note 6: Non-financial assets (continued)

	2013 \$'000	2012 \$'000
Note 6C: Intangibles – computer software		
Internally developed		
– work in progress	13,987	16,661
– in use	164,118	144,366
– accumulated amortisation	(93,096)	(61,200)
	<u>85,009</u>	<u>99,827</u>
Purchased		
– work in progress	18,850	18,132
– in use	36,364	31,012
– accumulated amortisation	(22,486)	(17,994)
	<u>32,728</u>	<u>31,150</u>
Total intangibles	<u>117,737</u>	<u>130,977</u>

The carrying value of intangible assets was reviewed at 30 June 2013. No indicators of impairment were found for intangibles at 30 June 2013.

Note 6D: Analysis of leasehold improvements, plant and equipment and intangibles

TABLE A: Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2012–13)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2012					
Gross book value	90,707	54,789	161,027	49,144	355,667
Accumulated depreciation/ amortisation and impairment	(35,095)	(28,361)	(61,200)	(17,994)	(142,650)
Net book value 1 July 2012	<u>55,612</u>	<u>26,428</u>	<u>99,827</u>	<u>31,150</u>	<u>213,017</u>
Additions:					
by purchase	444	2,272	–	6,069	8,785
internally developed	–	–	17,092	–	17,092
Total additions	<u>444</u>	<u>2,272</u>	<u>17,092</u>	<u>6,069</u>	<u>25,877</u>
Depreciation/amortisation expense	(8,340)	(6,614)	(31,910)	(4,491)	(51,355)
Write-offs recognised in the operating result	–	(408)	–	–	(408)
Net book value 30 June 2013	<u>47,716</u>	<u>21,678</u>	<u>85,009</u>	<u>32,728</u>	<u>187,131</u>
Net book value as of 30 June 2013 represented by:					
Gross book value	91,151	54,740	178,105	55,214	379,210
Accumulated depreciation/ amortisation	(43,435)	(33,062)	(93,096)	(22,486)	(192,079)
	<u>47,716</u>	<u>21,678</u>	<u>85,009</u>	<u>32,728</u>	<u>187,131</u>

Note 6: Non-financial assets (continued)

Note 6D: Analysis of leasehold improvements, plant and equipment and intangibles

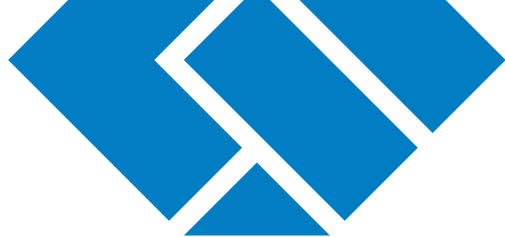
TABLE B: Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2011–12)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
Gross book value	88,985	52,751	118,403	45,330	305,469
Accumulated depreciation/ amortisation	(25,722)	(26,881)	(36,415)	(13,609)	(102,627)
Net book value 1 July 2011	63,263	25,870	81,988	31,721	202,842
Additions:					
by purchase	913	4,408	–	4,301	9,622
internally developed	–	–	43,815	–	43,815
Total additions	913	4,408	43,815	4,301	53,437
Revaluations and impairments recognised in operating result	809	1,931	–	–	2,740
Depreciation/amortisation expense	(9,373)	(5,494)	(25,962)	(4,836)	(45,665)
Write-offs recognised in the operating result	–	(287)	(14)	(36)	(337)
Net book value 30 June 2012	55,612	26,428	99,827	31,150	213,017
Net book value as of 30 June 2012 represented by:					
Gross book value	90,707	54,789	161,027	49,144	355,667
Accumulated depreciation/ amortisation	(35,095)	(28,361)	(61,200)	(17,994)	(142,650)
	55,612	26,428	99,827	31,150	213,017
				2013 \$'000	2012 \$'000

Note 6E: Other non-financial assets

Prepayments	8,873	8,799
Total other non-financial assets	8,873	8,799
Total other non-financial assets are expected to be recovered in:		
No more than 12 months	7,429	7,528
More than 12 months	1,444	1,271
Total other non-financial assets	8,873	8,799

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



Note 7: Payables

	Note	2013 \$'000	2012 \$'000
Note 7A: Suppliers			
Trade creditors and accruals	15A	33,080	39,159
Total supplier payables		33,080	39,159
Supplier payables expected to be settled within 12 months:			
Related entities		931	680
External parties		32,149	38,479
Total supplier payables		33,080	39,159
Note 7B: Other payables			
Unearned revenue – Government appropriations		–	3,788
Operating lease rent payable		11,515	9,165
Refund to Government ¹		5,842	–
Other unearned revenue ²		174	6,491
Property lease incentives ³		23,377	26,876
Salaries and bonuses		14,972	13,563
Superannuation		762	669
Total other payables		56,642	60,552
Total other payables are expected to be settled in:			
No more than 12 months		26,406	29,375
More than 12 months		30,236	31,177
Total other payables		56,642	60,552

1. The savings realised in the funding for the Supervision of Australia's financial markets and competition for market services are to be returned to Government.
2. The other unearned revenue relates to projects that have been approved for funding from the Companies and Unclaimed Monies Special Account.
3. Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2013. The amortisation of these amounts will be made over the life of the lease.

Note 8: Provisions

	2013 \$'000	2012 \$'000
Note 8A: Employee provisions		
Annual leave entitlement	19,824	17,814
Long service leave entitlement ¹	42,166	33,870
Separations and redundancies	3,768	5,010
Total employee provisions	65,758	56,694

Employee provisions are expected to be settled in:

No more than 12 months	19,669	18,255
More than 12 months	46,089	38,439
Total employee provisions	65,758	56,694

1 The liability for long service leave has been determined in accordance with the methodology developed by an independent actuary, refer to Note 1.9.

Note 8B: Other provisions

Provision for restoration obligations – leased premises	9,204	8,888
Total other provisions	9,204	8,888

Other provisions are expected to be settled in:

No more than 12 months	56	40
More than 12 months	9,148	8,848
Total other provisions	9,204	8,888

Reconciliation of the opening and closing balance of restoration provision

Carrying amount 1 July	8,888	9,144
Amounts used	(40)	(627)
Amounts reversed and additions	71	(143)
Unwinding of discount or change in discount rate	285	514
Closing balance 30 June	9,204	8,888

ASIC currently has 10 agreements (2012: 11) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. ASIC has made a provision to reflect the present value of the 'make good' obligations.



Note 9: Cash flow reconciliation

	2013 \$'000	2012 \$'000
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement		
Cash and cash equivalents as per:		
Cash Flow Statement	1,062	8,777
Reconciliation of net cost of services to net cash from operating activities:		
Net cost of services	(394,190)	(349,717)
Add revenue from Government	350,030	304,259
(Deficit) attributable to the Australian Government	(44,160)	(45,458)
Adjustments for non-cash items		
Depreciation / amortisation	51,355	45,665
Net write-down of non-financial assets	408	337
Changes in assets / liabilities		
(Increase) / decrease in net receivables	(18,482)	(12,924)
(Increase) / decrease in prepayments	(74)	(4,077)
Increase / (decrease) in employee provisions	9,064	2,856
Increase / (decrease) in supplier payables	(6,079)	14,724
Increase / (decrease) in other provisions and payables	1,883	405
Net cash from operating activities	(6,085)	1,528

Note 10: Contingent liabilities and assets

	2013 \$'000	2012 \$'000
Contingent assets		
<i>Claims for costs</i>		
Balance from previous period	709	1,452
<i>Adjustments to prior period contingent receivables:</i>		
Assets recognised	(103)	(210)
Estimates not realisable	–	(748)
Revisions to estimates	(81)	50
New contingent receivables	232	165
Total contingent assets	757	709
Contingent liabilities		
<i>Claims for costs</i>		
Balance from previous period	350	480
<i>Adjustments to prior period contingent payables:</i>		
Liabilities recognised	–	(230)
Estimates not payable	(350)	–
New contingent payables	–	100
Total contingent liabilities	–	350

Note 10: Contingent liabilities and assets (continued)

Quantifiable contingencies (ASIC departmental)

As at the date of this report, there are 9 matters (2012: 6 matters) for which ASIC has received an award of costs in its favour, and agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated these matters represent a combined receivable of \$0.757m (2012: \$0.709m), which is disclosed as a contingent asset because realisation of this debt 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.

In addition, like any corporate body, ASIC may from time to time be the subject of legal proceedings for damages brought against it, or may receive notice indicating that such proceedings may be brought. In either case ASIC, like any other party to civil litigation, may be required to pay the other party's costs if ASIC is unsuccessful.

As at the date of this report there are civil matters that may result in an award of costs in favour or against ASIC.

Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There is, at the date of this report, one matter of this type where proceedings are current. In this matter, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- (a) successfully defend the action instituted; and
- (b) not be required to pay any damages.

Since balance date there has been an award of costs against ASIC in this matter, however the amount that will be required to settle the claim cannot be reliably estimated at this stage.

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. Due to the uncertainty over the outcome of outstanding and pending court cases, duration of court cases and the legal costs of the opposing party, ASIC is unable to reliably estimate either its potential payments to, or potential cost recoveries from, opposing litigants. There may also be other matters where ASIC has received an award of costs in its favour, however no contingent asset has been disclosed because recovery of the debt is not probable. There may also be other matters where no contingency has been quantified because the costs awarded for or against ASIC are estimated to be less than \$20,000 each.

Future compensation claims

The 'Scheme for Compensation for Detriment Caused by Defective Administration' (CDDA) is a method for agencies to provide compensation to persons who have been adversely affected by the maladministration of agencies, but who have no legal means to seek redress, such as a legal claim. It is not possible to estimate the value of potential future CDDA claims.



Note 11: Related party disclosures

The Commissioners of ASIC during the financial year were:

- G. J. Medcraft (Chairman)
- B. G. Gibson (Deputy Chairman to 3 May 2013)
- P. R. Kell (Commissioner to 3 May 2013, Deputy Chairman from 6 May 2013)
- J. D. Price (Commissioner)
- G. M. Tanzer (Commissioner)
- C. A. Armour (Commissioner from 3 June 2013)

Loans to Commissioners and Commissioner-related entities

There were no loans made to Commissioners or Commissioner-related entities during the reporting period.

Other transactions with Commissioner-related entities

There were no other transactions with Commissioner-related entities during the reporting period, other than the payment of fees levied under the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003*.

Note 12: Remuneration of Commissioners

The FMOs for disclosure of Commissioners and senior executive remuneration in 2012–13 have changed. The 2011–12 comparatives have been restated to reflect the following changes in the FMOs:

- the reporting threshold has increased from \$150,000 to \$180,000; and
- changes to the definition of reportable salary and contributed superannuation.

Note 12A: Total remuneration expense recognised in relation to Commissioners	2013 \$	2012 \$
Short-term employee benefits:		
Salary	2,504,976	1,955,101
Annual leave accrued	(47,690)	7,460
Car parking fringe benefits	59,839	48,531
Total short-term employee benefits	2,517,125	2,011,092
Post-employment benefits:		
Superannuation	385,579	166,541
Other long-term benefits:		
Long service leave accrued	62,611	5,672
Total remuneration expense for Commissioners¹	2,965,315	2,183,305

1. Excludes acting arrangements and part-year service where the total remuneration expensed was less than \$180,000. The number of Commissioners whose remuneration is disclosed above is 5 (2012: 6).

Note 12: Remuneration of Commissioners (continued)

Note 12B: Average annual reportable remuneration paid to Commissioners during the reporting period

2013					
Average annual reportable remuneration ¹					
	Commissioners No.	Reportable salary ^{2,3} \$	Contributed superannuation ^{3,4} \$	Reportable allowances ⁵ \$	Total \$
Total remuneration (including part-time arrangements):					
Less than \$180,000	1	23,674	1,923	–	25,597
\$480,000 to \$509,999	1	486,006	23,349	–	509,355
\$510,000 to \$539,999	2	446,888	66,482	–	513,370
\$690,000 to \$719,999	2	568,745	125,981	–	694,726
Total	6				

2012					
Average annual reportable remuneration ¹					
	Commissioners No.	Reportable salary ^{2,3} \$	Contributed superannuation ^{3,4} \$	Reportable allowances ⁵ \$	Total \$
Total remuneration (including part-time arrangements):					
Less than \$180,000	3	115,512	15,626	–	131,138
\$240,00 to \$269,999	2	227,362	25,427	–	252,789
\$330,000 to \$359,999	1	277,093	36,764	154	314,011
\$540,000 to \$569,999	1	514,280	34,758	–	549,038
\$660,000 to \$689,000	1	637,341	45,170	–	682,511
Total	8				

1. This table reports on Commissioners who are employed by ASIC during the reporting period. Each row represents an average figure, based on headcount for the individuals in the band and in accordance with a determination of the Remuneration Tribunal for each individual.

2. 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

3. Various salary sacrifice arrangements were available to Commissioners, including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column.

4. The 'contributed superannuation' amount is the average reportable superannuation contributions paid for Commissioners in that reportable remuneration band during the reporting period.

5. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.



Note 13: Remuneration of senior executives

Note 13 discloses the remuneration of those senior executives who are either classified in Groups 9–11 of the Public Service Classification Rules 2000 or those who perform functions controlling operational activities that directly impact the economic function and viability of ASIC and whose employment conditions are equivalent to Senior Executive Service (SES) employment conditions of service.

Note 13A includes executives acting in a higher capacity where their senior executive remuneration during the period exceeds \$180,000. Note 13B discloses only those senior executives appointed to a senior executive role in a substantive capacity during the reporting period. Note 13A is prepared on an accruals basis, therefore the performance bonus expense in Note 13A may differ from the cash 'Bonus paid' in Note 13B.

Note 13A: Total expense recognised in relation to employment of senior executives	2013	2012
	\$	\$
Short-term employee benefits:		
Salary and performance bonuses	8,223,283	8,179,643
Annual leave accrued	20,352	40,532
Motor vehicle allowances and other short-term benefits	1,069,114	1,125,116
Total short-term employee benefits	<u>9,312,749</u>	<u>9,345,291</u>
Post-employment benefits:		
Superannuation	876,085	880,566
Other long-term benefits:		
Long service leave accrued	210,628	(89,521)
Termination benefits	–	200,436
<i>Total remuneration expense for senior executives¹</i>	<u>10,399,462</u>	<u>10,336,772</u>

1. Excludes acting arrangements and part-year service where remuneration expensed was less than \$180,000.
The number of senior executives whose remuneration is disclosed above is 35 (2012: 36).

Note 13: Remuneration of senior executives (continued)

Note 13B: Average annual reportable remuneration paid to substantive senior executives during the reporting period¹

Average annual reportable remuneration ²	2013					
	Senior Executives No.	Reportable salary ^{3,4} \$	Contributed superannuation ^{4,5} \$	Reportable allowances ⁶ \$	Bonus paid ⁷ \$	Total \$
Total remuneration (including part-time arrangements):						
Less than \$180,000	1	92,701	12,541	–	–	105,242
\$180,000 to \$209,999	1	178,125	22,234	–	7,394	207,753
\$210,000 to \$239,999	1	202,362	15,687	–	12,441	230,490
\$240,000 to \$269,999	3	232,999	21,068	–	10,297	264,364
\$270,000 to \$299,999	5	237,593	28,326	71	16,502	282,492
\$300,000 to \$329,999	7	284,948	19,957	–	16,356	321,261
\$330,000 to \$359,999	4	294,196	35,983	–	13,461	343,640
\$360,000 to \$389,999	1	347,350	25,148	–	15,907	388,405
Total	23					

1. This table reports on substantive senior executives who are employed by ASIC during the reporting period.

2. Each row represents an averaged figure, based on headcount for the individuals in the band.

3. 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

4. Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

5. The 'contributed superannuation' amount is the average actual superannuation contributions paid for senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts as per the individuals' payslips.

6. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

7. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving ASIC during the financial year.



Note 13: Remuneration of senior executives (continued)

Note 13B: Average annual reportable remuneration paid to substantive senior executives during the reporting period¹ (continued)

Average annual reportable remuneration ²	2012					
	Senior Executives No.	Reportable salary ^{3,4} \$	Contributed superannuation ^{4,5} \$	Reportable allowances ⁶ \$	Bonus paid ⁷ \$	Total \$
Total remuneration (including part-time arrangements):						
Less than \$180,000	4	77,300	4,985	–	6,903	89,188
\$180,000 to \$209,999	1	167,518	21,945	397	–	189,860
\$210,000 to \$239,999	1	196,668	15,234	–	17,212	229,114
\$240,000 to \$269,999	5	441,486	20,191	45	15,625	477,347
\$270,000 to \$299,999	7	230,167	29,367	–	23,606	283,140
\$300,000 to \$329,999	4	260,569	23,314	–	22,156	306,039
\$330,000 to \$359,999	4	281,296	32,568	–	22,676	336,540
\$360,000 to \$389,999	2	290,177	44,460	–	33,122	367,759
\$390,000 to \$419,999	1	335,859	24,407	–	36,972	397,238
Total	29					

1. This table reports on substantive senior executives who are employed by ASIC during the reporting period.

2. Each row represents an averaged figure, based on headcount for the individuals in the band.

3. 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

4. Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column.

5. The 'contributed superannuation' amount is the average reportable superannuation contributions paid for senior executives in that reportable remuneration band during the reporting period.

6. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

7. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving ASIC during the financial year.

Note 13: Remuneration of senior executives (continued)

Note 13C: Other highly paid staff

Average annual reportable remuneration ¹	2013					
	No. of staff	Reportable salary ^{2,3} \$	Contributed superannuation ^{3,4} \$	Reportable allowances ⁵ \$	Bonus paid ⁶ \$	Total \$
	Total remuneration (including part-time arrangements):					
\$180,000 to \$209,999	38	154,428	24,142	–	12,003	190,573
\$210,000 to \$239,999	9	190,689	22,873	–	11,440	225,002
\$240,000 to \$269,999	9	206,212	30,386	31	12,252	248,881
\$270,000 to \$299,999	4	240,955	32,657	36	11,251	284,899
\$300,000 to \$329,999	2	243,784	35,772	–	35,748	315,304
\$330,000 to \$359,999	1	288,900	34,847	–	21,123	344,870
Total	63					

Average annual reportable remuneration ¹	2012					
	No. of staff	Reportable salary ^{2,3} \$	Contributed superannuation ^{3,4} \$	Reportable allowances ⁵ \$	Bonus paid ⁶ \$	Total \$
	Total remuneration (including part-time arrangements):					
\$180,000 to \$209,999	22	157,704	22,492	5	12,057	192,258
\$210,000 to \$239,999	16	182,918	23,838	7	14,367	221,130
\$240,000 to \$269,999	5	221,944	28,271	72	17,159	267,446
\$270,000 to \$299,999	1	227,651	28,952	–	24,408	281,011
\$300,000 to \$329,999	1	241,933	30,451	–	32,115	304,499
Total	45					

1. This table reports staff:

- a) who were employed by ASIC during the reporting period;
- b) whose reportable remuneration was \$180,000 or more for the reporting period; and
- c) were not required to be disclosed in Note 12B or Note 13B

2. 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

3. Various salary sacrifice arrangements were available to these employees including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column.

4. The 'contributed superannuation' amount is the average reportable superannuation contributions paid to the employees in that reportable remuneration band during the reporting period.

5. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

6. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving ASIC during the financial year.



Note 14: Remuneration of auditors

	2013 \$	2012 \$
Financial statement audit services were provided free of charge to ASIC. The fair value of that service during the reporting period is:	200,000	181,000

No other services were provided by the Auditor-General.

Note 15: Financial instruments

Note 15A: Categories of financial instruments	Note	2013 \$'000	2012 \$'000
Financial assets			
Loans and receivables:			
Cash and cash equivalents		1,062	8,777
Receivables for goods and services (net of impairment allowance)		1,479	4,256
Carrying amount of financial assets	16	2,541	13,033
Financial liabilities			
At amortised cost:			
Trade creditors		33,080	39,159
Carrying amount of financial liabilities		33,080	39,159
Note 15B: Net income and (expense) from financial assets			
Loans and receivables			
Impairment		(71)	(46)
Net gain/(expense) from financial assets		(71)	(46)

Note 15C: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value. The market value of the financial instruments are all Level 3: Fair Value, derived from inputs that are not based on observable market data.

Note 15D: Credit risk

ASIC is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables, 2013: \$1,695,338 (2012: \$4,444,063). ASIC has assessed the risk of the default on payment for each receivable and has allocated \$216,054 in 2013 (2012: \$188,476) to the impairment allowance account.

ASIC has policies and procedures that guide debt recovery techniques that are to be applied by ASIC employees where debts are past due.

ASIC holds no collateral to mitigate against credit risk.

The following table illustrates ASIC's gross exposure to credit risk, excluding any collateral or credit enhancements.

AASB 7 requires that the classification of financial instruments at fair value be determined by reference to the source of inputs used to derive the fair value. ASIC's Financial Instruments are classified as Class 1.

Note 15: Financial instruments (continued)

Credit quality of financial instruments not past due or individually determined as impaired.

	Not past due nor impaired 2013 \$'000	Not past due nor impaired 2012 \$'000	Past due or impaired 2013 \$'000	Past due or impaired 2012 \$'000
Loans and receivables				
Cash and cash equivalents	1,062	8,777	–	–
Receivables for goods and services (gross)	1,090	3,723	605	721
Total	2,152	12,500	605	721

Ageing of financial assets that are past due but not impaired for 2013:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	Total \$'000
Loans and receivables					
Receivables for goods and services	341	24	4	20	389
Total	341	24	4	20	389

Ageing of financial assets that are past due but not impaired for 2012:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	Total \$'000
Loans and receivables					
Receivables for goods and services	185	37	–	311	533
Total	185	37	–	311	533

Note 15E: Liquidity risk

ASIC's financial liabilities are trade creditors. ASIC does not expect to have difficulty meeting its financial liabilities as and when they become due and payable.

ASIC receives appropriations from the Federal Government to deliver the outcomes defined in Note 1.1. ASIC is an Financial Management and Accountability (FMA) agency and is therefore required to comply with government policies, including the prompt payment of suppliers.

All ASIC's financial liabilities as at 30 June 2013 and 30 June 2012 were payable within one year.

As at 30 June 2013 ASIC has no financial liabilities payable on demand (2012: nil).

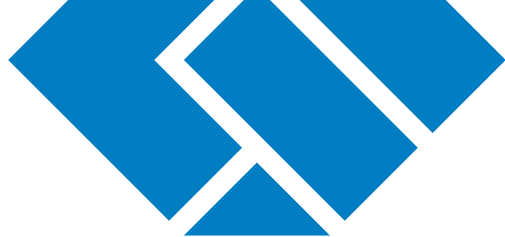
Note 15F: Market risk

Currency risk

ASIC's exposure to 'Currency risk' is minimal as only a small number of contracts are in currencies other than Australian dollars.

Interest rate risk

ASIC's financial instruments are not exposed to interest rate risk.



Note 16: Financial assets reconciliation

	2013 \$'000	2012 \$'000
Note 16: Financial assets		
Total financial assets as per balance sheet	109,025	98,258
Less: non-financial instrument components:		
Appropriations receivable	102,003	80,999
GST receivable included in financial assets	4,481	4,226
Total non-financial instrument components	106,484	85,225
Total financial assets as per financial instruments note	2,541	13,033

Note 17: Administered – Expenses

EXPENSES	Notes	2013 \$'000	2012 \$'000
Note 17A: Grants			
Private Sector:			
Insolvency practitioners ¹		2,203	1,823
Total grants		2,203	1,823
Note 17B: Write-down and impairment of assets			
Bad and doubtful debts expense		40,467	39,921
Waiver of fees and charges owing		2,934	3,119
Total write-down and impairment of assets	19B	43,401	43,040
Note 17C: Other expenses			
Claims – Bank and deposit taking institution account holders ¹		389,990	71,868
Claims – Life Insurance policy holders ¹		29,121	10,417
Claims – Corporations Act 2001 ¹		82,762	20,859
Total other expenses^{2,3}		501,873	103,144

1. 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.
1. Administered expenses for refunds of unclaimed money are recognised by estimating the value of claims likely to be paid in respect of unclaimed money collected by ASIC.
2. The total claims expense for 2011–12 is \$65.773m higher than the amount reported in the 2011–12 financial statements. The increase relates to the recognition for claims payable in 2011–12 (\$64.514m) and payments from the OPA of Corporations Act unclaimed monies in 2011–12 (\$1.259m).
3. The expense for 2012–13 includes an abnormal increase as a result of the reforms to unclaimed monies. ASIC estimates the abnormal increase to be \$81.412m for Corporations Act, \$324.310m for Banking Act and \$21.984m for Life Insurance Act unclaimed monies.

Note 18: Administered – Income

	2013 \$'000	2012 \$'000
OWN-SOURCE INCOME		
Non-taxation revenue		
Note 18: Non-taxation revenue		
Fees	632,166	577,215
Fines	85,249	86,395
Total fees and fines	717,415	663,610
Corporations Act unclaimed monies ^{1,2}	331,300	12,899
Banking Act unclaimed monies ¹	520,442	61,227
Life Insurance Act unclaimed monies ¹	31,083	8,769
Total non-taxation revenue	1,600,240	746,505

1. The revenue for 2012–13 includes an abnormal increase as a result of the reforms to unclaimed monies. ASIC estimates the abnormal increase to be \$217.338m for Corporations Act, \$454.760m for Banking Act and \$23.946m for Life Insurance Act unclaimed monies.
2. The 2011–12 comparative relates to claims older than 6 years that were transferred to the OPA in accordance with the rules governing the Companies and Unclaimed Monies Special Account.

Corporations Act, National Consumer Credit Protection Act, Business Names Registration Act and Superannuation Industry (Supervision) Act 1993 fees and fines

	2013 \$'000 Fees	2013 \$'000 Fines	2013 \$'000 Total	2012 \$'000 Fees	2012 \$'000 Fines	2012 \$'000 Total
EXPENSES						
Mandatory collections ¹						
– Corporations Act	534,956	83,282	618,238	515,433	84,617	600,050
– Business Names	33,947	–	33,947	1,294	–	1,294
– Other	6,019	211	6,230	5,086	207	5,293
Information broker fees ²	52,536	–	52,536	53,648	–	53,648
Other search fees ²	4,708	–	4,708	1,753	–	1,753
Court/infringement revenue ³	–	1,756	1,756	–	1,572	1,572
	632,166	85,249	717,415	577,214	86,396	663,610

1. Fees and charges arise from actions which are mandatory under the *Corporations Act 2001*, *National Consumer Credit Protection Act 2009*, *Business Names Registration (Fees) Act 2011* and *Superannuation Industry (Supervision) Act 1993*.
2. Fees and charges paid by information brokers and other consumers for information provided by ASIC from Registers.
3. Recovery of fines and penalties for contraventions of the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009*.



Note 19: Administered – Financial assets

Financial assets	Notes	2013 \$'000	2012 \$'000
Note 19A: Cash and cash equivalents			
<i>Total cash and cash equivalents</i>	24A	3,560	1,373
Note 19B: Receivables			
Fee and fines receivable		154,681	144,354
Information brokers fees		5,149	6,005
GST receivable from ATO	25	124	90
<i>Total receivables (gross)</i>		159,954	150,449
Less: impairment allowance account:			
Fees and fines		52,085	45,733
<i>Total receivables (net)</i>		107,869	104,716
Receivables were aged as follows:			
Not overdue		79,050	75,924
Overdue by:			
Less than 30 days		12,521	12,506
30 to 60 days		9,580	9,499
61 to 90 days		5,239	4,721
More than 90 days		53,564	47,799
<i>Total receivables (gross)</i>		159,954	150,449
The impairment allowance account is aged as follows:			
Not overdue		416	634
Overdue by:			
Less than 30 days		1,259	547
30 to 60 days		1,602	1,479
61 to 90 days		1,396	1,136
More than 90 days		47,412	41,937
<i>Total impairment allowance account</i>		52,085	45,733
Receivables are due from entities that are not part of the Australian Government.			
Reconciliation of the movement in the impairment allowance account			
Opening balance 1 July		45,733	35,254
Amounts written off		(34,115)	(29,442)
Amounts waived		(2,934)	(3,119)
Increase in impairment allowance recognised as an expense		43,401	43,040
<i>Closing balance</i>		52,085	45,733

Note 20: Administered – Payables

Note 20A: Other payables	Note	2013 \$'000	2012 \$'000
Refund of fees payable		13,293	11,099
Unallocated monies ¹		4,676	3,185
Grants payable ²	24A	750	761
Total other payables		18,719	15,045

All other payables are entities that are not part of the Australian Government.

1. All other payables are expected to be settled within 12 months. Settlement is usually made within 30 days.
2. Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.

Note 20B: Other provisions

Corporations Act claims	83,491	19,600
Banking Act claims	388,610	39,099
Life Insurance Act claims	30,470	5,815
Total other provisions¹	502,571	64,514

The estimate of future claims for repayment was calculated using a methodology determined by an independent actuary.

Reconciliation of the opening and closing balance of other provisions

Carrying amount 1 July	64,514	–
Amounts recognised	501,873	64,514
Amounts used	(63,816)	–
Closing balance 30 June¹	502,571	64,514

1. ASIC has recognised a provision for claims payable for *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001* in accordance with AASB 137 Provisions, Contingent Liabilities and Contingent Assets. As the provision is recognised for the first time in 2011–12, the full amount was provided for and expensed in accordance with AASB 108 Accounting Policies, Changes in Estimates and Errors.



Note 21: Administered cash flow reconciliation

Reconciliation of cash and cash equivalents as per Administered Schedule of Assets and Liabilities to the Administered Cash Flow Statement

	2013 \$'000	2012 \$'000
Cash and cash equivalents as per:		
Administered Cash Flow Statement	3,560	1,373
Reconciliation of net cost of services to net cash from operating activities:		
Net contribution to budget outcome	1,052,763	598,498
Changes in assets/liabilities		
Increase / (decrease) in allowance for doubtful debts	6,352	10,479
Increase / (decrease) in payables and provisions	441,731	68,951
(Increase) / decrease in receivables	(9,504)	(17,457)
Net cash provided by operating activities	1,491,342	660,471

Note 22: Administered contingent liabilities

Quantifiable administered contingencies

Quantifiable administered contingencies that are not remote are disclosed in the Schedule of Administered Items.

Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the amount of claims that are likely to be lodged with ASIC in respect to unclaimed monies was conducted by an independent actuary. ASIC used the actuary's calculation for the likely claims payable and deducted this estimate from the total balance unclaimed monies to derive the contingent liability at 30 June 2013 for:

- Banking Act \$426.983m (2012: \$296.529m)
- Life Insurance Act \$49.617m (2012: \$47.655m)
- Corporations Act \$276.289m (2012: \$276.568m).

Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

Note 23: Administered contingent assets

There are no administered contingent assets.

Note 24: Administered financial instruments

	2013 \$'000	2012 \$'000
Note 24A: Categories of financial instruments		
Financial assets		
Cash and cash equivalents	3,560	1,373
Financial liabilities		
At amortised cost:		
Grants payable	750	761

Note 24B: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

Note 24C: Credit risk

ASIC's administered receivables arise as a result of a statutory obligation not a contractual obligation and are therefore not classified as financial instruments.

ASIC has no significant exposures to any concentrations of credit risk.

Note 24D: Liquidity risk

ASIC's administered financial liabilities are trade creditors. ASIC is able to meet its financial liabilities as and when they become due and payable.

All administered financial liabilities as at 30 June 2013 and 30 June 2012 are payable within one year.

Note 25: Administered financial assets reconciliation

	2013 \$'000	2012 \$'000
Note 25: Financial Assets		
Total financial assets as per Schedule of Administered Assets and Liabilities	111,429	106,089
Less: non-financial instrument components		
Net statutory receivables ¹	107,745	104,626
GST receivable from the Australian Taxation Office	124	90
Total non-financial instrument components	107,869	104,716
Total financial assets as per financial instruments note	3,560	1,373

1. Statutory receivables relate to outstanding fees and fines under the *Corporations Act 2001*, *National Consumer Credit Protection Act*, *Business Names Registration (Fees) Act* and the *Superannuation Industry (Supervision) Act 1993*. In accordance with the FMOs these are not classified as financial instruments because they relate to a legislative rather than contractual obligation.

Note 26: Appropriations

Table A1: Annual appropriations ('recoverable GST exclusive')

	2013 Appropriations			Appropriations applied in 2013 (current and prior years) \$'000	Variance ² \$'000
	Appropriation Act	FMA Act	Total appropriation \$'000		
DEPARTMENTAL	Annual Appropriation \$'000	Appropriations reduced ¹ \$'000	Section 31 \$'000		
Ordinary annual services	372,677	–	13,407	386,084	14,567
Other services					
Equity	13,934	–		13,934	3,766
Total departmental	386,611	–	13,407	400,018	18,333
ADMINISTERED					
Ordinary annual services					
Administered items	3,566	(1,363)		2,203	128
Total administered	3,566	(1,363)		2,203	128

1. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. On 5th August 2013, the Finance Minister issued 'Instrument to Reduce Appropriations (No. 1 of 2013–2014)'. This instrument reduced ASIC's departmental Appropriation Act (No. 1) 2012–2013 by \$5.842m under section 12 of Appropriation Act (No. 1) 2012–2013 following a request from ASIC's Minister.
2. The savings in ordinary annual services appropriation related to deferred outlay for the Enforcement Special Account and savings in the Enhanced Market Supervision project. The savings in equity funding relate to deferred capital expenditure for the implementation of the Insolvency Reform Programme and the Future of Financial Advice reforms.



Note 26: Appropriations (continued)

Table A2: Annual appropriations ('recoverable GST exclusive')

	2012 Appropriations				Appropriations applied in 2012 (current and prior years) \$'000	Variance ² \$'000
	Appropriation Act		FMA Act			
	Annual Appropriation \$'000	Appropriations reduced ¹ \$'000	Section 31 \$'000	Total appropriation \$'000		
DEPARTMENTAL						
Ordinary annual services	387,550	(639)	39,927	426,838	360,066	66,772
Other services						
Equity	6,462	(4,250)		2,212	17,281	(15,069)
Total departmental	394,012	(4,889)	39,927	429,050	377,347	51,703
ADMINISTERED						
Ordinary annual services						
Administered items	3,471	(1,648)		1,823	1,952	(129)
Total administered	3,471	(1,648)		1,823	1,952	(129)

1. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. On 26 June 2012, the Finance Minister issued a determination to reduce departmental appropriations following a request by the Minister. The amount of the reduction under *Appropriation Act (No. 2) 2011–2012* was \$4.250m and a reduction under *Appropriation Act (No. 1) 2011–2012* was \$0.639m.

As with departmental appropriations, the responsible Minister may decide that part or all of an administered appropriation is not required and request that the Finance Minister reduce that appropriation. For administered appropriations reduced under section 11 of *Appropriation Act (No. 1) 2011–2012*, the appropriation is taken to be reduced to the required amount specified in this note once the annual report is tabled in Parliament.

2. The variance for departmental ordinary annual services primarily relates to funding credited to the Enforcement Special Account and not drawn upon in 2011–12. Also contributing to the variance is a supplementary appropriation which ASIC received in 2011–12 for expenditure incurred in 2010–11 and an increase in unpaid invoices at balance date.

Note 26: Appropriations (continued)

Table B1: Departmental Capital Budget ('recoverable GST exclusive')

	2013 Capital Budget Appropriation				Capital Budget Appropriations applied in 2013 (current and prior years)			
	Appropriation Act		FMA Act		Total Capital Budget Appropriation \$'000	Payment for non-financial assets ³ \$'000	Payment for other purposes \$'000	Total payments \$'000
	Annual Capital Appropriation \$'000	Appropriations reduced ² \$'000	Section 32 \$'000					
DEPARTMENTAL								
Ordinary annual services – Departmental Capital Budget ¹	15,790	–	–	–	15,790	21,186	–	21,186
								(5,396)

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.

2. Appropriations reduced under Appropriation Acts (No.1,3,5) 2012–2013: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.

3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

4. The variance relates to capital expenditure accrued in 2011–12 paid in 2012–13.

Table B2: Departmental Capital Budget ('recoverable GST exclusive')

	2012 Capital Budget Appropriation				Capital Budget Appropriations applied in 2012 (current and prior years)			
	Appropriation Act		FMA Act		Total Capital Budget Appropriation \$'000	Payment for non-financial assets ³ \$'000	Payment for other purposes \$'000	Total payments \$'000
	Annual Capital Appropriation \$'000	Appropriations reduced ² \$'000	Section 32 \$'000					
DEPARTMENTAL								
Ordinary annual services – Departmental Capital Budget ¹	58,646	–	–	–	58,646	39,065	–	39,065
								19,581

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.

2. Appropriations reduced under Appropriation Acts (No.1,3,5) 2011–2012: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.

3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

4. The variance for Departmental Capital Budget primarily relates to activities funded by supplementary appropriation which will be received in 2011–12.

Note 26: Appropriations (continued)

Table C: Unspent departmental appropriations ('recoverable GST exclusive')

	Note	2013 \$'000	2012 \$'000
Authority			
Appropriation Act (No.1) 2005–2006		–	267
Appropriation Act (No.2) 2010–2011		–	59
Appropriation Act (No.3) 2010–2011		–	1,514
Appropriation Act (No.1) 2011–2012		25,000	54,701
Appropriation Act (No.1) DCB 2011–2012		–	21,904
Appropriation Act (No.2) 2011–2012		–	2,554
Appropriation Act (No.1) 2012–2013		62,592	–
Appropriation Act (No.1) DCB 2012–2013		649	–
Appropriation Act (No.2) 2012–2013		4,856	–
Enforcement Special Account	30A	33,794	20,086
Total		126,891	101,085



Note 26: Appropriations (continued)

Table D: Special appropriations ('recoverable GST exclusive')

			Appropriation applied	
			2013 \$'000	2012 \$'000
s69 <i>Banking Act 1959</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. ASIC receives special appropriations from the OPA (section 69 <i>Banking Act 1959</i>) to refund amounts to banking and deposit taking institution account holders.	40,479	32,769
s216 <i>Life Insurance Act 1995</i> , Administered	Unlimited	ASIC had responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. ASIC receives special appropriations from the OPA (section 216 <i>Life Insurance Act 1995</i>) to refund amounts to life insurance policy holders.	4,466	4,602
s28 <i>FMA Act</i> , <i>Corporations Act 2001</i> (Refunds of overpaid <i>Corporations Act</i> fees and charges), Administered	Unlimited	ASIC has responsibility for the administration and collection of <i>Corporations Act</i> fees and charges. All fees and charges are deposited into the OPA as received. Refunds of overpayments are appropriated under section 28 of the <i>FMA Act 1997</i> .	6,402	4,043
s28 <i>FMA Act 1997</i> , <i>Corporations Act 2001</i> (refunds of unclaimed money held under s1341 <i>Corporations Act 2001</i>), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from the Companies and Unclaimed Monies Special Account up to 5 December 2012.	675	1,259
s28 <i>FMA Act</i> , <i>Corporations Act 2001</i> (refunds of unclaimed money held under s1341 <i>Corporations Act 2001</i>), Administered	Unlimited	From 6 December 2012 ASIC has responsibility for the administration of unclaimed monies under s1341 of the <i>Corporations Act 2001</i> .	18,196	–
Total			70,218	42,673

Note 26: Appropriations (continued)

Table E1: Reduction in administered items ('recoverable GST exclusive')

2013	Amount required ³ – by Appropriation Act	Total amount required ³	Total amount appropriated ⁴	Total reduction ⁵
Ordinary annual services	Act (No.1)			
Outcome 1	2,202,578.87	2,202,578.87	3,566,000.00	1,363,421.13

Notes:

- Numbers in this section of the table must be disclosed to the cent.
- Administered items for 2013 were reduced to these amounts when these financial statements were tabled in Parliament as part of ASIC's 2012–13 annual report. This reduction is effective in 2014, but the amounts are reflected in Table A in the 2012–13 financial statements in the column 'Appropriations reduced' as they were adjustments to 2012 appropriations.
- Amount required as per Appropriation Act (Act 1 s11; Act 2 s12).
- Total amount appropriated in 2012–13.
- Total reduction effective in 2013–14.

Table E2: Reduction in administered items ('recoverable GST exclusive')

2012	Amount required ³ – by Appropriation Act	Total amount required ³	Total amount appropriated ⁴	Total reduction ⁵
Ordinary annual services	Act (No.1)			
Outcome 1	1,823,417.74	1,823,417.74	3,471,000.00	1,647,582.26

Notes:

- Numbers in this section of the table must be disclosed to the cent.
- Administered items for 2012 were reduced to these amounts when these financial statements were tabled in Parliament as part of the entity's 2012 annual report. This reduction was effective in 2013, but the amounts were reflected in Table A in the 2013 financial statements in the column 'Appropriations reduced' as they were adjustments to 2012 appropriations.
- Amount required as per Appropriation Act (Act 1 s11; Act 2 s12).
- Total amount appropriated in 2011–12.
- Total reduction effective in 2012–13.

Note 27: Expenditure relating to statutory boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001*, ASIC is required to support statutory boards and a tribunal to promote activities that assist ASIC to attain its aims.

The following expenditure incurred on behalf of these boards and tribunal are included in the Statement of Comprehensive Income of ASIC:

	2013 \$'000	2012 \$'000
Companies Auditors and Liquidators Disciplinary Board	624	466
Superannuation Complaints Tribunal	6,099	5,753

The Superannuation Complaints Tribunal (SCT) is an independent body with distinct responsibilities as set out under the *Superannuation (Resolution of Complaints) Act 1993* and has operated under the budgetary umbrella of ASIC since 1 July 1998.



Note 28: Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. In 2011–12 ASIC began taking a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

ASIC generally only deals with vested property once an application is made by a third party for ASIC to exercise its powers under section 601AE of the *Corporations Act 2001*. ASIC does not consider it practical to value any identified property vesting and consequently such property is not recorded or disclosed in these financial statements.

Note 29: Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* and the *Corporations Regulations 2001* requires applicants for a dealer's or investment adviser's licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	2013 \$'000	2012 \$'000
Security deposits under <i>Corporations Regulations 2001</i> regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	343	303
Inscribed stock	20	20
Insurance bonds	–	20
Bank guarantees	10,590	11,860
Closing balance	10,953	12,203
Security deposits under <i>Corporations Act 2001</i> section 1284(1) (liquidators)		
Insurance bonds	1,800	1,800
Closing balance	1,800	1,800

Note 30: Special Accounts and FMA Act section 39

Note 30A: Enforcement Special Account (Departmental)

Legal authority – section 20 (1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2006/31 – Enforcement Special Account Establishment 2006*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Enforcement Special Account (ESA) is a departmental Special Account which was established by a determination of the Finance Minister on 13 September 2006 to fund the costs of ASIC arising from the investigation and litigation matters of significant public interest.

	2013 \$'000	2012 \$'000
Balance carried forward from previous year	20,086	4,494
Appropriation for the reporting period	30,000	30,000
Available for payments	50,086	34,494
Costs recovered	2,166	–
Cash payments from the Special Account ¹	(18,458)	(14,408)
Balance available to draw down next year	33,794	20,086
Represented by:		
Cash – held in the OPA	33,794	20,086

1. For the period ended 30 June 2013 ASIC recognised ESA revenue of \$25.197m (2012: \$12.075m), of which \$18.458m (2012: \$14.408m) was drawn down in cash during the year.



Note 30: Special Accounts and FMA Act section 39 (continued)

Note 30B: Companies and Unclaimed monies Special Account (Special Public Money)

Legal authority – section 21 *Financial Management and Accountability Act 1997* and section 133 of the *Australian Securities and Investments Commission Act 2001*

Appropriation – section 21 *Financial Management and Accountability Act 1997*

Purpose – The Companies and Unclaimed Monies Special Account (CUMSA) was established on 1 July 2007 when ASIC became a prescribed agency under the *Financial Management and Accountability Act 1997*. The CUMSA was established to administer unclaimed monies received by ASIC under section 1341 of the *Corporations Act 2001*.

On 5th December 2012 the Government abolished the CUMSA.

Table A – Special Account	2013 \$'000	2012 \$'000
Balance carried forward from previous year	7,096	25,458
Appropriation for the reporting period	675	1,259
Receipts during the year	50,513	37,841
Interest amounts credited	361	1,317
Investments realised	76,106	262,969
Available for payments	134,751	328,844
Investments made from the Special Account	(34,965)	(263,566)
Disbursements	(9,404)	(19,329)
Administration costs	(916)	(4,318)
Special purpose disbursement	(7,513)	(21,636)
Special Account prior to transfer	81,953	19,995
Cash transferred to Consolidated Revenue	(81,953)	(12,899)
Cash and cash equivalents	–	7,096

Table B – Special Account investment of Public Money	2013 \$'000	2012 \$'000
Special Appropriations under section 39 of the FMA Act		
Balance carried forward from previous year	243,566	228,737
Investments made from the Special Account	34,965	263,566
Investment income	7,960	14,232
Investments realised	(76,106)	(262,969)
Cash transferred to Consolidated Revenue	(210,385)	–
<i>Closing balance</i>	–	243,566

Note 30: Special Accounts and FMA Act section 39 (continued)

Note 30C: Deregistered Companies Trust Monies Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/02 – ASIC Deregistered Companies Trust monies Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Deregistered Companies Trust Monies Special Account was established by the Finance Minister on 18 February 2008 to manage property vesting in the Commonwealth as a result of the deregistration provisions of the *Corporations Act 2001*.

	2013 \$'000	2012 \$'000
Balance carried forward from previous year	1,011	774
Receipts during the year	422	905
Interest received	35	36
Disbursements	(32)	(704)
Closing balance	1,436	1,011

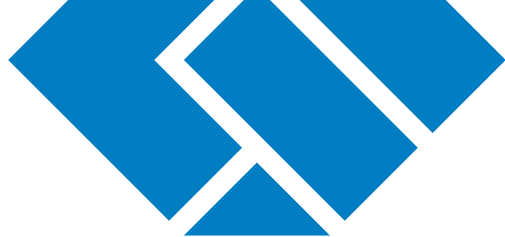
Note 30D: ASIC Security Deposits Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/03 – ASIC Security Deposits Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The ASIC Security Deposits Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage security deposits lodged with ASIC by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees.

Balance carried forward from previous year	384	368
Receipts during the year	100	–
Interest received	12	16
Disbursements	(40)	–
Closing balance	456	384



Note 30: Special Accounts and FMA Act section 39 (continued)

Note 30E: ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/04 – ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage money or other property temporarily held by ASIC for the benefit of a person other than the Commonwealth as a result of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC.

	2013 \$'000	2012 \$'000
Balance carried forward from previous year	11,019	68,700
Receipts during the year	–	162
Interest received	219	1,419
Disbursements	(11,227)	(59,262)
Closing balance	11	11,019

Note 30F: Services for Other Entities and Trust Monies Special Account – Australian Securities and Investments Commission (Special Public Money)

Legal authority – subsection 20(1) of the *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2012/07* establishes a Special Account entitled 'Services for Other Entities and Trust monies Special Account – Australian Securities and Investments Commission'.

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Services for Other Entities and Trust Monies Special Account – Australian Securities and Investments Commission (SOETM) was established on 30 May 2012. The SOETM combines the purposes of the Other Trust Monies 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 FMA Act, such as other governments.

Balance carried forward from previous year	–	–
Receipts during the year	8,341	–
Disbursements	(8,341)	–
Closing balance	–	–

Note 31: Compensation and debt relief

	2013 \$	2012 \$
Departmental		
Expenses incurred in relation to no matters (2012: one matter) dealt with under the 'Compensation for Detriment caused by Defective Administration scheme' during the reporting period.	–	2,590

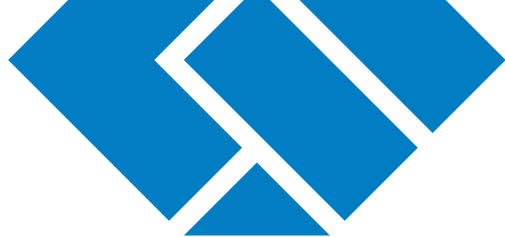
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the *Financial Management and Accountability Act 1997* (2012: nil). No ex-gratia payments were provided for during the reporting period (2012: nil). No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the *Public Service Act 1999* (PS Act) during the reporting period (2012: nil).

Administered

Included in the impairment allowance expense in the Schedule of Administered Items are amounts written off under section 47 of the FMA Act. The number and aggregate amount of Commonwealth monies written off during the financial year under this section is 226,015 items totalling \$34,115,404 (2012: 191,003 items totalling \$29,442,419).

The number and aggregate of amounts owing to the Commonwealth, the recovery of which was waived during the financial year pursuant to section 34(1) of the FMA Act, is 17,078 items totalling \$2,934,095 (2012: 17,429 items totalling \$3,118,757).

None of the above payments were paid on a periodic basis (2012: nil). No ex-gratia payments were provided for during the reporting period (2012: nil). No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the *Public Service Act 1999* (PS Act) during the reporting period (2012: nil).



Note 32: Reporting of outcomes

ASIC's outcome during the reporting period was:

Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.

Note 32A: Net (cost) / contribution of outcome delivery

	Outcome 1	
	2013 \$'000	2012 \$'000
Departmental		
Expenses	411,269	384,488
Own-source income	6,155	6,883
Administered		
Expenses ¹	547,477	148,007
Own-source income ¹	1,600,240	746,505
Net (cost) / contribution of outcome delivery	647,649	220,893

The above table excludes intra-government transactions.

The table shows the net contribution to the Commonwealth Budget outcome by adding the departmental and administered expenses, less external departmental and administered revenues and costs recovered to produce a net contribution to the Budget outcome of \$647.649m (2012: \$220.893m). This derived amount is meaningful only when it is used to consider ASIC's contribution to the Budget outcome for the purposes of 'whole of Government' reporting. It is not intended to represent or portray an alternative operating result for ASIC to that which is disclosed in the Statement of Comprehensive Income.

Administered expenses represent revenue forgone to the Commonwealth as a result of refunds and waivers and write-offs of fees and charges owing to the Commonwealth (not ASIC) under the Corporations Act. Administered expenses and administered income are detailed in Notes 17 and 18 respectively.

1. The administered expenses for 2011–12 include a restated amount of \$65.773m. The administered own-sourced income for 2011–12 includes a restated amount of \$12.899m.

Note 33: Administered receipts subject to cost recovery policy

Note 33A: Receipts pursuant to cost recovery provisions

	2013 \$'000	2012 \$'000
Significant cost recovery arrangements		
Supervision of Australia's financial markets and competition for market services	19,183	10,368
Total receipts subject to cost recovery policy	19,183	10,368

Funding was approved in the 2011–12 Budget Measures to recover the additional costs required by ASIC to enhance its supervision of Australia's financial markets and competition for market services. ASIC began recovering the incremental costs from 1 January 2012.

Note 34: Net cash appropriation arrangements

	2013 \$'000	2012 \$'000
Total comprehensive income excluding depreciation/amortisation expenses previously funded through revenue appropriations attributable to ASIC ¹	7,195	2,947
Less: depreciation/amortisation expenses previously funded through revenue appropriation	(51,355)	(45,665)
Total comprehensive income/(loss) as per the Statement of Comprehensive Income	(44,160)	(42,718)

1. From 2010–11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive 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. The 'Departmental Capital Budget' is used to fund the replacement of ASIC's business as usual assets (i.e. individual assets with a value of less than \$10m).

Note 35: Compliance with statutory conditions for payments from Consolidated Revenue Fund

Section 83 of the Constitution provides that no amount may be paid out of the Consolidated Revenue Fund except under an appropriation made by law. The Department of Finance and Deregulation provided information to all agencies in 2011 regarding the need for risk assessments in relation to compliance with statutory conditions on payments from special appropriations, including special accounts.

ASIC have reviewed exposure to risks of not complying with statutory conditions on payments from appropriations. The plan involved:

- ♦ identifying each special appropriation and special account;
- ♦ determining the risk of non-compliance by assessing the difficulty of administering the statutory conditions and assessing the extent to which existing payment systems and processes satisfy those conditions;
- ♦ determining procedures to confirm risk assessments in medium risk cases and to quantify the extent of non-compliance, if any, in higher risk situations;
- ♦ obtaining legal advice as appropriate to resolve questions of potential non-compliance; and
- ♦ considering legislative or procedural changes to reduce the risk of non-compliance in the future to an acceptably low level.

ASIC identified eight appropriations involving statutory conditions for payment, comprising:

- ♦ two special appropriations; and
- ♦ six special accounts.

During 2012–13 it was noted there could be breaches of Section 83 under certain circumstances with payments for long service leave, goods and services tax and payments under determinations of the Remuneration Tribunal. ASIC has reviewed its processes and controls over payments for these items to minimise the possibility for future breaches as a result of these payments. ASIC has determined that there is a low risk of the certain circumstances mentioned in the legal advice applying to the department.

As at 30 June 2013 ASIC is aware of 1 circumstance where payments were made in excess of the amount prescribed under Determinations issued pursuant to the *Remuneration Tribunal Act 1973*. The 2012–13 payments in breach of section 83 of the Constitution, total \$20,484.36, drawn from *Appropriation Act (No 1) 2012–13* (Departmental item). ASIC has implemented plans to recover the overpayment and is expecting full recovery within the next 12 months.

End of financial statements



5

APPENDICES

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The role of Commissioners

The Commission is responsible for ASIC's strategic direction and its priorities. The Commission meets monthly (except January) to:

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

The Commission appoints and evaluates the performance of its Senior Executive Leaders, and approves budgets and business plans for each team. Individual Commissioners also have executive responsibility for particular stakeholder and enforcement teams. See pages 11–12 for ASIC's corporate structure.

The Commission held 15 meetings in 2012–13.

Commission meetings, 2012–13

Commissioner	Eligible to attend	Attended
Greg Medcraft	11 scheduled meetings	8
	4 unscheduled meetings	1
Belinda Gibson ¹	9 scheduled meetings	9
	3 unscheduled meetings	3
Peter Kell	11 scheduled meetings	10
	4 unscheduled meetings	3
Greg Tanzer	11 scheduled meetings	10
	4 unscheduled meetings	3
John Price	11 scheduled meetings	11
	4 unscheduled meetings	4
Cathie Armour ²	1 scheduled meeting	1
	1 unscheduled meeting	1

1. Term completed 5 May 2013.

2. Commenced 3 June 2013.

Unscheduled Commission meetings are called to obtain Commission approval on specific issues that are generally of an administrative nature (such as granting delegations) and do not require the attendance of the full Commission.

The Chairman was absent from one scheduled monthly Commission meeting and two unscheduled Commission meetings because he was overseas representing ASIC as Chairman of the International Organization of Securities Commissions (IOSCO) Board. Through this role, the Chairman is able to shape the direction of global securities reforms, increase the global profile of ASIC and enhance cooperation

between ASIC and other overseas financial services regulators. The Chairman was absent from two scheduled monthly meetings and one unscheduled meeting while on annual leave.

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

Commissioners are appointed on fixed terms that may be terminated only for reasons set out in s111 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act). The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

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

Michael Kingston, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel to the Chairman on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission delegates various powers and functions to senior executive leaders, regional commissioners, and staff reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

Additional information on ASIC's internal governance is published on our website at www.asic.gov.au/internal-governance.

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

Audit Committee and audit, assurance and compliance services

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

The Committee reviewed ASIC's 2012–13 Financial Statements and provided advice to the Chairman and Commissioners on the preparation and review of financial statements before the Chairman signed the statements. The Committee met four times during the year supplemented by two special meetings to review ASIC's draft financial statements and the annual *Financial Management and Accountability Act 1997* compliance certificate.

Audit Committee meetings, 2012–13

Members	Eligible to attend	Attended
Byram Johnston OAM Appointed independent member in January 2005 Reappointed as an independent member commencing 19 January 2010 Appointed as Chairman commencing 30 January 2011	4 main meetings 2 special meetings	4 2
Geoffrey Applebee Appointed independent member on 1 February 2010 Appointed as Deputy Chairman commencing 15 December 2010	4 main meetings 2 special meetings	4 2
David Prothero Appointed independent member on 1 March 2011	4 main meetings 2 special meetings	4 2
Chris Van Homrigh Senior Executive Leader, Investment Banks Appointed committee member November 2011	4 main meetings 2 special meetings	4 2
Belinda Gibson ASIC Deputy Chairman Appointed committee member January 2012 Resigned from committee April 2013	4 main meetings 2 special meetings	4 2
John Price ASIC Commissioner Appointed committee member May 2013	1 main meeting 0 special meetings	1 0

All three independent members are chartered accountants and company directors with significant financial, business and community experience. The internal appointees are John Price, representing the ASIC Chairman and replacing Belinda Gibson, and Chris Van Homrigh.

The internal audit function is provided by ASIC's Audit, Assurance and Compliance business unit supported by Deloitte Touche Tohmatsu in a co-sourced arrangement. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend audit committee meetings.

Byram Johnston OAM

Chairman

Audit Committee
July 2013

External committees and panels

Australian Government Financial Literacy Board

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

- ♦ Paul Clitheroe AM, ipac securities (Board Chairman)
- ♦ Air Commodore Robert Brown, Australian Defence Force Financial Services Consumer Council
- ♦ Hamish Douglass, Magellan Financial Group Limited
- ♦ Craig Dunn, AMP
- ♦ Linda Elkins, Colonial First State
- ♦ Fiona Guthrie, Financial Counselling Australia
- ♦ Elaine Henry OAM, company director
- ♦ Peter Kell, Deputy Chairman, Australian Securities and Investments Commission
- ♦ Anthony Mackay, Centre for Strategic Education
- ♦ Greg Medcraft, Chairman, Australian Securities and Investments Commission
- ♦ Ian Silk, Australian Super
- ♦ Michael Smith OBE, ANZ Banking Group
- ♦ Robert Thomas, Bank of China, Australia.

Consumer Advisory Panel

The Consumer Advisory Panel advises ASIC on current consumer and retail investor protection issues in the financial services and credit industries. The Panel also informs ASIC's policy, education and compliance initiatives.

Members are:

- ♦ Jenni Mack (Panel Chair)
- ♦ Elizabeth McNess, CHOICE
- ♦ Gerard Brody, Consumer Action Law Centre (Vic)
- ♦ Karen Cox, Consumer Credit Legal Centre NSW Inc
- ♦ Gordon Renouf, Consumers Federation Australia
- ♦ Ian Yates, COTA Australia
- ♦ Carmel Franklin, Financial Counselling Australia
- ♦ Ray Kent, Indigenous Consumer Assistance Network
- ♦ David Coorey, Legal Aid NSW
- ♦ Wendy Schilg, National Information Centre on Retirement Investments

- ♦ Australian Shareholders' Association representative.

We thank Vas Kolesnikof, outgoing representative of the Australian Shareholders' Association, for his contribution to February 2013.

In 2012–13, the Consumer Advisory Panel commissioned the following research and submissions:


- ♦ Susan Bell Research to undertake research on '*Do SMSF investors achieve their goals?*'
- ♦ Gordon Renouf to coordinate and prepare a joint consumer submission to ASIC Consultation Paper 191 *Future of Financial Advice: Approval of codes of conduct for exemption from opt-in requirement*
- ♦ Gordon Renouf to coordinate and prepare a joint consumer submission to the Government's consultation on *Richard St John's Report on Compensation Arrangements for Consumers of Financial Services*.

External Advisory Panel

The External Advisory Panel assists ASIC in gaining a better understanding of developments and systemic risks within industry. The panel provides advice to ASIC on a range of matters and feedback on current issues of concern. Members are from a range of sectors and hold or have held senior-level positions. Members sit in a personal capacity; they do not represent individual organisations. This ensures ASIC receives a broad range of views, free from vested interests.

Members are:

- ♦ Mark Johnson AO (Panel Chairman)
- ♦ Jo-Anne Bloch
- ♦ Paula Dwyer
- ♦ Stephen Fitzgerald
- ♦ Tony Gill
- ♦ David Gonski AC
- ♦ Catriona Lowe
- ♦ Jenni Mack
- ♦ James Millar AM
- ♦ Allan Moss AO
- ♦ Professor Ian Ramsay
- ♦ Jenny Seabrook
- ♦ Tony Shepherd AO
- ♦ Ian Silk
- ♦ John Trowbridge.



As part of the panel's processes, six panel members retired at the end of 2012. We thank them for their contribution:

- ♦ Peter Hemming
- ♦ Belinda Hutchinson AM
- ♦ Bill Moss AM
- ♦ John Stuckey
- ♦ Les Taylor AM
- ♦ Garry Weaven.

In addition, one panel member, Nick Leeder, retired in early 2013 due to relocating overseas. During 2012–13, the panel provided feedback on a number of matters including ASIC's approach to financial literacy, cybercrime and technological risks faced by ASIC and the regulation of the debenture sector.

Markets Disciplinary Panel

The Markets Disciplinary Panel is the forum for disciplinary action against participant and market operators for alleged breaches of the market integrity rules. It is a peer review body, consisting of part-time members with relevant market or professional experience. The current members of the panel have, or have largely had, senior roles in broking firms and investment banks.

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

Members are:

- ♦ Lisa Gay (Chair of the MDP)
- ♦ Richard Brasher, Northcape Capital
- ♦ Ian Chambers, Morgan Stanley Australia
- ♦ Leigh Conder, Commonwealth Bank
- ♦ Geoffrey Louw, Bell Potter Securities
- ♦ Simon Gray, Shaw Stockbroking
- ♦ Michael Manford, Patersons Securities
- ♦ Russell McKimm, Patersons Securities
- ♦ Peter Curry, MAP Capital Advisors Pty Ltd
- ♦ Peter Robson, Investment Technology Group Inc.
- ♦ Sadie Powers, Patersons Securities
- ♦ Cilla Boreham, JBWere
- ♦ Victoria Weekes, Risk Compliance Solutions Pty Ltd
- ♦ John Steinthal, consultant financial advisor

- ♦ Adrian Holst, Baillieu Holst Ltd
- ♦ Glenn Rosewall, BBY Limited (new member)
- ♦ Andrew Tanner, Goldman Sachs Australia (new member)
- ♦ Mark Pugsley, Resource Development Group Ltd (new member)
- ♦ Anne Brown, Clean Energy Regulator (new member)
- ♦ Ian Nissen, Citigroup Pty Ltd (new member).

For more detailed information, refer to the Markets Disciplinary Panel page on the ASIC website.

Members of the Markets Disciplinary Panel made determinations on alleged breaches of the market integrity rules during 2012–13.

The infringement notices for finalised matters have been published in the Markets Disciplinary Panel Infringement Notices Register on the ASIC website. Nine infringement notices were published during 2012–13.

There were seven matters concerning alleged breaches of market integrity rules for the ASX market and two matters concerning alleged breaches of market integrity rules for the ASX 24 market. The Markets Disciplinary Panel imposed a total of \$452,000 in penalties in these matters. Penalties imposed ranged from \$20,000 to \$120,000.

Market Supervision Advisory Panel

The Market Supervision Advisory Panel advises ASIC on its approach to its responsibilities in day-to-day supervision of the Australian market and on broader market developments. Members are from the financial services industry, with experience in the legal, compliance, retail and institutional aspects of broking.

Members are:

- ♦ Cathie Armour, Commissioner, ASIC (new Panel Chairman)
- ♦ Stewart Adams, Morgan Stanley Smith Barney Australia
- ♦ David Dixon, Colonial First State Global Asset Management
- ♦ Scott Webster, UBS AG Australia
- ♦ Brad Usasz, Wilson HTM Investment Group
- ♦ Dean Surkitt, Bell Financial Group

External committees and panels continued

- ♦ Will Psomadelis, Schroders Investment Management Australia Limited
- ♦ Stephen Karpin, CommSec
- ♦ Paul Hilgers, Optiver
- ♦ Keith Birch, Goldman Sachs
- ♦ Daniel McAuliffe, Treasury.

ASIC representatives include Greg Yanco, Senior Executive Leader and Oliver Harvey, Senior Executive Leader.

We would like to thank the outgoing members for their valuable contribution:

- ♦ Belinda Gibson (former Panel Chairman)
- ♦ April Mountfort.

During 2012–13 the panel provided advice on:

- ♦ market structure initiatives including ASIC's proposals on automated trading controls, extreme price movements and meaningful price improvement
- ♦ the work of ASIC's taskforces on dark liquidity and high-frequency trading
- ♦ market surveillance issues, including ASIC's new surveillance system.

Registry and Licensing Business Advisory Committee

The Registry and Licensing Business Advisory Committee is the key stakeholder consultation forum for ASIC's Registry and Licensing. It provides an ongoing means of direct consultation with the business community providing input and opinion on the impact of current and proposed services, with particular emphasis on small business and registry services.

The committee's scope includes advice on strategic directions, performance feedback, and reporting on trends and the needs of business. In doing so, the committee advises on the appropriateness and impact on ASIC and business of proposed changes to relevant legislation and corporate registry objectives, operations and initiatives.

The committee is an interactive forum where each member contributes their knowledge, experience and expertise of business, industry and ASIC to the advisory process.

Committee members are drawn from a wide range of business community, industry and professional organisations. The committee members in 2012–13 were:

- ♦ Greg Tanzer, Commissioner, ASIC (Committee Chairman)
- ♦ Andrew Madry, Australian Institute of Company Directors
- ♦ Reece Agland, Institute of Public Accountants
- ♦ Paula Allen, Institute of Chartered Accountants Australia
- ♦ Anna Tantau, CPA Australia
- ♦ Judith Fox, Chartered Secretaries Australia
- ♦ Geoff Nicoll, Law Council of Australia
- ♦ Peter Strong, Council of Small Business Organisations of Australia
- ♦ Philippa Taylor, Family Business Australia
- ♦ Guy Surkyn, Dun & Bradstreet
- ♦ Claire Wivell Plater, The Fold Legal Pty Ltd
- ♦ Colin Porter, CreditorWatch
- ♦ Warren Renden, BGL Corporate Solutions
- ♦ Myron Zlotnick, Reckon Group.

Simon Flowers (CPA Australia representative) and Tom Ravlic (IPA representative) stood down during the year and were replaced by Anna Tantau and Reece Agland respectively.

During 2012–13, the committee participated in activities and events supporting ASIC's ongoing Registry Transformation program. The committee was actively engaged in providing regular feedback and input throughout the introduction of the national Business Names Register and its services.

Portfolio budget statements

ASIC's outcomes for 2012–13 are reported below against the Government's Portfolio Budget Statements (PBS) where applicable to ASIC.

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

Program 1.1: Australian Securities and Investments Commission

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

This program also seeks to improve ASIC's registry and stakeholder services by developing initiatives for business and consumer stakeholders to simplify and reduce the cost of interactions with ASIC.

Program 1.1 deliverables	Key performance indicators	2012–13 achievements
Confident and informed investors and financial consumers		
<ul style="list-style-type: none"> Improving industry behaviour Ensuring investors and financial consumers are informed and confident Ensuring fair and efficient financial markets Registry and licensing services Enforcement/deterrence Stakeholder services Facilitating business 	<ul style="list-style-type: none"> Improvements in quality and availability of financial advice Improvements in overall financial literacy levels Improvements in retail investor and financial consumer perception of information received about products and services 	<ul style="list-style-type: none"> MoneySmart named 'Best in Class' at the 2012 Interactive Media Awards in two categories: 'Government' and 'Financial information'. 89% of surveyed users rate the site as useful, and 90% had taken specific action as a result of visiting the site. Launch of MoneySmart Rookie, ASIC's flagship financial education program for 16–25 year olds. Indigenous Outreach team visited over 30 urban, regional and remote locations, delivering information sessions, workshops and training to the financial counsellors, financial literacy educators, legal services and Indigenous organisations that support Indigenous consumers. Undertook proactive, risk-based surveillance focused on e.g. self-managed superannuation funds (SMSFs), superannuation trustees, issuers of complex products (hybrids, capital guaranteed products, hedge funds, CFDs and FX contracts) and unlicensed credit providers. ASIC's action during the year resulted in over 120 advertisements for credit, insurance and deposit products being withdrawn or amended. In 2012–13 we dealt with 11,682 reports of alleged misconduct, 76% of which were finalised within 28 days (target: 70%).

Portfolio budget statements continued

Program 1.1 deliverables	Key performance indicators	2012–13 achievements
Fair and efficient markets		
	<ul style="list-style-type: none"> ◆ Improved confidence in market integrity ◆ Improvements in conduct of market participants and corporates ◆ ASIC's regulatory system not being seen as a major barrier to inward and outward capital flows 	<ul style="list-style-type: none"> ◆ ASIC has significantly reduced the average number of days between identifying market misconduct and beginning an investigation. ◆ In 2012–13 ASIC continued to work towards rolling out our new real-time integrated market surveillance system. The Flexible Advanced Surveillance Technologies program will allow ASIC to efficiently and flexibly adapt to greatly increased message traffic, new technologies and trading techniques. ◆ Our surveillance of ASX resulted in ASX agreeing to take action in seven areas, including ASX's technology, communication procedures and monitoring and enforcement of compliance with operating rules. ◆ This year ASIC either stopped, or improved disclosure on, 111 prospectuses. This involved extending the exposure period on 54 prospectuses. ◆ ASIC released new market integrity rules responding to changing financial markets.
Efficient registration and licensing		
	<ul style="list-style-type: none"> ◆ Improved effectiveness and efficiency of registry and licensing services ◆ Improved stakeholder satisfaction with ASIC's corporate register and other stakeholder services 	<ul style="list-style-type: none"> ◆ 192,211 new companies registered, an increase of 9.1% compared to previous year. ◆ 274,349 business names were newly registered on the national Business Names Register during 2012–13. 87% were registered by the next business day after ASIC received the application. ◆ 5,935 SMSF auditors registered following commencement of the new register on 31 January 2013. 98% of applications were registered within 28 days of receipt of full application. ◆ Over 28.3 million free searches and 250,700 paid searches were conducted through ASIC Connect. ◆ ASIC's Client Contact Centre handled 716,382 calls in 2012–13. ◆ We established a team dedicated to engaging directly with small business and held 45 meetings to discuss implementing regulatory initiatives, ASIC's role, and the assistance available to help small business understand and comply with the law.

Misconduct is dealt with and deterred

	<ul style="list-style-type: none"> ♦ Clear alignment between ASIC enforcement actions and key risk areas ♦ Improved stakeholder perceptions of how ASIC deals with people who do not comply with the law 	<ul style="list-style-type: none"> ♦ ASIC achieved 806 enforcement outcomes. This included criminal action as well as civil and administrative action, enforceable undertakings (EU), and negotiated outcomes. ♦ There were 166 enforcement outcomes achieved in the market integrity, corporate governance and financial services areas, and 640 in the small business area. ♦ See the Outcomes in Detail section for more information about major enforcement actions.
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Program 1.2 Banking Act 1959, Life Insurance Act 1995, unclaimed monies and special accounts

Program 1.2 objective: ASIC is responsible for the administration of unclaimed money from banking and deposit-taking institutions and life insurance institutions.

Program 1.2 deliverables	Key performance indicators	2012–13 achievements
<ul style="list-style-type: none"> ♦ Provide an accurate register of unclaimed money and special accounts administered by ASIC 	<ul style="list-style-type: none"> ♦ Refunds of unclaimed monies are paid to successful claimants promptly ♦ Payments of monies from special accounts are paid out promptly in accordance with the specified purposes or appropriate legislation 	<ul style="list-style-type: none"> ♦ ASIC received \$641 million in unclaimed money. Approximately \$72 million was paid out in claims. ♦ ASIC contacted 12,616 potential owners of unclaimed money, as well as conducting a media campaign in November 2012.

Portfolio budget statements continued

Agency resource statement, 2012–13

		Actual available appropriation for 2012–13 (\$'000s)	Cash payments made ¹ 2012–13 (\$'000s)	Balance remaining 2012–13 (\$'000s)
Ordinary annual services ²				
Departmental				
Departmental appropriation ³		467,083	372,607	94,437
Administered expenses				
Outcome 1 – Assetless Administration Fund		3,566	2,075	N/A
Total ordinary annual services	A	470,649	374,682	N/A
Other services				
Departmental non-operating				
Equity injections ⁴		13,934	9,078	4,856
Total other services	B	13,934	9,078	4,856
Total available annual appropriations (A+B)		484,583	383,760	N/A
Special appropriations limited by criteria/amount				
<i>Banking Act 1959</i>		N/A	40,479	N/A
<i>Life Insurance Act 1995</i>		N/A	4,466	N/A
Total special appropriations	C	N/A	44,945	N/A
Total appropriations excluding Special Accounts (A+B+C)		484,583	428,705	N/A
Special Account ⁵				
Opening balance		20,086	N/A	N/A
Appropriation receipts		30,000	N/A	N/A
Costs recovered		2,166	N/A	N/A
Payments made		N/A	18,458	N/A
Total Special Account	D	52,252	18,458	N/A
Total resourcing (A+B+C+D)		536,835	447,163	N/A
Less appropriations drawn from annual appropriations above and credited to Special Accounts				
		(30,000)	–	N/A
Total net resourcing for ASIC		506,835	458,070	N/A

Note: N/A means not applicable.

1. Does not include GST.

2. Appropriation Act (No. 1) 2012–13, Appropriation Act (No. 3) 2012–13, prior year departmental appropriation and s31 relevant agency receipts.

3. Includes \$15.8 million for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

4. Appropriation Act (No. 2) 2012–13.

5. Does not include Special Public Money.

Expenses by outcome

	Budget ¹ 2012–13 (1) (\$'000s)	Actual expenses 2012–13 (2) (\$'000s)	Variance column (1) minus column (2) (\$'000s)
Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks			
A Administered expenses funded by administered appropriations	3,566	2,203	1,363
B Departmental expenses funded by departmental appropriations and own-source revenue	416,249	411,269	4,980
Total for Outcome 1 (A + B)	419,815	413,472	6,343
Average FTE²	1,786	1,844	(58)

1. Based on the 2012–13 forecast as set out in ASIC's 2013–14 Portfolio Budget Statements.

2. 2013–14 Portfolio Budget Statements quoted the average staffing level which is different to FTE. The average staffing level includes employees working on capital projects while the FTE excludes employees working on capital projects.

Six-year summary of key stakeholder data

Summary of key stakeholder data, 2007–13

Companies (total)	2,012,241	1,921,545	1,839,772	1,768,526	1,700,891	1,645,805
New companies registered	192,211 ¹	176,062 ¹	163,276 ¹	157,667	137,410	149,403
Australian financial services (AFS) licensees	5,043	4,955	4,883	4,874	4,803	4,768
Authorised financial markets	18	18	17	16	16	17
Licensed clearing and settlement facilities	6	5	5	5	5	5
Registered company auditors	4,852	4,985	5,114	5,207	5,345	5,495
Registered liquidators	685	680	669	664	660	674
Registered managed investment schemes	4,152	4,289	4,270	4,339	4,651	5,108
Credit licences	5,856	6,004	6,081	N/A	N/A	N/A
Fundraising documents lodged	821	799	957	880	776	1,011
Product disclosure 'in use' notices	4,988	4,758	4,593	4,698	6,390	9,708
Takeovers	45	55	72	73	47	113
Criminals jailed	9	20	16	12	19	23
Fundraising where ASIC required additional disclosure	\$3.5bn	\$7bn	\$3.4bn	\$6bn	\$4bn	\$3bn
Recoveries, costs, compensation, fines or assets frozen	\$222.4m	\$19.8m	\$113m	\$302m	\$28m	\$146m
Litigation concluded ²	144	179	202	156	186	280
% successful litigation ³	95%	92%	90%	91%	90%	94%
Reports of crime or misconduct	11,682	12,516	15,634	13,372	13,633	11,436
Total searches of ASIC databases	68.0m	71.2m	68.5m	61m	60m	51m
% company data lodged on time	95%	95%	95%	95%	95%	95%
Fees and charges collected for the Commonwealth	\$717m	\$664m	\$622m	\$582m	\$552m	\$545m
Staff (average FTEs)	1,844	1,738	1,893	1,932	1,698	1,669

1. Successful and completed applications.

2. Includes criminal and civil litigation and administrative actions. Excludes summary prosecutions, conducted by ASIC, for less serious criminal offences.

3. Includes criminal and civil litigation. Excludes administrative actions and summary prosecutions, conducted by ASIC, for less serious criminal offences.

Reports required under statute and other requirements

Australian Securities and Investments Commission Act 2001

As required by s136(2)(e), ASIC reports that in 2012–13 it did not exercise its powers under Part 15 of the *Retirement Savings Account Act 1997* (RSA Act). No applications were received to do so.

ASIC issued one legislative instrument under Part 29 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) to provide RSE licensees of a registrable superannuation entity with additional time to make the necessary arrangements to comply with disclosure obligations under s29QB(1) of that Act. An application was received to exercise our powers under that Part which was refused.

As required under s136(2)(g), ASIC reports that during the year it conducted the inspection of one Australian audit firm jointly with the United States Public Company Accounting Oversight Board (PCAOB), under the terms of an agreement between the two organisations.

In connection with the joint inspection, ASIC shares certain information with the PCAOB under s11(14) of the ASIC Act. The inspections focus on audit quality and include reviews of firms' quality control systems relating to audit, auditor independence systems, and working papers for selected audit engagements.

ASIC did not conduct any joint inspections with the Canadian Public Accountability Board or share any information with them under the relevant provisions of the ASIC Act during the year ended 30 June 2013.

Commonwealth fraud control guidelines

In 2012–13, ASIC reviewed its fraud exposures and the Commission approved the fraud control policy and plan. ASIC has appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes in place to minimise the effects of fraud and to comply with the Commonwealth fraud control guidelines.

Compensation for detriment caused by defective administration

There were no payments made in 2012–13 under the Compensation for Detriment caused by Defective Administration (CDA) scheme.

External scrutiny of agency

Judicial decisions and decisions of administrative tribunals

There were no judicial decisions, administrative tribunal decisions or decisions by the Australian Information Commissioner in 2012–13 that have had, or may have, a significant impact on ASIC's operations.

Parliamentary Joint Committee on Corporations and Financial Services Reports

There were four ASIC oversight reports between 1 July 2012 and 30 June 2013.

The report on the 2011–12 annual report of bodies established under the ASIC Act was released on 14 February 2013.

The Government released a response on 7 February 2013 in regard to the statutory oversight of ASIC hearing held by the Parliamentary Joint Committee on Corporations and Financial Services held on 25 August 2011.

Additionally, the Parliamentary Joint Committee on Corporations and Financial Services tabled reports on:

- ♦ A regulatory framework for tax (financial) advice services (previously Tax Laws Amendment (2013 Measures No. 2) Bill 2013, Schedules 3 and 4)
- ♦ Corporations and Financial Sector Legislation Amendment Bill 2013
- ♦ Corporations Amendment (Simple Corporate Bonds and Other Measures) Bill 2013
- ♦ Family Business in Australia
- ♦ Superannuation Legislation Amendment (Reform of Self Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013

Reports required under statute and other requirements continued

- ♦ Tax and Superannuation Laws Amendment (2013 Measures No. 1) Bill 2013
- ♦ Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2012
- ♦ Personal Liability for Corporate Fault Reform Bill 2012
- ♦ Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012
- ♦ Corporations Legislation Amendment (Derivative Transactions) Bill 2012
- ♦ Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012
- ♦ Australian Charities and Not-for-profits Commission Bill 2012; the Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012; the Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Bill 2012.

Senate Economics Committee

The Senate Economics Committee noted ASIC's *Annual Report 2011–12* and noted ASIC's provision of answers to Questions on notice.

On 20 June 2013 the Senate referred an inquiry into the performance of the Australian Securities and Investments Commission to the Senate Economics References Committee for inquiry and report. The due date for receipt of submissions is 21 October 2013 and the reporting date is 31 March 2014.

Reports by Auditor-General

The Auditor-General did not issue any reports or capability reviews on ASIC in 2012–13.

Freedom of Information Act 1982

Members of the public have a right to apply to ASIC for access to documents in ASIC's possession under the *Freedom of Information Act 1982* (FOI Act).

Applications must be in writing, state that they are made pursuant to the FOI Act, provide information 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:

The Senior Manager
Administrative Law Team
GPO Box 9827
Melbourne VIC 3001

For further information on how to apply, visit **www.asic.gov.au**.


Categories of documents in ASIC's possession include:

in relation to operational matters:

- ♦ licence and professional registration applications
- ♦ applications from businesses, correspondence, internal working papers, policy proposals and submissions
- ♦ administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers;

in relation to other matters:

- ♦ law reform, including submissions and proposal papers
- ♦ correspondence with members of the public, government entities, parliamentary committees, business entities and other bodies
- ♦ administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and staff management, delegation and authorisation
- ♦ reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory documents, media releases, information releases, pamphlets and annual reports
- ♦ other documents held as public database information (ASCOT).



Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, class orders and other regulatory publications on the ASIC website, **www.asic.gov.au**.

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, phone 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 are required to publish information for the public as part of the Information Publication Scheme (IPS). This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a s8 statement in an annual report. ASIC's Information Publication Plan, showing what information is published in accordance with the IPS requirements is accessible at **www.asic.gov.au/IPS**.

Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Australian Government and administered by ASIC. It funds preliminary investigations and reports by liquidators into the failure of companies that have few or no assets, where it appears that enforcement action may result from the investigation and report.

During the year, government expanded the funding guidelines to include ASIC's ability to fund liquidators for the winding up of companies under Pt 5.4C of the Corporations Act and consider funding liquidator actions to recover assets where fraudulent or unlawful phoenix activity is suspected.

The funding allocation for 2012–2013 was \$3.5 million. This year, under the grant scheme, ASIC received 426 banning (EX02) applications and 102 'Matters other than section 206F – Director banning' (EX03) applications – a record number.

Funded reports assisted in approximately 58% of director bannings in 2012–13 (increase of 4% on 2011–12).

Consultancies and expenditure on advertising

Commonwealth Electoral Act 1918

Section 311A of the *Commonwealth Electoral Act 1918* requires agencies to report on expenditure to advertising agencies, market research organisations, polling organisations and direct mail organisations. Sums less than \$11,900 are not required to be reported. All sums are GST inclusive, and are actual expenditure for 2012–13.

During 2012–13, ASIC conducted the advertising campaigns listed below. Further information on those advertising campaigns is available at www.moneysmart.gov.au and in the reports on Australian Government advertising prepared by the Department of Finance and Deregulation. Those reports are available at www.finance.gov.au/advertising/index.html.

Expenditure on advertising agency services, 2012–13

Agency	Expenditure	Purpose
Adcorp	\$12,163	Advertising for 2014 graduate recruitment
Commercial Monitors	\$24,754	Ad review advertising monitoring service
Spinach Advertising	\$322,584	MoneySmart campaign development
Universal McCann	\$1,435,158	Advertising placement for the MoneySmart campaign

Expenditure on market and professional research and media advice

Roy Morgan Research Ltd	\$400,000	Demand-side market research database
Latitude Research Pty Ltd T/as Latitude Insights	\$75,625	Market (45–55 year olds) research
TABB Group	\$30,646	Research subscription
GfK Australia Pty Ltd	\$25,520	Research material
Usabilityone Pty Ltd	\$148,346	MoneySmart research project
Rice Warner Actuaries	\$50,000	Research and report – SMSFs
Investment Trends Pty Limited	\$37,400	Two SMSFs research reports
Les Bell and Associates T/as Susan Bell Research	\$39,570	CAP SMSFs research project
Les Bell and Associates T/as Susan Bell Research	\$198,600	Stakeholder Survey 2013

Managing procurement

The *Financial Management and Accountability Act 1997* (FMA Act) and Financial Management and Accountability Regulations 1997 (FMA Regulations) primarily govern ASIC's use of Commonwealth resources and expenditure of public money. 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 officers who:

- ♦ develop and maintain ASIC's procurement processes and systems, which are designed to promote compliance with the FMA Act, FMA Regulations and the CPRs for all levels of procurement, and
- ♦ manage complex and high-risk procurement activities, including procurements that are subject to the Mandatory Procurement Procedures of the CPRs.

ASIC's procurement framework aims to facilitate compliance with the core principles and policies of the CPRs, including 'value for money', 'encouraging competition', 'efficient, effective, ethical and economical use of resources' and 'accountability and transparency'. ASIC undertakes regular audits of procurement and any instances of non-compliance reported through the CEO certification process are addressed as required through process improvement initiatives.

All major contracts entered into in 2012–13 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

Using AusTender

ASIC advertises all open tender opportunities through the AusTender website:

www.tenders.gov.au.

During 2012–13, ASIC implemented nine standing offer arrangements, including five cooperative arrangements, and awarded 682 procurement activities (each valued \$10,000 or more reported on AusTender) for a total value of \$97.7 million.

Of these procurements, 185 were valued in excess of \$80,000 for a total value of \$81.9 million.

Contracts of \$100,000 or more were reported on ASIC's website, in accordance with the Senate order on departmental and agency contracts.

Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. ASIC's annual procurement plan was published on AusTender by 1 July 2012 and updated in January 2013.

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

Consultancy contracts

During 2012–13, 62 new consultancy contracts were entered into, involving total actual expenditure of \$4.242 million. In addition, 16 ongoing consultancy contracts were active during the year, involving total actual expenditure of \$3.961 million.

Consultancy trend data

	2012–13	2011–12	2010–11
Number of new consultancies	62	27	51
Expenditure on new consultancies (millions)	\$4.242	\$2.828	\$1.976
Number of ongoing consultancies	16	6	56
Expenditure on ongoing consultancies (millions)	\$3.961	\$1.704	\$2.282

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 on page 103 of the financial statements which show 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**.

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally and business units seeking to engage consultants are required to prepare a business case seeking funding. Requests to engage consultancies must show the link to outcomes (set out in the business unit's business plan) and how the engagement will contribute to ASIC's strategic priorities.

Once the engagement of a consultant is approved, the procurement method used will be in accordance with the CPRs and ASIC's procurement policies.

All of the 62 consultancies engaged by ASIC during 2012–13 were for specialised or professional skills not available within the business unit. The method of procurement used was open tender for 37 engagements (including engagements from panels), pre-qualified tender for 4 engagements and limited tender for 21 engagements.

The main categories for which the consultants were engaged were:

- ♦ information technology
- ♦ education and training
- ♦ strategic planning services
- ♦ research programs.

ASIC's use of its powers

From 2010–11, ASIC has reported the use of our compulsory information-gathering powers under statute. This appendix discloses data by number of instances in 2012–13, with comparative data for the previous year.¹

Use of significant compulsory information gathering powers		No. of notices 2012–13	No. of notices 2011–12
Appear for examination			
s19 ASIC Act ¹	Requirement to appear for examination	448	433
s58 ASIC Act	Power to summons a witness and take evidence	0	1
s253 NCCP Act ^{1,2}	Requirement to provide reasonable assistance	66	98
Give reasonable assistance			
s1317R Corporations Act	Power to require assistance in prosecutions	43	67
s49(3) ASIC Act	Power to require reasonable assistance in a prosecution	20	31
s51 NCCP Act	Requirement to provide reasonable assistance	0	0
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	3	28
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	582	653
Produce documents			
s266 NCCP Act	Requirement to produce books (credit activities)	210	167
s267 NCCP Act	Requirement to produce books	190	274
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	969	1,074
s31 ASIC Act	Notice to produce books about financial products	187	212
s32A ASIC Act	Notice to produce books about financial services	6	3
s33 ASIC Act	Notice to produce books in person's possession	1,109	863

Use of significant compulsory information gathering powers		No. of notices 2012–13	No. of notices 2011–12
Provide information			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	0	4
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	0	1
s49(1) NCCP Act	Requirement to provide information (statement)	49	30
s912C Corporations Act	Power to require information from an AFS licensee	344	276
Item 17 Schedule 2 NCCP Act	Power to require information (obtain statement or audit report)	0	0
s672A Corporations Act	Power to require disclosure of relevant interests	55	68
s672B Corporations Act	Power to require disclosure of relevant interests	4	1
s37(4) NCCP 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	17	11
Provide information and books			
s30A ASIC Act	Notice to auditors requiring information or books	57	43
Search warrants			
sS3E Crimes Act (Cth)	Warrants to search premises/conveyance or person	30 ³	38
s36 ASIC Act ⁴	Warrant to search premises	1	N/A
Use of other powers			
Obligations of carriers and carriage service providers			
s313 Telecommunications Act ⁴	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	10	N/A
Provide documents, information or evidence			
s10(2) MABR Act ^{4,5}	Requirement to produce documents, to give information or to appear to give evidence and produce documents	23	N/A

1. These notices may also include directions to provide reasonable assistance.

2. *National Consumer Credit Protection Act 2009* (National Credit Act).

3. Of the 30 warrants issued (in relation to 9 individual investigations), 24 were executed.

4. Newly reported powers/notices.

5. *Mutual Assistance in Business Regulation Act 1982*.

Glossary

AFS licence	Australian financial services licence
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASIC Connect	ASIC's online portal for business name registration and searching companies, business names and other registers
Assetless Administration Fund	A grant scheme established by the Australian Government and administered by ASIC. It funds preliminary investigations and reports by liquidators into the failure of companies that have few or no assets
ASX	ASX Limited or the exchange market operated by ASX Limited
Business Names Register	ASIC's new national business names registration service, which replaced the previous state and territory services so that businesses only need to register their name once to be registered throughout Australia. The Business Names Register was launched on 28 May 2012
CFD	Contract for difference
Chi-X	Chi-X Australia Pty Limited or the exchange market operated by Chi-X Limited
Corporations Act	<i>Corporations Act 2001</i>
Dark liquidity or dark pools	A type of matching system characterised by the absence of pre-trade transparency, meaning that bids and offers are not made publicly available as is the case with, for example, the ASX's central order limit book
Derivative	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index. Common derivatives include options and futures contracts
ETF	Exchange-traded fund
FOFA reforms	The Government's Future of Financial Advice reforms, which aim to improve the conduct of financial advisers and the way that retail clients engage with advisers and advice. Some elements of the reforms came into force on 1 July 2012, with compliance mandatory from July 2013
FX contract	Foreign exchange contract
G20	Group of 19 of the world's largest economies, and the European Union
G20 commitments	Commitments made by the G20 nations in September 2009 for the operation of OTC derivatives markets

High-frequency trading

While there is no commonly agreed definition of high-frequency trading, it is characterised by: the use of high-speed computer programs to generate, transmit and execute orders on markets; the generation of large numbers of orders, many of which are cancelled rapidly; and typically holding positions for very short time horizons and ending the day with a zero position

IOSCO

International Organization of Securities Commissions

MoneySmart

MoneySmart is ASIC's consumer website. It provides money tips and tools and aims to help consumers and investors make financial decisions that improve their lives

MySuper

The new low-cost default superannuation product created as part of the Stronger Super reforms

National Credit Act

National Consumer Credit Protection Act 2009

National Financial Literacy Strategy

The National Financial Literacy Strategy was developed in 2011 to provide a national direction for this priority area. The Strategy is being reviewed during 2013, identifying key issues and priorities for 2014–16

OTC

Over-the-counter

PDS

Product Disclosure Statement

Phoenix activity

Typically, phoenix activity involves transferring the assets of a company (the previous company) to a subsequent company in circumstances where the previous company was unable to pay its debts, and the transfer may have been conducted in a manner so as to deprive unsecured creditors equal access to its assets, and there is a connection between the management or shareholding of the previous company and the subsequent company

Shorter PDS regime

The shorter Product Disclosure Statement regime, which came into force on 22 June 2012 and aims to make PDSs simpler

SMSF

Self-managed superannuation fund

Stronger Super reforms

The Stronger Super reforms are the Government's response to the review of Australia's superannuation system (Super System Review). The Stronger Super reforms aim to create a new and simple low-cost default superannuation product, make the processing of everyday transactions easier, cheaper and faster, and strengthen the governance and integrity of the superannuation system

Compliance index

Part of Report	Description	Requirement	Location (page/s)
	Letter of transmittal	Mandatory	1
	Table of contents	Mandatory	Inside front cover
	Index	Mandatory	165
	Glossary	Mandatory	160
	Contact officer(s)	Mandatory	Inside back cover
	Internet home page address and Internet address for report	Mandatory	Inside back cover
Review by Secretary	Review by departmental secretary	Mandatory	2–4
	Summary of significant issues and developments	Suggested	2–4
	Overview of department's performance and financial results	Suggested	2–6, 19
	Outlook for following year	Suggested	4
	Significant issues and developments – portfolio	Portfolio departments – suggested	N/A
Departmental overview	Role and functions	Mandatory	10
	Organisational structure	Mandatory	11–12
	Outcome and program structure	Mandatory	2, 5–6, 13–15
	Where outcome and program structures differ from PB Statements/PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	Mandatory	147
	Portfolio structure	Portfolio departments – mandatory	N/A
Report on performance	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	5–6, 18, 21–64, 152
	Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	147–151
	Where performance targets differ from the PBS/PAES, details of both former and new targets, and reasons for the change	Mandatory	147–151
	Narrative discussion and analysis of performance	Mandatory	21–64
	Trend information	Mandatory	54, 152, 157
	Significant changes in nature of principal functions/services	Suggested	N/A
	Performance of purchaser/provider arrangements	If applicable, suggested	N/A
	Factors, events or trends influencing departmental performance	Suggested	2–4, 6
	Contribution of risk management in achieving objectives	Suggested	3, 16–17, 24–27, 37–39
	Social inclusion outcomes	If applicable, mandatory	N/A
	Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	60–61
	Discussion and analysis of the department's financial performance	Mandatory	19
	Discussion of any significant changes from the prior year, from budget or anticipated to have a significant impact on future operations	Mandatory	2–4, 19
	Agency resource statement and summary resource tables by outcomes	Mandatory	150–151

Part of Report	Description	Requirement	Location (page/s)
Corporate governance	Agency heads are required to certify that their agency comply with the Commonwealth Fraud Control Guidelines.	Mandatory	153
	Statement of the main corporate governance practices in place	Mandatory	142–143
	Names of the senior executive and their responsibilities	Suggested	7–8, 11–12
	Senior management committees and their roles	Suggested	11–12, 142–143
	Corporate and operational planning and associated performance reporting and review	Suggested	
	Approach adopted to identifying areas of significant financial or operational risk	Suggested	
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	3, 66–68
	How nature and amount of remuneration for SES officers is determined	Suggested	
External scrutiny	Significant developments in external scrutiny	Mandatory	4, 10, 153–154
	Judicial decisions and decisions of administrative tribunals	Mandatory	153
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory	153–154
Management of human resources	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	66–68
	Workforce planning, staff turnover and retention	Suggested	67
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and AWAs	Suggested	
	Training and development undertaken and its impact	Suggested	66
	Work health and safety performance	Suggested	67
	Productivity gains	Suggested	
	Statistics on staffing	Mandatory	68–73
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	69
	Performance pay	Mandatory	68
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	N/A
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	156–157
Consultants	The annual report must include a summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST). The annual report must include a statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	156–157
Australian National Audit Office access clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	157
Exempt contracts	Contracts exempt from the AusTender	Mandatory	157
Financial statements	Financial Statements	Mandatory	79–140

Compliance index continued

Part of Report	Description	Requirement	Location (page/s)
Other mandatory information	Work health and safety (Schedule 2, Part 4 of the <i>Work Health and Safety Act 2011</i>)	Mandatory	67
	Advertising and Market Research (s311A of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	Mandatory	156
	Ecologically sustainable development and environmental performance (s516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	Mandatory	77–78
	Compliance with the agency's obligations under the <i>Carer Recognition Act 2010</i>	If applicable, mandatory	N/A
	Grant programs	Mandatory	155
	Disability reporting – explicit and transparent reference to agency-level information available through other reporting mechanisms	Mandatory	67
	Information Publication Scheme statement	Mandatory	155
	Spatial reporting – expenditure by program between regional and non-regional Australia	If applicable, mandatory	N/A
	Correction of material errors in previous annual report	If applicable, mandatory	Inside back cover
	List of requirements	Mandatory	162

Note: N/A means not applicable.

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Annual Report 2011–12 errata

On pages 4 and 5 of the ASIC Annual Report 2011–12 we reported that we completed 133 civil litigation actions under Priority 1 and 46 civil litigation actions under Priority 2. These figures include criminal and administrative actions.