



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

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

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.

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.

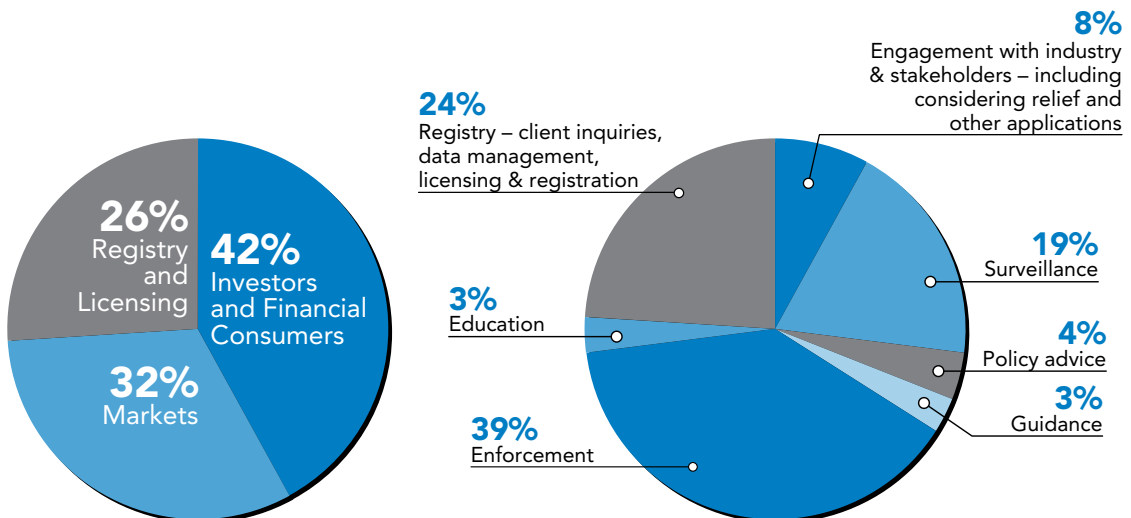
\$72.6 million paid to owners of unclaimed money.
2 million companies registered with ASIC, in total.
192,211 new companies registered in 2012–13.
84% of **2.4 million** forms were lodged online.
28.3 million free searches of ASIC registries through ASIC Connect.

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.

