

chairman's report



Jeffrey Lucy AM,
ASIC Chairman, see page 47 for
biographical details.



This is my first annual report as ASIC Chairman.

Let me begin by acknowledging the significant contribution of Mr David Knott who resigned as Chairman in December 2003. In farewelling him in Melbourne, the Treasurer said ASIC was 'a top four global regulator'. David Knott added greatly to ASIC's reputation as an effective law enforcement agency and brought about greater consistency and national perspective in decision making.

Building confidence

Confidence in Australian financial markets has allowed our companies to raise capital competitively, and allowed investors and consumers to buy financial products and services at a cost and quality that compares strongly with major overseas markets.

In globally competitive financial markets, ASIC's strong record in enforcement and regulation ensured support and cooperation from the regulators of the largest capital markets. In turn, this helped maintain global investors' confidence in Australia. Through action against poor disclosure alone, we improved the quality of information for investors in capital raisings amounting to \$4.1 billion.

In achieving the aims that Parliament set for ASIC in our legislation, we maintained positive trends on our measures of effectiveness and made sound progress on our 2003–05 strategic plan, see pages 6 and 8.

We contributed to building confidence in three important ways this year:

- enforcing the law
- improving the financial system, and
- contributing to consumer protection and financial literacy.

Enforcing the law

The community tends to judge ASIC by its enforcement record. We continued the high levels of activity and success of previous years.

We had 67 criminals successfully prosecuted, obtained civil orders against 118 companies or people to raise standards in corporations and financial services, and deterred insolvent trading, see pages 14 and 34.

Following the report of the Royal Commission into the collapse of the HIH group of insurance companies, our HIH taskforce continued its painstaking collection of evidence to put before the Director of Public Prosecutions. This year, one person has been convicted and sentenced, five others face criminal charges and further matters are in hand.

Although real estate investing and 'get rich quick' property investment seminars largely fall outside ASIC's jurisdiction, we tested the boundaries including action against misleading claims by property spruiker Mr Henry Kaye. We also shut down 60 illegal investment schemes.

Improving the financial system

We approved more than 2,007 applications for waivers of or modifications to the law that reduced business costs. As a result of ASIC approvals, more than \$45 billion in major corporate restructures and initial public offerings could proceed without additional cost.

ASIC's successful implementation of financial services reforms with the licensing of 3,853 businesses completed the transition to a new system of more consistent and efficient regulation for consumers and investors.

We published guidance on how we will implement law reform aimed at strengthening public confidence in corporate disclosure and audit (CLERP 9). To strengthen collaboration with other organisations, we signed new Memoranda of Understanding with ASX Ltd, the Australian Crime Commission, the Australian Prudential Regulation Authority and the Financial Reporting Council.

Contributing to consumer protection and financial literacy

ASIC undertook projects to encourage higher standards in financial planning and reduce misleading and deceptive conduct affecting consumers. We significantly increased the reach of our consumer education and consumer protection work, see pages 28–31. We published an important research report on disclosure of soft dollar commissions by financial advisers, and contributed to joint Commonwealth-State working parties on the regulation of real estate investment advice and mortgage brokers.

We worked actively to raise consumer financial literacy. Commissioner Berna Collier joined the Government's new financial literacy taskforce, and our staff supported the taskforce secretariat.

Our staff

Credit for the highlights and achievements of the organisation go to our 1,531 staff. On behalf of the Commission, I record my thanks and appreciation for their outstanding efforts this year. I am very pleased to report that ASIC's Director Corporate Finance, Richard Cockburn, was awarded a Public Service Medal.

The Commission is determined to ensure we recruit and retain committed and capable people. In this annual report, a summary of our staffing strategies and results stands on an equal footing with our financial strategies and results, see page 9.

The Commission

Commission membership changed significantly. On the departure of former Chairman David Knott, the Treasurer appointed me Acting Chairman in December 2003, and I was formally appointed Chairman by the Governor-General in May 2004.

Pending our new Deputy Chairman's appointment, Commissioner Berna Collier and I greatly appreciated the support and assistance of Acting Commissioners, Carlos Iglesias (Executive Director, Infrastructure) and Malcolm Rodgers (Executive Director, Markets Regulation and Policy). See also page 49.

In July 2004, Jeremy Cooper was appointed Deputy Chairman for a five year term, and Commissioner Collier's term was extended for four years. I warmly congratulate them both and look forward to their strong contributions to the work of the Commission.

outlook

Our enforcement and regulatory responsibilities will increase as a result of changes to the law affecting corporate disclosure and audit (CLERP 9). International issues will grow significantly; for example, international accounting standards will apply from 2005 and the US Sarbanes-Oxley Act will have an increasing impact on many of our larger companies.

From July 2005, new legislation will allow most superannuation fund members to choose their own fund. We will put extra effort into consumer protection and education and into raising standards in the financial services industry.

My report, and the rest of this annual report (except for the financial statements) constitutes ASIC's report of operations in accordance with a resolution of Commissioners made on 3 August 2004.



Jeffrey Lucy, AM
Chairman



ASIC Commissioners, see page 47.
Chairman Jeffrey Lucy, (standing), Deputy Chairman
Jeremy Cooper, appointed July 2004, (right),
Commissioner Berna Collier, (left).