

CHAIRMAN'S REPORT



Patrolling a broad territory

ASIC patrolled a territory broader than any comparable regulator in the world, but with a single aim: to promote confidence in Australia's financial markets, corporations and businesses.

We investigated serious corporate crime and civil misconduct. We monitored 13 exchanges and financial markets, oversaw 4,135 licensed financial services businesses and acted against misleading and deceptive conduct in superannuation, insurance, managed funds, deposit accounts and credit. We managed a public database of 1.4 million corporations, and regulated company fundraising, restructures and wind-ups.

Effective enforcement and regulation helped people feel confident about using Australia's financial markets, products and services. Australia has remained prosperous and has outperformed most other economies.

Bringing wrongdoers to justice

'ASIC has continued to enjoy stunning success in the courts...', (editorial from the respected *Company and Securities Law Journal*, June 2005).

The convictions and jailings of former HIH director Rodney Adler and CEO Ray Williams sent a powerful message to corporate Australia. We have brought to account 9 former executives on 31 charges.

Another 25 people were jailed on ASIC charges. We took civil

action for misconduct against 121 people or companies, and banned 58 people from managing companies or offering financial services. Financial and corporate crime and misconduct may never be eliminated, but ASIC can help suppress it through effective enforcement.

(In July 2005, ASIC took civil penalty proceedings against Stephen Vizard for misusing confidential information he obtained as a director of Telstra Corporation Ltd. This followed a decision by the Director of Public Prosecutions that the evidence was insufficient to bring criminal charges. Our successful civil proceedings saw Mr Vizard banned from managing any corporation in Australia for 10 years and ordered to pay pecuniary penalties of \$390,000. The Court set a new benchmark in accepting punishment and retribution as elements of sentencing in civil cases.)

Guarding people's superannuation

Superannuation moved higher up on the public agenda with the introduction of choice of fund for millions more employees.

Responsibility for protecting super, often people's largest single asset outside their homes, has been shared among ASIC, the Australian Prudential Regulation Authority (APRA), the Australian Taxation Office (ATO) and the Treasury as policy adviser to government.

We prepared, in cooperation with all government agencies, the Australian Government's publication *Super Choices* about how to make

better super choices. Over 1 million copies were distributed.

We worked with the ATO to shut down and deter illegal schemes that wrongfully encouraged people to get their super before they were entitled to it. We worked with APRA to encourage high standards by super fund trustees and investment managers.

To meet our other responsibilities, we also worked closely with the Australian Competition and Consumer Commission, the Australian Stock Exchange, as well as the Australian Federal Police and Commonwealth Director of Public Prosecutions.

Helping more people

As our responsibilities have broadened and the number of organisations we regulate has grown, more people have turned to ASIC for help.

Reports of crime and misconduct increased by 8%, and we have resolved almost 57% of these. Our Infoline staff answered 40% more calls about enforcement, regulation and consumer issues. Use of our company information was steady, but it has nearly doubled on five years ago.

Companies themselves needed our help to operate commercially. ASIC dealt with applications to assist businesses transactions worth at least \$41 billion, granting approval where it was in the public interest.

International collaboration

Increasingly, our work has taken on an international character.

LEFT: Jeffrey Lucy AM, ASIC Chairman, see page 46 for biographical details.

RIGHT: In Canberra, agreeing to regulatory cooperation with Pakistan, left to right: President of Pakistan, HE General Pervez Musharraf, the High Commissioner for Pakistan, HE Mr Babar Malik, ASIC Chairman Jeffrey Lucy, the Prime Minister, the Hon John Howard, MP



We have been negotiating with US authorities about US financial reporting requirements affecting some of our major companies.

We have strengthened collaboration in regulation and enforcement, especially in our region, with new agreements signed with Pakistan, China and Thailand. I also visited Indonesia to strengthen relationships. We trained staff from regulators in Thailand, Indonesia, Vanuatu and Fiji.

We hosted four working party meetings of the International Organization of Securities Commissions, and contributed as a member to IOSCO's Executive and Technical Committees.

Our staff

The broad scope of ASIC's work placed extensive demands on our 1,570 staff. The back cover of this report shows some of the ways in which the high-quality work of our staff was recognised this year.

I was pleased that the Treasurer, the Hon Peter Costello, MP, was able to speak to all staff on a national videoconference about his perspective on future regulatory issues.

The Commission is indebted to staff for their professionalism, knowledge and dedication. We drew on their talent to replenish our senior management team, and we are determined to ensure we recruit, develop and retain capable and enthusiastic people. See page 10 for a summary of our staffing strategies and results.

Our Executive Director Regulation, Malcolm Rodgers, was awarded a Public Service Medal.

Executive Director Financial Services Regulation, Ian Johnston, resigned to take up a senior role with the Hong Kong regulator, and Chief Accountant, Greg Pound, resigned to reduce his work commitments. Both Ian and Greg contributed enormously and we will miss their contributions.

More flexible organisation

We reviewed the role of our small business centres in Geelong, Newcastle, Townsville and the Gold Coast. Across Australia, people have chosen to use the more efficient electronic service channels for company information. Due to declining demand for face-to-face services, these centres will close from 29 July 2005.

We altered the responsibilities of five directorates to achieve more consistent compliance and regulation and to streamline our operations and financial management.

Challenges we face

Overall, people can invest and do business in Australia with confidence. However, this cannot be taken for granted.

Some consumers are disengaged, others are over-confident, leading to poor financial decisions or exposure to fraud and misconduct. Some company directors and officers still drag their feet in disclosing bad news and view compliance as a burden rather than a strength. Competitive pressures among our financial markets and exchanges could open gaps in the regulatory structure. The potential

economic and regulatory value of the information reported to ASIC is limited by imaged paper-based archives and associated technology.

Outlook

To meet these challenges, we published a new *ASIC Strategic Plan 2005–10*, a strong public statement to guide ASIC's development, values and annual business planning.

Key tasks include:

- consolidating major financial services reforms so that consumers can make better financial decisions
- implementing corporate law reform to strengthen the integrity of Australian corporations
- sustaining confidence in our financial markets
- unlocking new value from public information about corporations and other businesses that report data to ASIC
- creating a more flexible organisation with more robust priority setting, IT, funding, staff and public support.

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 1 August 2005.

**Jeffrey Lucy, AM
Chairman**