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ASIC's annual performance statement

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Chair's statement

I, Joseph Longo, as the accountable authority of ASIC, present the 2021–22 annual performance statement of ASIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, the annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

Our purpose

Our vision – a fair, strong and efficient financial system for all Australians – reflects our purpose as Australia's conduct regulator for corporations, markets, financial services and consumer credit and highlights the important role we play on behalf of all Australians.

2.1 Performance objectives

ASIC's performance reporting in 2021–22 was guided by our Corporate Plan and our 2021–22 Portfolio Budget Statement, which set out our objectives and targets related to investor and consumer trust and confidence, and fair and efficient markets.

In particular, we aim to achieve our **key performance outcome**, as stated in the Portfolio Budget Statement, of 'improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems'.

We aim to do this by:

- › pursuing enforcement outcomes
- › undertaking supervision and surveillance
- › engaging with consumers and industry stakeholders
- › providing guidance, input into law reform, and consumer education.

These regulatory activities are used to achieve our vision of ensuring a fair, strong and efficient financial system for all Australians.

2.2 Key results

Table 2.2.1 sets out our key results for 2021–22 across our supervision, surveillance, enforcement, guidance and education work.

The number of supervisory, surveillance and enforcement actions we undertake, the value of fines imposed, the number of people convicted, and the length of

their sentences vary from year to year. The variations depend on factors such as the severity of breaches of the law and the complexity of the investigations we undertake. They also reflect the ongoing impact of the COVID-19 pandemic, which meant that close and continuous monitoring onsite supervisory work was not possible for a large portion of 2021.

Table 2.2.1 Key results

Outcome	Total 2021–22	Total 2020–21
Surveillance		
Surveillances completed ^{1,2}	Over 1,040	Over 1,080
Instances of potentially misleading or deceptive promotional material withdrawn or amended	61	59
Interim stop orders and final stop orders	18	13
Enforcement		
Investigations		
Investigations commenced ³	107	110
Criminal actions		
Criminal litigation completed	37	29
Criminal litigation completed successfully (as a percentage)	89%	100%

1 This includes over 10 surveillances involving an onsite presence.

2 The number of surveillances completed measures surveillance activity by entity or related entities (such as companies, partnerships, licensed or unlicensed entities and individuals), by disclosure document (submitted by entity or entities) or by transaction (by entity or entities). These surveillance activities may arise from reports of misconduct, breach reports or as part of a larger surveillance project examining a thematic or industry-wide issue (i.e. a project may comprise a number of surveillances).

3 Investigations for these purposes meet the definition in section 13 of the ASIC Act and section 247 of the National Credit Act.

Outcome	Total 2021–22	Total 2020–21
New criminal litigation commenced	50	53
Average time to complete an investigation (in months)	24	28
Average time to a criminal court decision (in months)	14	12
Average total time to complete an investigation and reach a court decision (in months)	43	40
Criminal outcomes		
Number of people/companies convicted ⁴	33	29
Custodial sentences (including fully suspended)	13	10
Noncustodial sentences/fines	20	19
Total dollar value of fines	\$2.1m ⁵	\$151,100
Total dollar value of reparation orders	–	\$1.8m
Total dollar value of pecuniary penalties	\$102,175	–
Civil action		
Civil litigation completed	61	46
Civil litigation completed successfully (as a percentage)	100%	93%
New civil litigation commenced	75	83
Average time to complete an investigation (in months)	19	13
Average time to a civil court decision (in months)	17	13
Average total time to complete an investigation and reach a court decision (in months)	33	26
Civil outcomes		
Total dollar value of civil penalties	\$229.9m	\$189.4m

⁴ This includes seven successful criminal actions without a conviction recorded.

⁵ The increase in fines arising from criminal actions is attributed to a fine of \$1.71 million imposed on Avanteos Investments Ltd. The former subsidiary of Commonwealth Bank was convicted and penalised for failing to update defective disclosure statements, resulting in deceased consumers being charged fees after their death when Avanteos had no lawful authority to do so.

Outcome	Total 2021–22	Total 2020–21
Administrative actions and outcomes⁶		
Action taken against auditors	59	49
Action taken against liquidators	3	–
People disqualified or removed from directing companies ⁷	58	49
People/Companies removed, restricted or banned from providing financial services	39	49
People/Companies removed, restricted or banned from providing credit services ⁸	18	46
Licence conditions imposed on ASX	3	–
Court enforceable undertakings		
Court enforceable undertakings accepted	1	3
Compensation or remediation agreed in court enforceable undertakings ⁹	–	\$9.1m
Infringement notices¹⁰		
Total number of infringement notices issued	3	3
Total dollar value of infringement notices	\$136,890	\$392,000
Summary prosecutions		
Summary prosecutions for strict liability offences	181	224
Total value of fines and costs	\$1,019,106	\$669,906

6 This includes all disqualifications, suspensions, cancellations and bannings resulting from surveillance and enforcement activities.

7 This includes one disqualification arising from civil proceedings, where the court ordered that the defendant be disqualified from directing companies.

8 This includes two instances where the court imposed injunctions on the individuals restraining them from engaging in credit activity.

9 Compensation or remediation programs monitored by ASIC are not reflected in this statistic. Amounts in compensation or remediation were agreed in court enforceable undertakings accepted by ASIC.

10 These notices were issued for infringements related to the market integrity rules and the ASIC Act. Compliance with infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

Outcome	Total 2021–22	Total 2020–21
Applications for relief from the Corporations Act		
Relief applications		
Relief applications received	1,361	948
Relief applications approved	1,084	755
Relief applications refused or withdrawn	374	238
Relief applications in progress	127	168
Licensing and professional registration activities		
Administrative decisions		
Licensing and registration applications received	1,655	2,075
Licensing and registration applications approved	1,596	1,159
Licensing and registration applications refused or withdrawn	439	410
Licensing and registration applications in progress	819	1,146
AFS licences, including limited AFS licences (new and variations)		
Applications approved	1,178	776
Applications refused/withdrawn	277	270
Licences cancelled/suspended	314	308
Applications in progress	559	873
Australian credit licences (new and variations)		
Applications approved	267	219
Applications refused/withdrawn	139	114
Licences cancelled/suspended	224	278
Applications in progress	180	260
Registered auditors – registered company auditors, authorised audit company and SMSF auditors		
Applications approved	151	164
Applications refused/withdrawn	23	26

Outcome	Total 2021–22	Total 2020–21
Licences cancelled/suspended	607	546
Applications in progress	80	13
Registered liquidators		
Liquidators registered by ASIC	21	31
Registration committees convened during the year	25	37
Outcome of registration committee convened during the year		
Applications for registration approved by committee	17	27
Applications for registration refused by committee	7	8
Committee matters in progress – registration application yet to be determined	1	2
Stakeholder engagement		
Meetings with industry groups and other stakeholders	Over 1,900	Over 2,100
Consultation and guidance		
Consultation papers published	20	14
Industry reports published	37	28
New or revised regulatory guides published	41	36
New or revised information sheets	59	50
Legislative instruments made, amended and repealed	58	54
Education		
Users visiting ASIC’s Moneysmart website ¹¹	11.0m	11.0m
Average number of users to the Moneysmart website per month	1.0m	1.0m
Number of users who have used a Moneysmart online tool	5.3m	4.6m
Average number of users using a Moneysmart tool per month	494,998	440,764

11 The number of people visiting the Moneysmart website includes users from around the world. Of the 11 million users, 10 million (91%) were from Australia, using an Australian IP address.

2.3 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. Table 2.3.1 sets out our

performance against the key measures outlined in the Service Charter for the 2021–22 financial year.

Table 2.3.1 ASIC Service Charter performance 2021–22

Service	Measure	Target	Result
When you contact us			
General telephone queries	We aim to answer telephone queries on the spot	80%	89.8%
General email queries	We aim to reply to email queries within three business days	90%	99.5%
Give reasonable assistance			
Searching company, business name or other data online	We aim to ensure that our online search service is available between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	100%
Lodging company, business name or other data online	We aim to ensure that you can lodge registration forms and other information online between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.9%
When you do business with us			
Registering a company or business name online	We aim to register the company or business name within one business day of receiving a complete application	90%	99.3%
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application	90%	96.6%

Service	Measure	Target	Result
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within seven business days	90%	100.0%
Updating company, business name or other ASIC register information online	For applications lodged online – enter critical information and status changes to company or business name registers within one business day	90%	99.9%
Updating company, business name or other ASIC register information via paper application	For paper applications lodged by mail – enter critical information and status changes to company or business name registers within five business days	90%	99.9%
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	89%
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances	100%	100%
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 73% Varied: 67%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: 91% Varied: 89%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 82% Varied: 75%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 91% Varied: 87%
Applying for relief	We aim to give an in-principle decision within 28 days of receiving all necessary information and fees for applications for relief from the Corporations Act	70%	72%

Service	Measure	Target	Result
	We aim to give an in-principle decision within 90 days of receiving all necessary information and fees for applications for relief from the Corporations Act	90%	88%
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or individual, ASIC aims to respond within 28 days of receiving all relevant information	70%	65%
When you have complaints about us			
About ASIC officers, services or actions	We aim to resolve a complaint within 28 days	70%	91%

2.4 Analysis: Implementing our performance objectives

This year our work aligned with the priorities outlined in the Corporate Plan published in August 2021. The Corporate Plan is consistent with ASIC's Statement of Intent published in August 2021 in response to the Australian Government's Statement of Expectations.

These priorities are summarised on pages 38–41.

Measuring our performance

In evaluating our work, we combine quantitative and qualitative indicators to provide a narrative about our approach, as detailed in our Corporate Plan. We measure both:

- › **regulatory outcomes**, which include the direct results from using our suite of regulatory tools
- › **market outcomes**, which reflect the impact of our regulatory work on the markets and sectors we regulate, including on investors and consumers.

Our regulatory tools discussed in this chapter include:

- › enforcement
- › supervision
- › surveillance
- › licensing
- › guidance.

Our regulatory tools also include education and engagement with stakeholders, our regulated population and other Government agencies, which are discussed in Chapter 4. For most of the issues in our remit, we use a combination of our tools to achieve outcomes for consumers and investors.

We produce regular reports about the volume and results of our activities, including periodic regulatory and enforcement updates, monthly market integrity updates, and regular updates about corporate insolvency and corporate finance.

This chapter sets out key results against our priorities and how we have used our regulatory toolkit to achieve those results.

ASIC Corporate Plan priorities

In 2021–22, our work was guided by four strategic priorities and planned key actions identified in our Corporate Plan. These priorities targeted the most significant threats and harms in our regulatory environment.

We committed in our Corporate Plan to engage in a range of supervisory and enforcement activities under each priority to identify and act against wrongdoing, employing the full scope of our regulatory toolkit in a targeted and proportionate way to enforce the law. Below are listed some of the key actions we identified under each priority in our Corporate Plan, with cross-references to examples of related work completed in this reporting period. Further examples are set out by sector in Chapter 3.

Priority 1: Promoting economic recovery

We have supported economic recovery by focusing on efficient regulation, facilitating innovation, and targeting regulatory and enforcement action to areas of greatest harm.

Key actions driven by this priority in 2021–22 included:

- › addressing and influencing lender responses to borrowers experiencing financial difficulty – see financial hardship information on page 69
- › liaising with, and reducing the regulatory burden on, industry in complying with the new corporate collective investment vehicles regime – see page 60
- › engaging with industry on impediments to industry’s ability to deliver good quality and affordable personal advice, including through issuing Consultation Paper 332 *Promoting access to affordable advice for consumers* – see page 76
- › providing up-to-date and relevant information on the Moneysmart website that is designed to be a starting point for consumers and investors when making financial decisions – for information on Moneysmart see page 131–132
- › combating illegal phoenix activity – for information on the Phoenix Taskforce see page 107 and for case studies on Richard Ludwig and Enrico Pucci see pages 127–128
- › identifying and taking appropriate regulatory action against high-risk registered liquidators – see the Amanda Young case study on page 99
- › identifying manipulative and insider trading through surveillance of securities, derivatives and wholesale markets (e.g. fixed income, currencies and commodities (FICC) markets) – see the Dylan Rands case study on page 81, and the information on insider trading data analytics on page 89
- › supporting and contributing to the ALRC review of the Corporations Act, which is tasked with facilitating a more adaptive, efficient and navigable legislative framework – see page 23.

Priority 2: Reducing risk of harm to consumers

We have worked to reduce the potential risk of harm to consumers through addressing poor product governance and design, as well as the increase of investment scam activity in what was a low-yield environment.

Key actions driven by this priority in 2021–22 included:

- › finalising investigations and the filing of court proceedings relating to referrals and case studies arising from the Financial Services Royal Commission – see the summary on page 24, and the Aware FS ‘fees for no service’ case study on page 50
- › investigating and taking enforcement action against widespread governance failures – see the Westpac case study on pages 46–47
- › taking enforcement action to address consumer harm caused by inadequate fee disclosure – see the NAB case study on page 55
- › raising investor awareness of potential harms associated with retail investor scams by undertaking education, communications and social media campaigns – see the Cash FX Group case study on page 58
- › taking enforcement action to deter general insurance pricing misconduct – see the IAG case study on page 73
- › monitoring and taking action against unlawful social media advice and influence on retail investment decisions – see the financial influencers case study on page 91
- › improving outcomes for Australian consumers who purchase insurance, including by taking enforcement action against misleading and deceptive conduct in the sale of travel insurance – see the Allianz and AWP travel insurance case study on page 52
- › addressing poor debt collection practices – see the debt management example on page 62 and the landlord insurers case study on page 72
- › undertaking outreach and stakeholder engagement activities to understand current issues for First Nations consumers of financial services and provide trusted information, including through the IOP Helpline – for more information on the IOP Helpline, see page 106
- › quickly intervening to detect and deter social media led ‘pump and dump’ trading activity that can lead to consumer losses and undermined market integrity – for more information on how ASIC used a multi-pronged early intervention approach to quickly disrupt this type of activity see page 90
- › reviewing and updating the ePayments Code to clarify and enhance protections for consumers – see the case study on page 70
- › taking action where entities fail to ensure advice given is in the consumer’s best interests – see the Ultiqa case study on page 78
- › pursuing enforcement action where entities attempt to avoid important consumer protection provisions by carefully structured credit arrangements – see the Cigno case study on page 71.

Priority 3: Enhanced cyber resilience and cyber security

We have aligned our approach with the whole-of-government commitment to mitigate cyber security risks among ASIC's regulated population.

Key actions driven by this priority in 2021–22 included:

- › investigating and taking enforcement action against instances of failure to adequately manage cyber risks – see the RI Advice case study on page 48
- › taking proactive and disruptive enforcement action against perpetrators of egregious cybercrime and other conduct facilitated by digitalisation – see the case study on the Serious Financial Crime Taskforce and Operation Birks on page 108
- › providing guidance to industry as part of ASIC-wide campaigns, and engaging with other regulators, agencies and industry on cyber resilience – for more information, including on the publication of Report 716 *Cyber resilience*, see page 87
- › implementing new market integrity rules for market operators and participants, to promote technological and operational resilience – see the ASX Limited (ASX) outage example on page 86 and for more information on the rules, see page 92
- › supervising ASX's program to replace its critical cash equities clearing and settlement system (CHESS) – for more information, see page 87.

Priority 4: Driving industry readiness and compliance with standards set by law reform initiatives

This includes the Financial Accountability Regime, reforms in superannuation and insurance, changes to breach reporting requirements, and the design and distribution obligations.

Key actions driven by this priority in 2021–22 included:

- › collaborating with APRA to establish administrative and business processes and procedures for implementation of the Financial Accountability Regime – for more information see page 24
- › engaging with stakeholders and providing guidance on the design and distribution obligations reforms – for more information on the reforms see page 23, and for a case study on our review of target market determinations see page 101
- › using new penalty powers for failures to report breaches to ASIC – see the Statewide Super case study on page 49
- › reviewing whistleblower programs to establish how entities have responded to the whistleblower regime introduced in 2019 – for more information on the whistleblower review, see page 57
- › taking enforcement action as the superannuation conduct regulator, including acting to prevent the unlawful early release of superannuation – see the case study on former financial adviser Ahmed Saad on page 79
- › monitoring the implementation of the Your Future, Your Super reforms, taking enforcement action where warranted – see the MySuper case study on page 85.

Strengthening our capabilities to support our vision

Data and analytics

In 2021–22, we successfully completed the first year of the *ASIC Data Strategy 2021–26*, uplifting ASIC's data and analytics capabilities and executing initiatives to improve efficacy in ASIC's regulatory work.

An example of material developments in the last year is the continued investment in our Data Lake platform.

ASIC's Data Lake is our core data management platform for all new data initiatives. It allows storage and processing of data and provides ASIC with access to the latest analytic tools, including operationalisation of Natural Language Processing (NLP) solutions.

ASIC has implemented two NLP solutions: Prospectus and Registered Liquidators. These algorithms process large volumes of textual documents to identify key words, patterns and sentiments which are then presented to ASIC regulatory professionals, along with a risk recommendation for consideration. This saves ASIC regulatory professionals from having to manually review all documents, allowing them instead to focus on assessment decisions and detailed review of higher risk matters, improved data availability and accessibility through recurrent data collections.

ASIC has completed industry consultation and the technology build for the internal dispute resolution data collection (internal customer complaints data from ASIC-regulated financial services organisations). The solution has been successfully tested with selected financial services organisations and regulatory guidance has now been provided to industry, with the collection scheduled to commence from February 2023.

This new data, especially when combined with existing ASIC data, will be a powerful tool for helping ASIC identify threats and prevent or address harms. ASIC is partnering with peer agencies and industry to enhance and develop recurrent data collections across our regulatory remit, with a goal to maximise the use of data across Government, minimise industry burden and the need for ad hoc collections, and help better focus our regulatory efforts.

For everything we do in the data and analytics space, we remain committed to maintaining high standards for privacy, information security, data governance and ethical use.

Continuous improvement of our regulatory systems

ASIC continues to deliver enhancements to regulatory systems for our stakeholders and team members.

Users of the Market Entity Compliance System Portal have transitioned to the ASIC Regulatory Portal, reducing the number of portals and usernames required for stakeholders to interact with us. All transactions relating to market participants and related licences are now available in the same modernised portal that is used for breach reporting and industry funding. New functionality, including smart transactions, which pre-populate submissions based on data previously provided, and the ability to pay online and self-manage authorisations, are now available.

By simplifying the way that we interact with our case management systems, we can develop a consistent way of recording and reporting on our work. This enables us to reduce manual tasks, resulting in quicker regulatory outcomes such as key ASIC decisions, regulatory guidance and advice, and the commencement of litigation proceedings.

Digital transformation

We have invested in our digital capability to ensure that we are better at identifying and responding to misconduct in the sectors we regulate. Further, as new and emerging technologies, products and innovations such as cryptocurrencies and digital autonomous organisations emerge, ASIC has the capability to ensure that we can meet the challenges that they present to our regulatory framework, the industries we regulate and the Australian

public. We have set an ambitious vision to become a leading digitally enabled, data informed regulator. To achieve our vision, we have developed a Digital Strategy that will transform the way we work internally and the way in which we regulate and interact with our regulated population. Our strategy builds on our regulatory systems transformation and focuses on using digital technologies to increase our regulatory effectiveness, promote compliance and facilitate innovation.

Our regulatory activities

Enforcement

Enforcement action is one of the key regulatory tools available to us to help achieve a fair, strong and efficient financial system for all Australians. Our enforcement actions focus on areas of greatest harm in order to take an active and targeted approach to enforcement.

Our Office of Enforcement was established in July 2019. Its role is to increase the focus on priority matters, implement centralised decision-making processes, ensure adequate and flexible resourcing, and achieve greater consistency in our enforcement approach.

As a priority, we target cases of high deterrence value and those involving egregious harm or misconduct, particularly towards vulnerable consumers. This year, our focus included:

- › serious misconduct that harms confidence in markets, business and the economy or exacerbates consumer hardship

- › poor product design and governance, mis-selling, and failure to comply with conflict of interest requirements and disclosure obligations
- › perpetrators of egregious digital and other financial sector scams
- › failure to adequately manage cyber risks that harm consumers
- › failure to implement new standards set by law reform initiatives.

Criminal convictions

In 2021–22, as a result of our investigations, 33 people were convicted of criminal offences, with 13 of those people receiving custodial sentences (including fully suspended sentences).

Civil actions

In 2021–22, we completed 61 civil actions, covering issues such as unlicensed financial advice, fees for no service breaches, overcharged interest, misleading and deceptive conduct, unconscionable conduct, continuous disclosure contraventions, false and misleading advertising, failure to comply with the best interests duty, failure to report breaches to ASIC in the time required by law and related obligations under the Corporations Act.

Of these actions, 100% were successful. The total value of penalties for these civil court cases was \$229.9 million.

Protective actions

We banned, removed or restricted 39 people or companies from providing financial services, and 18 people or companies from providing credit services.

We disqualified or removed 58 people from directing companies.

Corrective actions

We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. There were 61 instances of potentially misleading or deceptive promotional material withdrawn or amended in 2021–22.

Infringement notices

In 2021–22, we issued two infringement notices against Maritime Super Pty Ltd and received a total of \$26,640 in payments pursuant to those infringement notices.

The Markets Disciplinary Panel issued one infringement notice to a market participant, specifying a total of \$110,250 in penalties for alleged breaches of the market integrity rules.

Court enforceable undertakings

Court enforceable undertakings are a flexible tool that ASIC can accept to achieve improved compliance with the law and encourage a culture of compliance.

ASIC accepted one court enforceable undertaking in 2021–22.

We monitor all active court enforceable undertakings to ensure that each undertaking they contain has been met.

There are currently 14 court enforceable undertakings accepted by ASIC that remain active and that we are monitoring.

Helping protect small business

Where necessary, we take action against companies, directors and other officeholders who fail in their duties. By doing so, ASIC works to create a level playing field. This year, we recorded 262 small business-related outcomes.

Table 2.4.1 Small business enforcement outcomes by misconduct and remedy type

Misconduct type	Criminal	Administrative	Total (misconduct)
Action against persons or companies	197	64	261

Of the actions summarised in Table 2.4.1:

- › 163 convictions relate to individuals who failed to assist registered liquidators, one of which one received a custodial sentence
- › 18 convictions relate to companies that failed to lodge annual financial reports with ASIC
- › 16 relate to criminal convictions prosecuted by the CDPP, of which three received custodial sentences

- › 56 persons were disqualified from managing corporations, of which eight related to illegal phoenix activity
- › 9 Australian credit licences were cancelled or suspended.

As at 1 July 2022, ASIC had 86 small business-related criminal cases underway against persons or companies.

Unfair contract terms in small business loan contracts

Following ASIC court action, several terms in some Bank of Queensland (BoQ) small business contracts were declared unfair in August 2021.

The following terms were declared unfair:

- › unilateral variation clauses which allowed BoQ to vary the terms and conditions of their contracts without giving borrowers advance notice or an opportunity to exit the contract without penalty
- › event of default clauses which allowed BoQ to unilaterally determine whether a default has occurred as well as call defaults based on events that do not present any material risk to BoQ and without giving borrowers an opportunity to address the issue
- › indemnification clauses which allowed BoQ to make a claim against a borrower for losses caused by BoQ's mistake, error or negligence
- › conclusive evidence clauses which meant that if BoQ issued a certificate stating an amount owing by a borrower, that amount would be assumed to be correct unless the customer could prove otherwise.

The unfair terms were declared void from the start of the contracts, and the court ordered that the unfair terms be replaced with new, fair terms agreed by the parties.

ASIC also takes action to combat illegal phoenix activity. Of the 65 administrative actions in Table 2.4.1, eight involved disqualification of directors where we found, in part, that the directors engaged in illegal phoenix activity. ASIC is committed to using our regulatory tools of engagement, surveillance and enforcement to identify, disrupt and take action against persons who engage in illegal phoenix activity.

Enforcement examples

Westpac – Six proceedings and a combined \$113 million penalty

On 30 November 2021, ASIC launched an unprecedented six civil penalty proceedings against Westpac businesses. ASIC's proceedings demonstrated widespread compliance failures across multiple Westpac businesses and covered its banking, superannuation and wealth management brands, as well as Westpac's former general insurance business. The failures occurred over the course of 13 years and affected more than 70,000 customers.

The six proceedings concerned:

- › **Fees for no service – deceased customers:** over a 10-year period, Westpac and related entities within the Westpac group charged over \$10 million in advice fees to over 11,000 deceased customers for financial advice services that were not provided.
- › **General insurance:** Westpac distributed duplicate insurance policies to over 7,000 customers for the same property at the same time, including 3,899 customers since 30 November 2015, causing customers to pay for two (or more) insurance policies where they had no need for the additional policies. Westpac also issued insurance policies to 329 customers who had not consented to entering into an insurance policy.
- › **Insurance in superannuation:** Westpac subsidiary BT Funds Management charged members insurance premiums that included commission payments, despite commissions having been banned under the Future of Financial Advice reforms. Some members also paid commissions to financial advisers via their premiums even though they had elected to have the financial adviser component removed from their account. Over 9,900 BT Funds Management members were affected.
- › **Inadequate fee disclosure:** Westpac, Securitor and Magnitude (advice businesses) charged ongoing contribution fees for financial advice to retail customers without disclosing, or properly disclosing, those fees. It is estimated that over eight years, at least 25,000 customer accounts were charged at least \$10.6 million in fees that were not disclosed, or not properly disclosed.
- › **Deregistered company accounts:** Westpac allowed approximately 21,000 deregistered company accounts, holding approximately \$120 million in funds, to remain open and continued to charge fees on those accounts. Westpac allowed funds to be withdrawn from the accounts that should have been remitted to ASIC or the Commonwealth. Justice Beach found that Westpac knew its systems were inadequate, did not fix those systems in a timely fashion, and benefited from its own conduct.

- › **Debt onsale:** Westpac sold consumer credit card and flexi-loan debt to debt purchasers with incorrect interest rates. These interest rates were higher than Westpac was contractually allowed to charge on at least part of the debts, resulting in more than 16,000 customers, who were likely to be in financial distress, being overcharged interest.

Westpac admitted to the allegations in all six proceedings and will remediate approximately \$80 million to customers.

In April 2022, the Federal Court ordered that Westpac pay penalties amounting to \$113 million for these widespread compliance failures.

The common aspects across these matters were poor systems, poor processes and poor governance, suggesting a historically poor compliance culture within Westpac at relevant times. Justice Beach noted that Westpac's misconduct was serious, and in one of the cases commented that Westpac and the related entities 'utterly failed to address the issues systematically'.

ASIC brought these actions to underline the importance of having the appropriate systems and processes to ensure that customers are treated fairly.

Court finds AFSL holder breached its licence obligations by failing to adequately manage cyber security risks

In an Australian first, following ASIC action, AFS licensee RI Advice Group Pty Ltd (RI Advice) was found in May 2022 to have breached its licence obligations when it failed to have adequate risk management systems to manage cyber security risk.

ASIC commenced the case in August 2020 after nine cyber security incidents occurred at authorised representatives of RI Advice between June 2014 and May 2020. In one of the incidents, an unknown malicious actor obtained unauthorised access to an authorised representative's file server from December 2017 to April 2018 before being detected. This resulted in the potential compromise of confidential and sensitive personal information of several thousand clients and other persons.

The Federal Court found that, from 15 May 2018 to 5 August 2021, RI Advice did not have documentation, controls and risk management systems that were adequate to manage cyber security risk across its authorised representative network and therefore breached its licence obligations to act efficiently, honestly and fairly, and to have adequate risk management systems. The court ordered RI Advice to engage a cyber security expert to identify what, if any, further documentation and controls in respect of cyber security and cyber resilience are necessary for RI Advice to implement to adequately manage risk across its network of authorised representatives.

When handing down judgment, Justice Rofe made it clear that cyber security should be front of mind for all AFS licensees, stating: 'Cyber security risk forms a significant risk connected with the conduct of the business and provision of financial services. It is not possible to reduce cyber security risk to zero, but it is possible to materially reduce cyber security risk through adequate cyber security documentation and controls to an acceptable level.'

In bringing this court action, ASIC has made it clear that AFS licensees must ensure that their cyber security systems, policies and procedures are adequate to manage cyber security risk.

This result aligns with our strategic priority of supporting enhanced cyber resilience and cyber security among ASIC's regulated population, in line with the whole-of-government commitment to mitigating cyber security risks.

New breach reporting penalties: Statewide Superannuation \$4 million fine

In the first civil case brought by ASIC using new penalty powers for failures to report breaches to ASIC, combined penalties of \$4 million were imposed on Statewide Superannuation Pty Ltd (Statewide) for providing members with misleading information regarding their insurance and failing to report the breach to us in the time required by law.

Statewide made over 14,000 misleading communications with at least 7,000 of its members, telling them they had insurance cover when they did not. Statewide also overcharged more than \$2.5 million in insurance premiums to members who no longer held insurance as part of their superannuation accounts. This led to the real risk that fund members may have found themselves without insurance when they needed it.

When it discovered these issues, Statewide failed to report them to ASIC within 10 days, as then required by law. Breach reporting is integral to board oversight and risk management by licensees, and financial services companies have strict obligations to report contraventions of the law to ASIC.

Statewide was also ordered to undertake a remediation program, to identify the members who were overcharged and remediate them in full, and to have an independent expert review and report on the remediation program.

Aware Financial Services Australia fined \$20 million for charging fees for no service

Following ASIC action arising from the Financial Services Royal Commission, in February 2022 Aware Financial Services Australia Limited (Aware FS), formerly State Super Financial Services Australia Limited, was issued with a \$20 million penalty for charging over 25,000 customers fees for financial services it did not provide.

Between 21 August 2014 and 30 June 2018, Aware FS charged approximately 25,300 customers a total of \$50 million in fees for advice services included as part of the superannuation product offered by Aware FS, which at that time was also a superannuation trustee. However, Aware FS did not provide the promised services.

By charging fees for no service and failing to have internal procedures, measures and controls in place to monitor compliance, Aware FS breached its obligations as an AFS licence holder to act efficiently, honestly and fairly and to comply with financial services laws.

Aware FS's conduct was the subject of a Financial Services Royal Commission case study. The civil penalty handed down in this matter is another outcome arising from a number of fees for no service cases brought by ASIC.

Rio Tinto continuous disclosure breaches

In March 2022, following proceedings brought by ASIC, Rio Tinto Limited (Rio Tinto) was ordered to pay a penalty of \$750,000 for contravening its continuous disclosure obligations.

ASIC's investigation found that between December 2012 and January 2013, Rio Tinto failed to disclose material information to ASX, which included that mining assets held by Rio Tinto Coal Mozambique (RTCM) were no longer economically viable as long-life, large-scale, tier-one coking coal resources.

In December 2010, Rio Group announced a takeover offer for then ASX-listed Riversdale Mining Limited (Riversdale), which was completed in August 2011 and cost over US\$4 billion. Following the acquisition, Rio Tinto delisted Riversdale and renamed its assets to RTCM. On 17 January 2013, Rio Group announced that it expected to recognise a non-cash impairment charge of approximately US\$14 billion (post-tax) in its 2012 full year results, which included approximately US\$3 billion relating to RTCM.

The penalty orders were made by consent after ASIC and Rio Tinto agreed to resolve the proceedings and filed joint penalty submissions. Rio Tinto was ordered to pay ASIC's costs of the proceeding.

This result aligns with ASIC's enforcement priority to take action to address serious market misconduct to maintain trust and integrity in the financial system. ASIC worked on the matter in partnership with the US Securities and Exchange Commission and the UK Financial Conduct Authority.

ASIC action against misleading sales of travel insurance leads to \$1.5 million in penalties

Following an ASIC investigation, the Federal Court found that Allianz Australia Insurance Ltd (Allianz) and AWP Australia Pty Ltd (AWP) engaged in misleading and deceptive conduct when selling travel insurance by failing to correctly state how premiums were calculated and by allowing insurance to be sold to ineligible customers.

Allianz and AWP also breached their financial services licence obligations by:

- › Allianz failing to correctly disclose how premiums were calculated in product disclosure statements so that consumers were not given accurate information on the travel insurance they were purchasing
- › Allianz and AWP failing to prevent the sale of insurance on Expedia websites to consumers who were ineligible to make claims under the policies
- › Allianz and AWP failing to prevent Expedia websites from misusing a quote from the Department of Foreign Affairs and Trade about the importance of purchasing travel insurance.

Allianz and AWP were ordered to pay penalties of \$1.5 million.

ASIC action against auditor misconduct leads to first ever criminal conviction of Halifax auditor, Robert James Evett

In August 2021, following an ASIC investigation, former auditors of Halifax Investment Services Pty Ltd (Halifax) – Robert James Evett and EC Audit (formerly Bentleys NSW Audit Pty Ltd) – were convicted and ordered to pay fines of \$10,000 and \$40,000 respectively for failing to conduct audits in accordance with auditing standards. Mr Evett and EC Audit are the first auditors in Australia to face criminal prosecution and be convicted under section 989CA of the Corporations Act.

The breaches of the auditing standards included that EC Audit failed to understand Halifax's business and failed to design appropriate tests to identify material misstatements in the accounts, and that Mr Evett failed to take responsibility for the overall conduct of the audits. In delivering the sentence, the court noted expert evidence that had the audits of the financial statements been conducted in accordance with auditing standards, the material misstatements would have been detected and Halifax would have been required to cease trading until sufficient capital was raised. Mr Evett's auditor's registration was cancelled in September 2021, following an application by ASIC to the Companies Auditors Disciplinary Board.

ASIC brought this action because of the important role that auditors play as gatekeepers to the market, ensuring that financial reports are free from misstatements.

This result aligns with ASIC's enforcement priority to take action to address serious misconduct and to hold gatekeepers to account so as to maintain trust and integrity in the financial system. The matter was prosecuted by the CDPP after a referral from ASIC.

GetSwift – ASIC action for continuous disclosure, misleading and deceptive conduct and directors’ duties contraventions

ASIC was successful in bringing action against GetSwift Ltd (GetSwift) and its directors for continuous disclosure, misleading and deceptive conduct, and directors’ duties contraventions, with judgment handed down on 10 November 2021. Significantly, this was the first time ASIC has succeeded in establishing, on a contested basis, that the directors were knowingly concerned in the continuous disclosure contraventions of the company.

ASIC brought the proceedings against GetSwift and two of its directors, Bane Hunter, then executive chairman and chief executive officer, and Joel Macdonald, then managing director, in February 2019. In March 2019, ASIC joined GetSwift’s former director and general counsel, Brett Eagle, as a co-defendant to the proceeding.

In 2017, GetSwift made ASX announcements about agreements with clients, including Amazon, the Commonwealth Bank of Australia and Yum Brands, for the use of its software-as-a-service platform. However, these clients were only trialling, or contemplating a trial of, the GetSwift platform and the agreements. At the time of the announcements, these trials were not revenue generating. Over the period of the announcements, GetSwift’s share price rose almost 800%. GetSwift also raised \$100 million in capital from institutional investors, including \$75 million in December 2017 when the company’s share price was close to its peak.

In his judgment, Justice Lee said that the evidence before him revealed ‘what might be described as a public-relations-driven approach to corporate disclosure on behalf of those wielding power within the company, motivated by a desire to make regular announcements of successful entry into agreements with a number of national and multinational enterprise clients.’

NAB \$18.5 million penalty for misleading fee disclosures

Following ASIC action, in August 2021 National Australia Bank Limited (NAB) was ordered to pay an \$18.5 million penalty for failures relating to misleading fee disclosure statements.

NAB contravened its obligations as an Australian financial services licence holder to act efficiently, honestly and fairly by failing to have procedures and systems in place to provide timely and effective fee disclosure statements.

NAB breached the law on numerous occasions when it:

- › charged fees for personal advice without giving customers compliant fee disclosure statements
- › failed to provide fee disclosure statements to clients within the time required
- › made false or misleading representations to clients in fee disclosure statements about the amount clients had paid for services and the services which clients had received.

NAB's system failures resulted in significant fee disclosure failures over an extended period, causing harm to customers as the inaccurate information meant they could not make informed decisions about the financial services for which they were paying.

NAB's penalty was the first penalty imposed for fee disclosure statement failures under the Corporations Act.

Supervision and surveillance

ASIC's supervision and surveillance work is core to our statutory mandate to monitor and promote market integrity and consumer protection in the Australian financial system. It seeks to influence behavioural change and prevent harm resulting from poor corporate systems and conduct.

For more information on supervision and surveillance activities undertaken in 2021–22 see Chapter 3, beginning on page 67.

Sector-based and issue-based surveillance

In 2021–22, we completed:

- › over 240 surveillances in the deposit-taking and credit, financial advice, investment management and superannuation sectors to ensure that financial services providers complied with their conduct obligations
- › over 760 surveillances in the corporations, market infrastructure and market intermediaries sectors.

Through our surveillance, we identified and addressed 516 cases of failures, or potential failures, to comply with regulatory obligations.

Institutional supervision

ASIC's institutional supervision focuses on those financial institutions that have the greatest potential impact on consumers, due to market share or other factors. This focused supervision seeks to proactively minimise misconduct and consumer harm through the uplift of organisation-wide factors, including governance, accountability, systems and culture. The financial institutions subject to institutional supervision are the Big 4 banks (CBA, WBC, NAB and ANZ) and AMP since late 2018, and Suncorp since the 2020–21 financial year.

During 2021–22, we focused on the implementation of the design and distribution obligations in major financial institutions, and reviewing the effectiveness of the internal audit functions of the Big 4 banks – see pages 101–102.

Governance supervision

ASIC works to improve customer and investor outcomes by uplifting the governance practices of, and implementing governance-related reforms affecting, a broad spectrum of entities that ASIC regulates.

In 2021–22, our key governance focus areas were:

- › driving ASIC's preparation to implement and jointly administer with APRA the proposed Financial Accountability Regime. For more information on the Financial Accountability Regime, see page 24
- › engaging with firms on the findings from our review of whistleblower policies of a sample of regulated entities and publishing an open letter providing information about our review to improve policy standards. For a case study reporting on the outcomes of this work, see page 57
- › reviewing whistleblower programs from a sample of regulated entities to understand how these entities are handling whistleblower disclosures, using information from disclosures and to address issues or misconduct or change their operations, as well as the level of board and executive oversight of whistleblower programs.

Whistleblower policy review

Through our work reviewing a sample of 102 whistleblower policies, we sought to establish how entities have responded to the whistleblower regime introduced in 2019.

We were concerned that the majority of policies appeared not to include all the information required by the Corporations Act – such as information about the legal protections available to whistleblowers. We published a widely cited open letter to CEOs of entities subject to the whistleblower policy requirements, calling on them to review their policies to ensure that they are up to date and comply with the law.

We also directly engaged with a sample of the entities to provide targeted feedback about aspects of their policies and to seek improvements to address potential deficiencies. All of these companies made changes to improve their whistleblower policies, such as:

- › clearly articulating how, and to whom, a disclosure that qualifies for the legal protections for whistleblowers can be made
- › describing the legal rights and remedies on which whistleblowers can rely if they make a qualifying disclosure.

Public outcomes of our supervision and surveillance work

ASIC publishes the results of our supervision and surveillance work.

Our reports advance good consumer outcomes and change behaviour by driving improved practices across a sector or market.

In 2021–22, we released 37 supervision, surveillance or review reports, including on issues such as:

- › observations on how ASX and key stakeholders were impacted by and responded to the outage in November 2020, and expectations to support the resilience and robustness of the Australian equity market (Report 708

ASIC's expectations for industry in responding to a market outage (REP 708))

- › key trends from self-assessment surveys completed by financial markets firms, highlighting existing good practices and areas for improvement (Report 716 *Cyber resilience of firms in Australia's financial markets: 2020–21* (REP 716))
- › industry feedback on new market integrity rules aimed at promoting the technological and operational resilience of securities and futures market operators and their market participants (Report 719 *Response to submissions on CP 314 Market integrity rules for technological and operational resilience* (REP 719))

- › the findings of our review into superannuation trustee communications and our expectations for future communications about performance (Report 729 *Review of trustee communications about the MySuper performance test* (REP 729)).

Misconduct reports from the public

Our analysis of reports of misconduct received from the public is critical in informing our regulatory work.

ASIC encourages members of the public to report concerns about corporate and financial services to us. We use this

information to direct our regulatory activities to identify and address harms to investors and consumers.

Since the initial COVID-19 pandemic lockdown in early 2020, ASIC has seen consistently high levels of reports relating to scam behaviour. This has resulted in ASIC providing regular alerts, warnings and reminders to the public to be vigilant in protecting their money and identity.

For more information on misconduct and reportable situations, see pages 231–235.

Suspicious investment ‘opportunity’ from Cash FX Group

In October 2021, ASIC issued an alert not to transfer money to a suspicious investment opportunity from Cash FX Group which operates the website cashfxgroup.com.

Cash FX Group advertised its own trading platform and promoted itself through social media. However, it appeared to be running as a multi-level marketing company, relying on new members to recruit others through social media. Cash FX Group, which is not licensed to provide financial services in Australia, claimed that investors could earn over 20% per month – too good to be true – and accepted payment in crypto-assets (or cryptocurrencies), which do not offer consumers the same protection as they would receive if they paid by other means.

Along with ASIC’s alert, warnings have been published by regulators in Panama, the United Kingdom, Norway, New Zealand, the Bahamas, Canada, Jersey and British Columbia.

ASIC continues to engage with other Australian regulators on scams.

Licensing

ASIC assesses applications for AFS licences and credit licences. We also assess applications for registered company and self-managed superannuation fund (SMSF) auditors and supported the committee that assesses the registration of liquidator applications. We use a risk-based approach to assessment, devoting most resources to complex and higher risk applications to ensure that only suitable persons and organisations are licensed or registered.

In 2021–22, ASIC finalised 2,399 applications in relation to AFS licences and credit licences, including applications for licences, cancellations and suspensions. We approved 1,178 AFS licences and 267 credit licences. We cancelled or suspended 314 AFS licences and 224

credit licences, the majority of which related to licensees voluntarily applying for licence suspension or cancellation. During the reporting period, 251 AFS licence and credit licence applications were voluntarily withdrawn, mostly after we completed our assessment and informed applicants that they were unlikely to meet the statutory requirements to obtain a new or varied licence. We refused to accept 165 applications for lodgement, mainly due to material deficiencies in the information provided, with no assessed applications being refused in 2021–22.

We assessed 781 applications relating to auditor registrations, cancellations or suspensions (company auditor, authorised audit company and SMSF auditor). Of these, 151 were approved, 20 were withdrawn, 3 were refused and 607 were cancelled or suspended.

Insurance claims handling and settling services – Legislative licensing reforms

Legislative reforms commencing on 1 January 2021 made insurance claims handling and settling services (insurance claims handling) a new financial service. The law granted transitioning insurance claims handling providers six months to obtain an AFS licence, provided they applied to ASIC by 30 June 2021. Failure to obtain a licence by 31 December 2021 would result in these participants having to cease providing such services.

ASIC received 301 transitioning insurance claims handling applications (65 new and 236 variation applications). This represented a 30% increase compared to ASIC's recent historical average annual AFS licence application volume. As the transitional relief ceased on 31 December 2021, ASIC prioritised the assessment of these applicants to meet the transitional deadline.

ASIC successfully assessed all transitional applicants within the six-month transition period through the re-prioritisation of other licensing application-related activities. This had an impact on our ability to complete some licence applications and our Service Charter timeframes (see pages 34–36).

Licensing intermediaries seeking to provide services in relation to corporate collective investment vehicles – Legislative licensing reforms

On 1 July 2022, legislation creating a new type of investment vehicle, the corporate collective investment vehicle (CCIV), commenced. A CCIV is an alternative to using trust-based managed investment schemes. An AFS licensee is authorised to act as a corporate director, to operate the business and conduct the affairs of the CCIV.

In 2021–22, ASIC offered 172 AFS licensees – which already held authorisations to provide financial product advice and/or deal in managed investment schemes – an ASIC-initiated variation to their AFS licence to authorise them to provide the same services in relation to securities in a CCIV. This approach was taken because there are many similarities between CCIVs and managed investment schemes.

Of these AFS licensees, a total of 103 accepted ASIC’s offer. The ASIC-initiated variation removed the regulatory cost of licensees having to apply to ASIC to vary their licences. The AFS licensees avoided paying an application fee and spending time and resources preparing a variation application.

Licence application – Compliance and fit and proper officer concerns

ASIC raised concerns about an applicant's poor compliance culture, after receiving their application for a new AFS licence seeking to provide financial product advice via a financial product comparison website. After we communicated our concerns, the applicant withdrew its application rather than have the application determined by us.

ASIC became aware that the applicant and an associated entity were the subject of an investigation and subsequent determination by another Commonwealth regulatory authority, which the applicant failed to disclose to ASIC in its AFS licence application. That determination related to breaches of laws in the other regulatory authority's jurisdiction, involving unlawful marketing and poor compliance systems, processes and procedures. The applicant had failed to respond to warnings from the regulatory authority and had failed to implement changes to address compliance breaches and consumer harm. The applicant's lack of appropriate action demonstrated a poor compliance culture.

In light of this, ASIC:

- › was satisfied that there was an omission of a material matter from the AFS licence application
- › was not satisfied that it had no reason to believe that the director was not fit and proper to perform one or more functions as an officer of an entity that would provide financial services under an AFS licence if a licence were granted
- › was not satisfied that it had no reason to believe that the applicant is likely to contravene the obligations that will apply under section 912A of the Corporations Act if an AFS licence is granted.

Debt management services – Statutory withdrawal of a licence application

ASIC sought additional information from an applicant for a new debt management services licence during our assessment of the application. When the applicant failed to respond to ASIC's requests, ASIC notified the applicant that its application was taken to be withdrawn under subsection 37(7) of the National Credit Act given its failure to provide information requested by ASIC under subsection 37(4) of the Act.

While the applicant could re-apply in the future, the result was that the applicant had to immediately cease providing debt management services.

From 1 July 2021, providers of debt management services must hold an Australian credit licence authorising them to provide debt management services.

Transitional relief permitted existing providers to continue to provide debt management services without a licence authorisation if an existing provider had lodged a credit licence application or variation application with ASIC by 30 June 2021, until such time as the application was withdrawn, refused or granted. We received 84 debt management services licence applications before 1 July 2021.

Guidance

Through regulatory guides, consultation papers and information sheets, ASIC provides guidance to industry on how we will administer the law.

We do this to enhance industry participants' understanding of their legal obligations and how to meet them. Our feedback reports provide transparency about ASIC consultation.

In 2021–22, we published 20 consultation papers, 41 new or revised regulatory guides and 59 new or revised information sheets.

For a complete list of the publications issued, see our website at www.asic.gov.au/regulatory-resources/.

2.5 Registry services and outcomes

To realise our vision of a fair, strong and efficient financial system for all Australians, we aim to provide efficient and accessible business registers that make it easier to do business.

In April 2021, ASIC Registry staff and functions moved to the Australian Business Registry Services (ABRS) within the Australian Taxation Office (ATO) through a machinery of government (MoG) change. The Commissioner of Taxation was appointed as Registrar to assist ASIC in the performance of registry functions. ASIC has delegated our registry functions to the Registrar and to the ABRS staff as a transitional arrangement. At a later stage, the Registrar will assume primary responsibility for the registry functions under law. ASIC's Registry Interactions and Services team was established to manage ASIC's relationship with the ABRS.

This change was an important step in the progressive rollout of the Government's Modernising Business Registers (MBR) program. ASIC will continue to report on Registry performance until the Registrar assumes primary responsibility for registry functions under law.

ASIC's registers

The ASIC registers are the official source of information for business names, companies and financial professionals registered to operate in Australia.

They are a critical part of Australia's economic infrastructure.

The Registry is responsible for the administration of ASIC registers, including the two largest registers of companies and business names, and a range of professional and other registers.

The registry aims to:

- › ensure that information on the registers is accurate, up to date and available to those using the information, enabling business and consumer stakeholders to make informed decisions
- › make it easier for businesses to engage with ASIC and comply with the law, and to enhance commercial certainty
- › provide services that are online and accessible to all Australians
- › continuously improve registry services to support efficient registration.

Table 2.5.1: ASIC's registers

Outcome	Total 2021–22	Total 2020–21
Total companies registered	3.09m	2.92m
New companies registered	292,166	279,853
Total business names registered	2.54m	2.4m
New business names registered	421,607	460,409
Calls and online inquiries responded to by our Customer Contact Centre	523,858	599,377
Registry lodgements	3.25m	3.13m
Percentage of registry lodgements online	94.3%	94%
Number of searches of ASIC registers	265.8m	219.2m

Performance overview

Registry received almost 3.2 million lodgements during the 2021–22 financial year, with over 94% processed online without manual intervention. The most common lodgement made was 'Change to company details' (Form 484) with one million received. We also answered 523,000 inquiries through our Customer Contact Centre.

Business registration

Registry helped facilitate the registration of 714,000 new businesses, comprising 292,000 companies and 422,000 business names.

Throughout 2021–22, Registry promoted the use of the Australian Government Business Registration Service, launched in June 2018 and available through

business.gov.au. In total, 99.3% of applications to register a company or business name are now made online.

The cost of registering a business name is \$39 for one year and \$92 for three years.

Increased use of online channels

Over 94% of the almost three million lodgements received were submitted online, while the volume of lodgements submitted by mail decreased 3%. Similarly, telephone calls coming into our Customer Contact Centre decreased 4%, while inquiries submitted through our website increased 31%.

Analysis of key registry outcomes

Key outcomes achieved by ASIC's registry in 2021–22 are set out below.

Modernising business registers

In the 2018–19 budget, the Government announced its commitment to the modernisation of 31 ASIC registers, including the companies register, the Business Names Register and the Australian Business Register (ABR), on a new whole-of-government platform administered within the ATO.

Over the course of this year, ASIC has continued supporting Treasury and the ATO with the modernisation of Australian business registers. The MBR program, implemented by the ATO, has established the ABRS with a view to streamline registry interactions with Government. The ABRS will bring together the 31 in-scope ASIC registers, including the ABR. In the 2020–21 year, the Commissioner of Taxation was appointed as Registrar under relevant legislation. The Registrar's role is to lead and implement the MBR program and perform statutory registry functions and exercise registry powers as a delegate of ASIC. Our registry staff moved to the ATO to assist the Registrar, through an MoG change. At a later date, the Registrar will assume primary responsibility for the registry functions under law.

Impacts of the COVID-19 pandemic

The COVID-19 pandemic presented many challenges for businesses across Australia. During the pandemic, ASIC Registry services continued to be available to the public and regulated population, and all key service targets were achieved.

ASIC supported impacted businesses through initiatives such as fee waivers.

Natural disaster relief

ASIC has a long-standing history of supporting those impacted by natural disasters. This year, we have supported victims of floods which impacted many communities and businesses across Australia. We realise that circumstances such as natural disasters may make it difficult for businesses to pay fees or meet their lodgement obligations.

2.6 Unclaimed money

ASIC is responsible for the administration of unclaimed money from authorised deposit-taking institutions, under section 69 of the Banking Act; life insurance companies and benefit fund friendly societies, under section 216 of the Life Insurance Act; and companies with unclaimed money/property, under various sections of the Corporations Act.

ASIC's register of unclaimed money is publicly available, and claims are processed within 28 days of receiving all necessary claim documentation. We have paid claimants interest on unclaimed money from 1 July 2013. Interest rates are held on the ASIC Moneysmart webpage.

During 2021–22, ASIC received \$289 million in unclaimed money compared to the \$295.3 million received in 2020–21. We paid in claims and interest a total of \$109.7 million in 2021–22, compared with \$86.8 million the previous year.

Table 2.6.1 Amount paid to owners of unclaimed money

Claims by type	2021–22 (\$)			2020–21 (\$)
	Principal	Interest	Total	
Company	33,193,057	1,145,353	34,338,410	29,256,020
Banking	63,617,153	2,358,623	65,975,776	52,587,691
Life insurance	9,155,595	268,314	9,423,909	4,959,741
Total	105,965,805	3,772,290	109,738,095	86,803,452

Claims by type	2021–22 (\$)			2020–21 (\$)
	Principal	Interest	Total	
Deregistered company trust money	2,531,694	N/A	2,531,694	1,586,529