

ASIC'S PEOPLE

ASIC's people strategies have been designed to deliver on its unique employee value proposition which offers staff the opportunity to build their professional credentials that will be valued internally and externally.

ASIC offers staff interesting and challenging work, gaining a diverse insight into the world of financial services that only it can offer.

Leadership development

ASIC is committed to developing world class leaders to enable the organisation to deliver on its strategic priorities. This ongoing focus was reinforced by ASIC's 2008 Strategic Review findings which emphasised that leadership should be a key organisational imperative. During 2008–09, ASIC's leadership development strategy was refined to reflect these findings and to focus on five organisationally critical capabilities:

- ◆ Market focus
- ◆ Forward looking
- ◆ Collaboration
- ◆ Accountable
- ◆ Achievement

These capabilities now underpin and form the foundation for leadership development in ASIC. They have been used to shape the design of its Senior Executive Leadership Program and its Leadership Program aimed at mid-level managers.

Both programs are providing ASIC leaders with access to a wide range of best-practice development opportunities including customised leadership and management modules that have been developed in partnership with leading Australian business schools.

ASIC is confident that this investment will deliver tangible results as it supports the organisation's cultural direction and drive for enhanced levels of individual, team and organisational performance.

Building professional credentials

2008–09 saw a continued focus on building credentials for professions across the business with a particular focus on lawyers, accountants, auditors and investigators. ASIC's credential building strategy comprises three components:

Networks – establishing internal professional groups headed up by senior executive leaders to provide the direction for professional skill and credential building. The lawyer network came together in 2009 with over 400 members.

Communities of Practice – supporting each of the networks by creating targeted opportunities for staff, through smaller group discussion of professional topics, to deepen their knowledge and expertise.

Targeted learning – aligning formal and informal professional learning and training opportunities, at the individual and group level, provided through ASIC's People and Development team and a range of external providers.

ASIC's credential building program reflects the importance that a strong professional knowledge and skills base plays in being able to effectively deliver on its core strategic priorities. It is also working to provide a market-competitive professional learning environment – key to attracting and retaining talent.

Engaging new talent

ASIC's staff numbers have continued to grow with the establishment of new stakeholder and deterrence teams as well as in response to the challenges of the GFC.

ASIC has deliberately sought to attract and engage new talent with relevant industry experience to complement its existing talent and skill base recruiting 124 new employees in the Financial Economy group. ASIC's recruitment focused on attracting senior managers, senior specialists, lawyers, analysts, investigators and accountants. Recruitment has been across all levels from graduates to senior executive level.

ASIC is well advanced in preparing for its new responsibility for the national regulation of consumer credit which will see a significant boost to ASIC's numbers by 211.

ASIC IN THE COMMUNITY

In its second year, ASIC's corporate social responsibility program gives staff opportunities to make a difference by contributing to the wider community.

This program was established in response to the desire of ASIC's people to help others while in the work environment.

The program, run by a staff committee drawn from all ASIC offices, has three important elements:

- ◆ Workplace Giving
- ◆ staff volunteering, and
- ◆ reducing ASIC's environmental footprint.

During this past financial year, ASIC's people have raised a total of \$87,274 for community organisations. From Pink Ribbon events to the Victorian Bushfire Appeal, ASIC employees raised over \$50 per employee through fundraising events and Workplace Giving donations.

Workplace Giving: supporting causes close to our hearts

Workplace Giving means ASIC people can donate directly from their pay to one or more of the 20 charities supported by ASIC.

Raising money for Victorian bushfire victims

ASIC people responded quickly to raise money for victims of the Victorian bushfires, early this year, by holding fundraising morning teas in all offices. Together, ASIC's people raised over \$24,000 for the Red Cross Victorian Bushfire Appeal and the Gippsland Fire Relief Fund. These donations were over and above those made by individual ASIC people giving directly to the Red Cross and other charities, through blood donations to the Red Cross and donations of food, clothing and toiletries to the relief centres. ASIC's staff in the Traralgon centre in Victoria were outstanding in their generosity donating \$6863 to the bushfire appeal.



ASIC staff queue to give money for Victorian bushfire victims at a fundraising morning tea. Around Australia staff donated over \$24,000 for the Red Cross Victorian Bushfire Appeal and the Gippsland Fire Relief Fund.

Giving to other good causes

Fundraising morning teas were also held for Pink Ribbon events and 'Mr Movember', along with traditional collections of food, toys and gifts for the Salvation Army Christmas Appeal.

ASIC's Client Contact Centre (CCC) in Traralgon, Victoria, created a cookbook called 'Clever Cuisine Cookbook' to raise \$2170 for Noah's Ark, a local charity that supports families of children with developmental disabilities.

ASIC is a member of the Australian Red Cross 'Club Red' corporate blood donation program, and is encouraging and supporting staff to donate blood at special sessions held at its offices around the country.

Building a better community through volunteering

ASIC's Commission launched a Volunteering Program in September 2008. The program recognises the benefit ASIC volunteers bring to their local communities and the workplace by building a strong sense of community and improving staff morale and commitment by making a difference. ASIC staff are also entitled to one day per year of volunteering leave.

ASIC IN THE ENVIRONMENT

ASIC is committed in all its locations to building on past efforts to continue to reduce its carbon footprint and consumption of energy as well as improving its disposal of waste practices.

Environmental programs have been running since 2004. ASIC's largest office at No.1 Martin Place is certified to International Standard ISO 14001:2004 *Environmental Management Systems* and its Melbourne office also achieved ISO certification in July 2008.

A range of good environmental practices are in place across ASIC offices including recycling, lighting sensors, timers, use of recyclable goods, reduced packaging and the availability of parking for cyclists. Strategies are being implemented to better understand and improve environmental performance.

Office refurbishment projects undertaken in the financial year have been based on environmental principles with initiatives such as greater access to natural light, low VOC (volatile organic compound) paints and on surfaces, products with high recycled content, sensor lighting and perimeter light harvesting.

Hybrid vehicles replaced three fleet vehicles, with positive feedback received.

ASIC believes that many small steps taken by its workforce can make a significant impact. Therefore ASIC raises awareness among staff so they can play their part in making ASIC a greener work environment. Tips include how to save paper, switching off monitors at the end of the day, reporting and following up water leaks and recycling.

ASIC gets behind Earth Hour

The Australian Government took part in Earth Hour, with ASIC registering as a participant. ASIC's people took steps to ensure non-essential lights, PCs and appliances were switched off before they left work on the Earth Hour weekend. People were also encouraged to 'switch off' at home for Earth Hour.

Disclosure under the Environment Protection and Biodiversity Conservation Act

Section 516A of this Act requires ASIC to report matters relevant to environmentally sustainable development (ESD). In consequence, we report that:

- ♦ the only activities relevant to ESD principles concern procurement of goods and services
- ♦ ASIC's administration of legislation is not related to ESD principles
- ♦ none of the outcomes specified for ASIC in an Appropriation Act have ESD implications, and
- ♦ ASIC reviews and increases the effectiveness of its environmental impact measures through internal evaluation regimes, environmental auditing, benchmarks or targets.



South Australian Regional Commissioner, Mark Bielecki, at an Investor Forum Information Session. These sessions are an important way for ASIC to understand how it can better help investors and consumers in terms of financial literacy and scam avoidance.

ASIC IN REGIONAL AUSTRALIA

ASIC's work in regional Australia is focused on delivering efficient and cost effective services to local stakeholders and ensuring local issues are identified and receive the required resources. Here are just a few examples of the work ASIC is involved in with regional stakeholders.

Public information sessions in country Victoria

Warren Day, Victorian Regional Commissioner, conducted a 'roadshow' of public information sessions in country Victoria visiting Horsham, Warrnambool and Mildura. He also discussed the relationship between return on investment and risk with students studying money and financial matters at Horsham Secondary College.

During the business session at Horsham, the issue of an international investment scam was raised and ASIC was subsequently able to identify the scam and raise awareness of it among the wider Australian community. It was a good example of local knowledge being made available more widely in an effort to protect retail investors and consumers.

Meetings with stakeholders in regional Queensland

Maree Blake, Queensland Regional Commissioner, held liaison meetings with a wide range of business and investor regional stakeholders in Toowoomba, Cairns, Townsville, Mackay, Rockhampton, Bundaberg and Hervey Bay, as well as in Brisbane and surrounding areas. Building on ASIC's priority of being close to the market, these liaison meetings developed networks to improve communication and stakeholder interaction and assist with the early identification of potential misconduct and high risk activities, particularly those directed at the retail investor sector. Maree has presented at numerous forums across the state covering a range of topics from ASIC's renewed structure and strategic priorities to retail investor issues, and will be continuing regular liaison with regional stakeholders.

Investor forums in regional South Australia

In May and June 2009, Mark Bielecki, South Australian Regional Commissioner, and two senior ASIC staff visited eight regional locations in South Australia, delivering an investor forum information session at each place and an industry stakeholder session at seven of the locations. The investor forum was held to increase the profile of ASIC in regional South Australia by raising awareness of its role, responsibilities and offerings; provide basic investing information and accessing financial services; and to identify regional issues. Mark also held a 'City of Adelaide Information Session' (an investor forum) which was booked out. The regional stakeholder sessions: reflect the priority of the South Australian Regional Office to become more accessible to the industry sectors ASIC regulates and works with; effectively identify business issues and concerns; further develop relationships with industry stakeholders; raise awareness of ASIC's current activities and priorities; and also gather intelligence. In the CBD this is achieved with an active program of Regional Liaison Committee meetings.

Financial literacy programs in Northern Territory

In the Northern Territory, a key focus for the team of the Regional Commissioner, Duncan Poulson, has been a working partnership with other agencies and organisations that deliver government programs in remote communities. Staff from ASIC's Northern Territory office visited 20 regional and remote indigenous communities during the year. Their work included supporting school-based projects and working with FaHCSIA on delivering on-the-ground financial literacy programs for remote indigenous communities. It is a source of pride that five of the seven winners of ASIC's Moola matters competition in 2008 were Indigenous students from remote Northern Territory schools.

ADDITIONAL ASIC OUTCOMES AND OUTPUTS (ACHIEVEMENTS)

ASIC's outcome and output framework sets out what ASIC has agreed to deliver to Government for 2008–09. It reflects the products and services ASIC delivers and informs its budget and reporting process. Each year, details of the framework are outlined in the Portfolio Budget Statements, along with the relevant performance information. For resource statements and resources for outcomes, see page 81. ASIC's 2008–09 framework and performance information follows.

Each year, details of the framework are outlined in the Portfolio Budget Statements, along with the relevant performance information.

ASIC's outcome and output framework has been rewritten for the 2009–10 year to reflect the new direction set by the strategic review.

Outcome 1: A fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers

Output 1: Policy and guidance about the laws administered by ASIC

Key performance indicators	2008–09 target	Outcome
Extent to which advice and recommendations are approved by the Minister	80% of advice to Minister on markets rule changes within 14 days of lodgement	92% of advice on market licensee operating rule changes were sent to the Minister within 14 days of formal lodgement (12 of 13)
Extent to which ASIC provides guidance and that there is effective consultation about that guidance	Full compliance with the consultation requirements set out by the Office of Best Practice Regulation	Full compliance as per our target
Consumers and investors are provided with information about their rights and responsibilities and how best to make informed choices under this legislative regime	Increased number of visits to ASIC's consumer website, FIDO	-1% (1,456,386 compared to 1,474,622) Decrease due to very large number of visits for unclaimed money in previous year
	An increase in the number of high schools that use ASIC's new superannuation and insurance interactive schools resources measured over a two-year period	<i>Your money starter</i> was released 2008-09 and distributed to every registered high school in Australia. (7,334 visits to related webpage this financial year)

Our outcome and output framework sets out what we have agreed to deliver to Government. It reflects the products and services we deliver and informs our budget and reporting process.

Key performance indicators	2008–09 target	Outcome
Consumers and investors are provided with information about their rights and responsibilities and how best to make informed choices under this legislative regime	The percentage of issuers of unlisted and unrated debentures (UUD) that distributes ASIC’s UUD investor guide with their prospectus	Only 2 of the 23 still active UUD issuers who agreed to distribute the report with their prospectus were found to be doing so when ASIC reviewed issuers. 19 issuers made the guide available on their website or linked to it. 29,500 copies of the report have been distributed to issuers.
	Increased media coverage of ASIC’s consumer messages	We released 24 consumer related media releases in this period (35 in 2007–08). These generated 151 mentions of ASIC in consumer related media (184 in 2007-08) and 66 specific media mentions of FIDO (65 in 2007–08).
	Over the longer term – improvements in financial literacy levels as shown in ANZ’s National Financial Literacy survey that is undertaken every two years	The latest ANZ survey, released 2008, shows improvements including some small gains in understanding of investing fundamentals.

ADDITIONAL ASIC OUTCOMES AND OUTPUTS (ACHIEVEMENTS) (CONTINUED)

Output 2: Comprehensive and accurate information on companies and corporate activity

Key performance indicators	2008–09 target	Outcome
Ensuring the corporate register is available to the public to search	Availability of corporate register	Business hours: 99.5% 24 hours: 99.6%
	Increase in the number of searches of the corporate register	16% increase (8,461,036 searches)
Ensuring the corporate register remains current and up-to-date by processing changes promptly and efficiently	Percentage of key documents processed within 48 hours of receipt	99% of key documents processed within 48 hours of receipt
	Increased percentage of documents lodged electronically as a result of initiatives adopted by ASIC	The number of documents lodged electronically has increased.
	Increased percentage of company data lodged on time as a result of initiatives adopted by ASIC	95% of company data lodged on time as a result of initiatives adopted by ASIC
Providing stakeholders with information about their obligations under the Corporations Act	All companies provided company statements by ASIC within 14 days of their annual review date	Over 99% of company statements were successfully generated within 14 days.
	Call centre answers at least 80% of all calls within 60 seconds	The grade of service increased from September 2008 to 90% of calls being answered within 60 seconds.

Purchaser-provider arrangements: ASIC provides direct access to information from its databases to over 20 Commonwealth and state government agencies, to assist the agencies perform their regulatory and law enforcement functions. A number of Commonwealth agencies also have access to non-public information via memoranda of understanding.

Output 3: Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity

Key performance indicators	2008–09 target	Outcome
Compliance activities lead to the identification of specific behaviour patterns, problems or risk areas and most appropriate responses to them	Entities make better disclosures to the market where specific behaviour patterns, problems, or risks have been identified associated with fund raising or financial services and products	54 entities made better disclosure
	Entities make changes to their compliance arrangements and/or behaviours where specific behaviour patterns, problems or risks have been identified	19 entities made changes to their compliance arrangements
Prompt and efficient notification to entities and individuals regarding their application for, or amendment to their licence requests	70% of applications for Australian Financial Services (AFS) licences and variations to AFS licences decided within 28 days	72% of applications for AFS licences (234 of 323) decided within 28 days; 84% of variations decided within 28 days (863 of 1023)
	100% of managed investment schemes registered within 14 days	100% (297 of 298). The remaining scheme was registered on the 15th day because of a public holiday.
Prompt and efficient assessment of capital markets	80% of recommendations to the Minister on new market licences made within 16 weeks of receiving a complete application	Not applicable: no recommendations were made to the Minister in this period
	80% of findings on assessment of markets are provided to the licensee within 2 months of inspection	50% of findings on assessments provided to the licensee within 2 months of inspection (6 of 12)
Discretionary decision making in accordance with principles of administrative law	No successful appeals to the Administrative Appeals Tribunal regarding ASIC decisions to grant AFS licences or relief from obligations under the Corporations Act	One successful appeal to the Administrative Appeals Tribunal

ADDITIONAL ASIC OUTCOMES AND OUTPUTS (ACHIEVEMENTS) (CONTINUED)

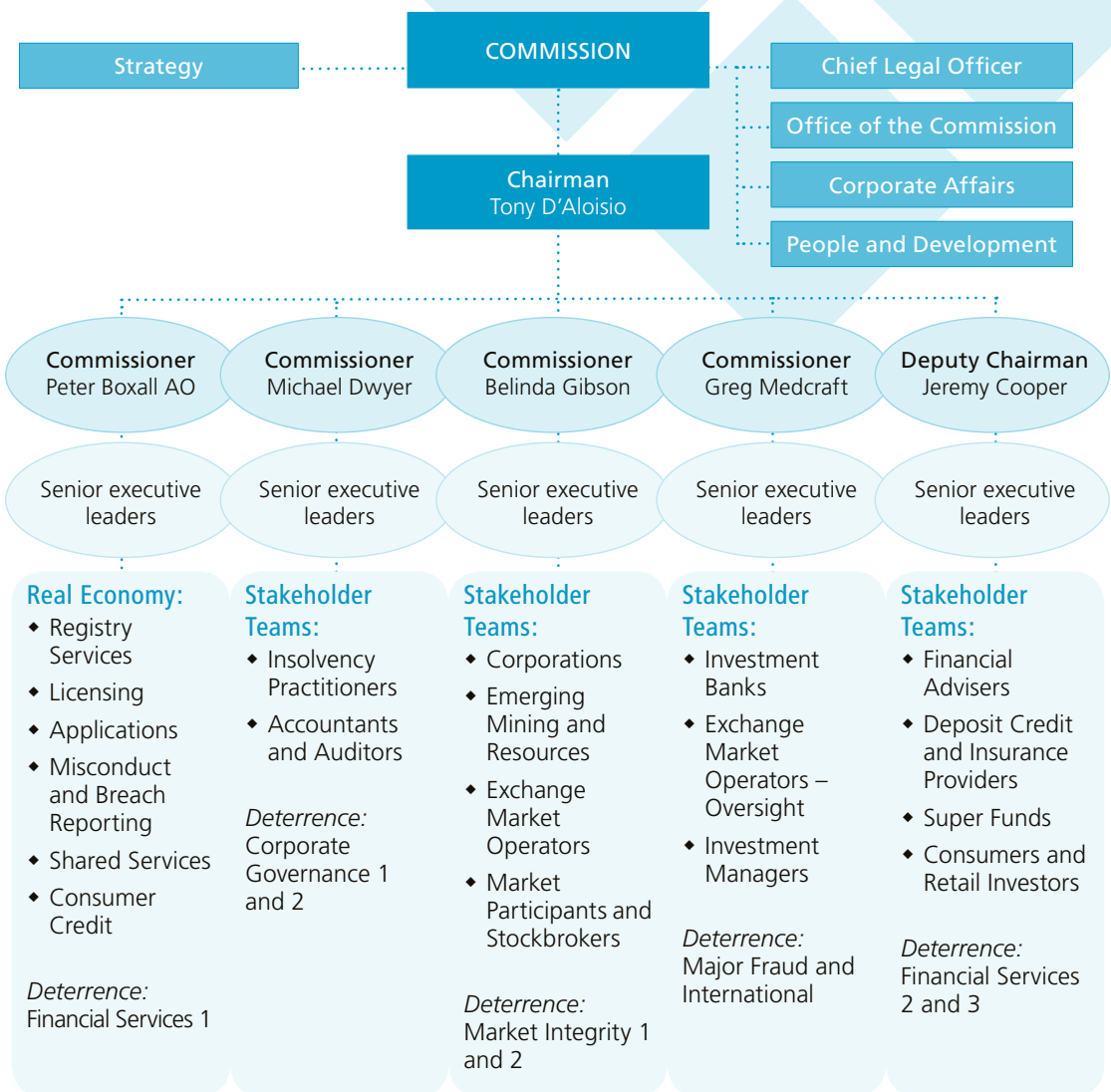
Output 4: Enforcement activity to give effect to the laws administered by ASIC

Key performance indicators	2008–09 target	Outcome
Prompt and efficient conduct of investigations resourced	50% of investigations resourced that led to a conclusion within 6 months of commencement	34% of investigations resourced led to a conclusion within 6 months of commencement (48 of 140)
	No more than 15% of investigations resourced that led to a conclusion after 12 months of their commencement	40% of investigations resourced led to a conclusion after 12 months of their commencement (56 of 140)
Enforcement actions lead to the protection of consumers and investors	Percentage of successful criminal prosecutions by the Commonwealth Director of Public Prosecutions	80% successful criminal prosecutions by the Commonwealth Director of Public Prosecutions (37 of 46)
	Percentage of successful civil prosecutions	94% successful civil prosecutions (83 of 88)
	70% of investigations resourced that lead to an enforcement outcome	59% of investigations resourced lead to an enforcement outcome (82 of 140)
Complaints received are resolved promptly and efficiently	Customer service levels maintained with a minimum of 70% of complaints assessed, finalised and the complainant notified of outcome within 28 days of receipt	70% of complaints (9602 of 13,633) finalised in 28 days

ORGANISATIONAL STRUCTURE

Strategic leadership, 30 June 2009

ASIC Commissioners provide strategic leadership to all ASIC's activities.



ORGANISATIONAL STRUCTURE (CONTINUED)

New ASIC structure

The new ASIC structure has been in place since 1 September 2008. Each Real economy and each Financial economy team is led by a senior executive leader, 36% of whom were recruited externally from the market.

This structure helps ASIC focus on its priorities in both the financial economy and the real economy.

Financial economy teams

ASIC's 12 financial economy stakeholder teams, with strong industry and regulatory experience, are focused on monitoring the market and ensuring compliance with the rules and developing policy initiatives.

Its eight specialised deterrence teams have brought sharper focus to the investigation and prosecution of serious misconduct.

Real economy teams

Its real economy teams are focused on stakeholder services and delivering a first-rate public register and registration function.

Other strategic leadership

ASIC has made a significant investment in market research and economic analysis to better identify emerging issues and monitor real-time changes in the markets.

And it's struck a better balance between national and regional priorities by appointing new ASIC Regional Commissioners – a valuable source of local on-the-ground knowledge of key developments and issues.

ASIC'S STAKEHOLDERS

Who ASIC's work covers

Consumers, investors and creditors of corporations and other businesses, including an estimated*:

- ◆ 16.9 million people who have a deposit account
- ◆ 11.8 million who invest in superannuation or annuities
- ◆ 10.8 million who have a major card (credit, debit or charge)
- ◆ 6.7 million who have a loan (e.g. home loan, mortgage on investment property, bridging loan, home equity loan, personal loan, lease)
- ◆ 3.9 million who directly hold shares (excludes any shares held in any type of managed investment or superannuation)
- ◆ 2 million who have invested (managed investment /superannuation) through a financial planner /adviser, and
- ◆ 1 million who invest in managed investments.



* Source: Roy Morgan Research, 12 months to March 2009, people aged 14+.

COMMISSIONERS



From left: Jeremy Cooper, Michael Dwyer, Belinda Gibson, Tony D'Aloisio, Greg Medcraft, Peter Boxall AO

Tony D'Aloisio

BA, LLB (Hons)

Mr Tony D'Aloisio became ASIC Chairman on 13 May 2007 for a four-year term. Between 22 November 2006 and 13 May 2007, Mr D'Aloisio held the position of ASIC Commissioner.

Mr D'Aloisio has extensive commercial and legal experience and has been involved in business policy and regulation.

Prior to joining ASIC, he was Managing Director and Chief Executive Officer at the Australian Stock Exchange from 2004 to 2006.

Prior to this, he was Chief Executive Partner at Mallesons Stephen Jaques between 1992 and 2004. Mr D'Aloisio joined Mallesons in 1977 where he practised as a commercial lawyer until taking up his role as Chief Executive Partner. His principal areas of practice were mergers and acquisitions, taxation and restrictive trade practices and international trade and investment.

In addition to practising law, Mr D'Aloisio held a number of management and business positions within Mallesons, with his role involving extensive assessment of markets in Hong Kong, China, Thailand, Taiwan, Indonesia, Singapore, Malaysia, USA and the UK.

Jeremy Cooper

LLB (Hons), FAICD, SF Fin

Mr Jeremy Cooper was the Deputy Chairman of ASIC, having been appointed in July 2004 for a five-year term. In May 2009, the Government announced a review into the governance, efficiency, structure and operation of Australia's superannuation system. Mr Cooper took up his new role as the Chair of the review in July 2009.

He was previously a partner with a leading Australian law firm where he was involved in many major corporate transactions, including takeovers, reconstructions, ASX listings and capital raisings.

Mr Cooper has been a member of the Corporations Committee of the Business Law Section of the Law Council of Australia since 1995 and is a regular speaker on corporate law issues.

Belinda Gibson

BEC, LLB (Hons), LLM (Hons)

Ms Belinda Gibson was appointed as an ASIC Commissioner on 5 November 2007.

Prior to her appointment Ms Gibson was a Partner at Mallesons Stephen Jaques where she specialised in transactional advice and in corporate and securities law. Ms Gibson has managerial experience through her role as Partner in Charge of the Sydney office of Mallesons Stephen Jaques from 2000 to 2003. Through her practice she has extensive knowledge of corporate governance and accounting practices in Australia.

She was also a director of Air Services Australia from 2001 to 2004 and a charitable body, the Sir Robert Menzies Memorial Foundation, from 1990 to 2007.

Dr Peter J. Boxall AO

BEC (Hons), MEd, PhD

Dr Peter Boxall joined ASIC as a Commissioner on 2 February 2009.

Mr Boxall was previously Secretary of the Department of Resources, Energy and Tourism, following six years as Secretary of the Department of Employment and Workplace Relations and five years as Secretary of Finance and Administration with the Australian Government.

He is an economist, with a doctorate from the University of Chicago.

Mr Boxall commenced his career with the Reserve Bank of Australia then spent seven years at the International Monetary Fund in the US, followed by graduate studies at the University of Chicago and a graduate fellowship at The Brookings Institution.

On returning to Australia in 1986, Mr Boxall joined the Department of Treasury. He was Senior Economic Adviser to the Leader and Deputy Leader of the Opposition in the late 1980s and early 1990s. He was Secretary of the Department of Treasury and Finance in South Australia, then Principal Adviser to the Treasurer, the Hon Peter Costello MP.

Greg Medcraft

Mr Greg Medcraft joined ASIC as a Commissioner on 2 February 2009.

Prior to joining ASIC, Mr Medcraft was Chief Executive Officer and Executive Director at the Australian Securitisation Forum (ASF).

He spent nearly 30 years in investment banking at Société Générale (SG) in Australia, Asia, Europe and the Americas, where he became the Managing Director and Global Head of Securitisation based in New York. Prior to his roles at SG, Mr Medcraft was a chartered accountant at KPMG.

In 2002, Mr Medcraft co-founded the American Securitisation Forum and was its Chairman from 2005 until 2007, when he returned to Australia.

Michael Dwyer

MBA

Mr Michael Dwyer became a Commissioner on 16 February 2009.

He has extensive experience as a chartered accountant and an insolvency practitioner, including a term as National President of the Insolvency Practitioners' Association of Australia. He also held positions as the National Chairman of the Business Recovery Group at Howarth Australia Ltd and as Partner in Charge of Corporate Recovery Practice at KPMG in Adelaide. He then opened his own firm, Dwyer Corporate. Mr Dwyer also has strong international knowledge of financial and operational restructuring.

REGIONAL COMMISSIONERS

Regional Commissioners play a vital role in ensuring ASIC gathers information on developments and issues in the states and territories and liaising with ASIC's external stakeholders and State and Territory governments.

One of the changes resulting from ASIC's strategic review was to strike a better balance between national and regional priorities and initiatives. ASIC's eight Regional Commissioners are responsible for delivering efficient and cost-effective services to local stakeholders, and ensuring local issues are identified and receive the required resources. An important part of ASIC's engagement with stakeholders is the attendance by ASIC Commissioners at regular Regional Liaison Meetings held by ASIC in each state and territory with a wide range of stakeholder representatives.

Under ASIC's new structure, the prominence of Regional Commissioners has been raised

Maree Blake (Qld)

Ms Blake joined ASIC in 2005 and held the position of Specialist Director, Corporations and Insolvency within the agency's former Enforcement directorate where she was responsible for corporate governance, insolvency and auditor and liquidator matters. She was appointed Regional Commissioner for Queensland in October 2008. Before joining ASIC, Ms Blake was a partner with Sims Partners Chartered Accountants and PPB Chartered Accountants, specialising in corporate restructuring and insolvency. She is a Fellow of CPA Australia and a Graduate Member of the Australian Institute of Company Directors (GMAICD).



Greg Yanco (NSW)

As well as being Regional Commissioner for NSW, Mr Yanco is Senior Executive Leader for Market Participants. He was formerly Chief Executive Officer, AXE ECN Pty Limited and Manager, Institutional and Wholesale Markets, during his career at the Australian Stock Exchange (1986–2006). Mr Yanco has extensive experience and knowledge in financial market development, regulation and supervision. At the ASX, Mr Yanco implemented equity market structure changes and managed the operations of the market surveillance and investigations units. He is a CPA and a Master, Securities and Derivatives Industry Association.



Delia Rickard (ACT)

Ms Rickard joined ASIC in 1999 and held a number of senior positions in the agency's former Consumer Protection directorate. She was appointed Regional Commissioner for ACT in 2004, and is also Senior Executive Leader for Consumers, Retail Investors and Financial Literacy, working closely with the consumer sector, industry and other areas of government. Before joining ASIC, Ms Rickard ran the Australian Competition and Consumer Commission's consumer protection branch and also worked on the Secretariat for the Wallis Inquiry into Australia's financial system.



Warren Day (Vic.)

Mr Day joined ASIC in 2003 as a senior lawyer in enforcement and from 2007, was the Specialist Director, Investor and Consumer Protection. During this time, he led investigations about consumer protection,



credit and unlicensed conduct and illegal schemes, including more recently Firepower and Chartwell. He was appointed Regional Commissioner for Victoria in October 2008. Before joining ASIC, Mr Day worked as a solicitor at Clayton Utz and as an auditor and analyst at the Australian Taxation Office.

Julie Read (Tas.)

Ms Read joined ASIC from the Commonwealth Director of Public Prosecutions' Hobart office, where she was the Assistant Director for five years. She was appointed Regional Commissioner for Tasmania in 2002 and has brought her strong legal background and familiarity to ASIC's enforcement work. Before 1998, Ms Read worked with the Australian Government Solicitor's Office in Hobart and in private practice in a variety of commercial, criminal and civil litigation areas.



Mark Bielecki (SA)

Mr Bielecki was appointed South Australian Regional Commissioner in October 2008. Among other roles, he was previously a managing partner of commercial law firm, Finlaysons in Adelaide, and of the Sydney office of Thomson Playford. Mr Bielecki also led PricewaterhouseCoopers Legal's National Dispute Resolution and Litigation Business Unit.



Throughout his career, Mr Bielecki has specialised in commercial dispute resolution. He has extensive experience in practice in South Australia and New South Wales and has practised, or represented clients, in every state and territory of Australia and in New Zealand and the USA. In addition to his Regional Commissioner responsibilities, Mr Bielecki holds

the role of ASIC Special Counsel and also sits on a number of ASIC Project Taskforce Boards, including the Board of the Credit Taskforce, which is preparing for ASIC to take over the regulation of consumer credit.

Bruce Dodd (WA)

Mr Dodd was a former Senior Partner and Partner in Charge in the Perth office of Mallesons Stephen Jaques. He specialised in commercial dispute resolution with a particular emphasis on insurance, insolvency and bank litigation and has extensive experience in the financial and business markets in Western Australia. Mr Dodd was appointed Regional Commissioner for WA and Senior Executive Leader of Emerging Mining and Resources in September 2008 and took up his role at ASIC in October 2008.



Duncan Poulson (NT)

Mr Poulson was appointed Regional Commissioner for the Northern Territory in 2006, having previously served as a lawyer with ASIC since 2000. He has contributed to ASIC's enforcement, regulatory, and educational programs throughout the Northern Territory. Before joining ASIC, Mr Poulson was a Lecturer in Commercial Law and International Business at the University of Tasmania, teaching in Tasmania and Asia. In recent times, his work with ASIC has focused on financial services consumer issues, with a particular emphasis on financial literacy initiatives.



WORKING AT ASIC

Health and safety at work

ASIC is committed to developing a workplace culture that values health and safety. It recognises its moral and legal responsibility to provide a safe and healthy work environment for employees and visitors. In support of this, ASIC has developed the Health and Safety Management Arrangements that outline the organisation's framework for managing health and safety.

There were 21 workers compensation claims lodged with 13 claims accepted, four rejected and four pending. Most claims were for back, neck, shoulder or limb problems and occupational overuse syndrome.

ASIC educated staff about measures to prevent workplace injuries by conducting several office ergonomics sessions in Adelaide and Perth as part of the recent office refurbishments at those sites. These sessions were well received by staff. In addition to these sessions, occupational therapists conducted workstation assessments for staff attending the sessions.

For other sites, the OH&S and Workers Compensation Unit conducted a significant number of workstation assessments as a preventative initiative.

There were no serious personal injury notices sent to Comcare under s68 of the *Occupational Health and Safety Act 1991* and no investigations conducted during the year under s29 or s47 of the Act.

ASIC's employee assistance program is available to give assistance for personal and work-related problems. The annual utilisation was 6.1% including family members, compared to a rate of 6.4% for 2007–08. As part of ASIC's influenza vaccination program, 575 staff were vaccinated.

The OH&S and Workers Compensation Unit is in the process of preparing a wellbeing program for next financial year. It is anticipated that a survey will be conducted before the end of 2009 to determine the wellbeing needs of staff.

ASIC has introduced a WorkPace program in its Traralgon office. WorkPace is an exercise and rest break software program used as a tool to prevent occupational overuse injuries. The recent pilot program conducted during the year resulted in ASIC purchasing 200 licences. Access to the program will be given to staff with needs before the end of 2009.

ASIC provides a range of financial rewards and non-financial benefits, such as flexible working arrangements, in order to attract and retain high-quality staff.

Industrial and workplace relations

ASIC provides a range of financial rewards and non-financial benefits, such as flexible working arrangements, in order to attract and retain high-quality staff. Eligible employees received performance bonuses (ranging from three to 15% of salary) based on the outcomes of their performance review. There is also access to salary packaging and study assistance, including assistance with fees and leave to attend courses and exams.

Performance payments paid in 2008–09 by classification*

Employee level	Number of recipients	Aggregate performance payments \$	Performance payment range		Average performance payment \$
			Minimum \$	Maximum \$	
ASIC 4	112	360,039	991	10,685	3,215
EXEC 1	276	1,126,302	468	9,702	4,081
EXEC 2	393	2,371,529	1,245	16,032	6,034
SES	47	714,269	4,030	44,324	15,197
ASIC	828	4,572,138	468	44,324	5,522

* This includes payments for the 2007–08 performance year, paid in 2008–09, plus pro-rata payments for the 2008–09 performance year for staff who have left ASIC in 2008–09.

The ASIC Collective Agreement 2007–09 (CA) was approved by staff in July 2007. It supports a culture of rewarding performance and recognises flexibility as an integral component in balancing work and other commitments.

Negotiations for new Enterprise Agreements started in May 2009 to replace the ASIC 2007–09 Collective Agreement. In new agreements, ASIC is looking to build on current employment conditions and to make improvements where appropriate.

WORKING AT ASIC (CONTINUED)

Industrial arrangements for ASIC staff, as at 30 June 2009

Classification	ASIC Act s120(3) contract	AWA	CA	CA24*	Total
ASIC 1–3 (APS 1–5)			606		606
ASIC 4 (APS 6)		99	245		344
EXEC 1	2	242	23	110	377
EXEC 2		354	6	99	459
SES & equiv	27	30	4		61
Total	29	725	884	209	1,847†

* CA with supplementary conditions included in a *Public Service Act 1999* s24(1) determination.

† The actual number of industrial arrangements, which includes part-time staff.

The majority of ASIC's executive level staff are covered by Australian Workplace Agreements (AWAs) that recognise the specific requirements of work at the executive level, as well as the expectations of these staff in terms of their reward and recognition. ASIC 4 staff who were already on AWAs have access to a performance bonus not available under the CA.

In order to ensure ASIC is able to attract quality staff and to maintain parity with existing staff in similar roles, new employees at the executive levels are covered by the CA and have their terms and conditions supplemented under the provisions of s24(1) of the *Public Service Act 1999*.

The ASIC Act includes a specific employment power to engage executive and senior executive staff under s120(3) contracts on terms and conditions consistent with those of ASIC's Australian Public Service (APS) staff.

During 2008–09 a major recruitment exercise commenced to attract the skills and experience required to meet the demands imposed by evolving Financial and Real Economies.

Salary ranges per annum

Classification	Minimum \$	Maximum \$
ASIC 1	37,034	40,931
ASIC 2	43,068	51,526
ASIC 3	54,898	62,928
ASIC 4	65,690	74,365
Exec Level 1	82,172	100,811
Exec Level 2	94,771	138,346
SES	131,000	260,000

Remuneration for ASIC's SES level is determined by the responsibility and accountability of the role, relativities with the remuneration of SES officers across the APS (and, when appropriate, the external marketplace in order to attract and retain appropriately skilled staff), and the particular skills, knowledge and experience of SES level candidates for the position.

During 2008–09, ASIC restructured its workforce to better meet its regulatory obligations. A major recruitment exercise commenced to attract the skills and experience required to meet the demands imposed by evolving Financial and Real Economies.

Equal opportunity and merit

ASIC is an equal opportunity employer. Excluding contractors and agency temporary employees, 45% of senior executives are females, reflecting no change from last year. Females comprise 59% of total employees.

All ASIC staff must adhere to the APS values and code of conduct under the Public Service Act.

Staff ethics

All ASIC staff must adhere to the APS values and code of conduct under the Public Service Act. The values and code require impartiality, honesty, diligence and service, and all staff are required to attend training to learn about and apply the values and code.

Formal procedures require disclosure of any real or apparent conflict of interest. Commissioners and staff are required to take no part in decisions where real or apparent conflicts of interest may arise. ASIC has special reporting and decision-making procedures to maintain the integrity of its decisions.

Staff were required to keep registers of interests that supervisors may inspect at any time, and senior executives were required to submit statements of interests to the Chairman. Biannual disclosures are made by staff in February and July. The Commission has appointed senior disclosure officers to advise managers and staff on how to handle possible conflicts.

The APS values and code of conduct are covered in induction training for new staff and through continuing education of staff about their responsibilities at work.

WORKING AT ASIC (CONTINUED)

Other resources

ASIC has internal and external grievance procedures, including review of actions under the Public Service Act and appeals to the Australian Public Service Commission.

Dispute avoidance and settlement provisions are included in the ASIC certified agreement.

Fraud control

In 2008–09, ASIC continued to implement the strategies outlined for its 2007–09 Fraud Control Plan, which covers strategies and processes to avoid, detect, investigate and minimise the effects of fraud. ASIC maintained reporting and data collection mechanisms that met its needs and complied with the Commonwealth Fraud Control Guidelines.

ASIC employees (including SCT* and CALDB† staff) by classification and location, average FTE‡ for years ended 30 June

	Vic		NSW		Qld		WA		SA	
	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
Chair	1	1	1	1						
Deputy chair	2	2								
Member			2	1						
SES	12	16	30	31	2	3	1	1	2	2
Exec 2	129	105	196	176	32	28	27	24	12	14
Exec 1	93	101	160	143	29	29	31	30	12	11
ASIC 4	123	115	115	114	34	32	16	23	17	16
ASIC 3	122	116	70	70	26	32	11	21	14	17
ASIC 2	183	188	18	29	15	15	12	12	7	6
ASIC 1	26	39								
Contractors§	3	7	69	57		2	1	3		
Total	694	690	661	622	138	141	99	114	64	66

* Superannuation Complaints Tribunal

† Companies, Auditors and Liquidators Disciplinary Board

‡ Inconsistencies in totals and subtotals are due to rounding

§ Includes all non-payroll IT contractors, secondees and agency staff

ASIC has internal and external grievance procedures, including review of actions under the Public Service Act and appeals to the Australian Public Service Commission.

ACT		Tas		NT		Total		
2009	2008	2009	2008	2009	2008	2009	2008	
						2	2	Chair
						2	2	Deputy chair
						2	1	Member
1	1	1	1			49	55	SES
4	2	4	4			404	353	Exec 2
6	4	5	2	2	2	338	322	Exec 1
3	3	3	4			311	307	ASIC 4
2	3	3	2	2	2	250	263	ASIC 3
3	3	2	2			240	255	ASIC 2
						26	39	ASIC 1
1	1					74	70	Contractors [§]
20	17	18	15	4	4	1,698	1,669	Total

WORKING AT ASIC (CONTINUED)

Operative and paid operative ASIC staff (including SCT* and CALDB† staff) by classification and gender, average FTE‡ for years ended 30 June

Employment type and classification	Ongoing full-time				Ongoing part-time				Non-ongoing full-time	
	Female		Male		Female		Male		Female	
	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
Appointee§										
Chair									1	1
Deputy chair	1	1								
Member									1	1
Appointee total	1	1							2	2
ASIC Act										
Exec 1			1	1						1
Exec 2									1	6
SES	2	4	1	2					7	6
Contractors~									21	28
ASIC Act total	2	4	2	3					29	41
Public Service Act										
ASIC 1	2	2	1	1		1			11	19
ASIC 2	101	114	33	43	56	51	6	4	23	25
ASIC 3	124	141	70	79	23	19	5	1	13	14
ASIC 4	156	143	105	121	26	21	7		6	10
Exec 1	130	135	157	139	20	16	12	4	5	10
Exec 2	118	89	219	199	31	31	14	6	4	4
SES	11	12	11	14	2	2				
Public Service Act total	642	636	596	596	158	141	44	15	62	82
Total	645	641	598	599	158	141	44	15	93	125

* Superannuation Complaints Tribunal

† Companies, Auditors and Liquidators Disciplinary Board

‡ Inconsistencies in totals and subtotals are due to rounding

§ Includes the Chair and Acting Deputy (APS ongoing staff) of the SCT

~ Includes all non-payroll IT contractors, secondees and agency staff

Non-ongoing full-time		Non-ongoing part-time				Total		Employment type and classification
Male		Female		Male				
2009	2008	2009	2008	2009	2008	2009	2008	
								Appointee^s
1	1					2	2	Chair
1	1					2	2	Deputy chair
				1		2	1	Member
2	2			1		6	5	Appointee total
								ASIC Act
1	4					2	6	Exec 1
1	9					2	15	Exec 2
10	14	1	1	4		25	27	SES
53	42					74	70	Contractors [~]
65	69	1	1	4		103	118	ASIC Act total
								Public Service Act
3	5	8	9	1	2	26	39	ASIC 1
4	8	13	8	4	2	240	255	ASIC 2
7	8	6		3	1	251	263	ASIC 3
4	10	5	1	1	1	310	307	ASIC 4
7	11	2	1	3		336	316	Exec 1
11	8	4	1	1		402	338	Exec 2
						24	28	SES
36	50	38	20	13	6	1,589	1,546	Public Service Act total
103	121	39	21	18	6	1,698	1,669	Total

WHERE ASIC FITS IN THE REGULATORY PICTURE

ASIC's statutory aims

In brief, s1(2) of the ASIC Act requires ASIC to strive to:

- ◆ maintain, facilitate and improve the performance of the financial system and entities within it
- ◆ promote confident and informed participation by investors and consumers in the financial system
- ◆ administer the law effectively and with a minimum of procedural requirements
- ◆ act to enforce and give effect to the law
- ◆ make information about companies and other bodies available to the public
- ◆ receive, process and store, efficiently and quickly, information that is given to ASIC, and
- ◆ make information about companies and other bodies available to the public as soon as practicable.

ASIC's legislation

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection under the *Australian Securities and Investments Commission Act 2001*, *Corporations Act 2001*, *Insurance Contracts Act 1984*, *Superannuation (Resolution of Complaints) Act 1993*, *Retirement Savings Accounts Act 1997*, *Superannuation Industry (Supervision) Act 1993*, *Life Insurance Act 1995*, *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* and the *First Home Saver Accounts Act 2008*.

The ASIC Act, the Corporations Act and other Commonwealth regulatory legislation confer various powers and discretions on ASIC. The majority of these powers and discretions are subject to judicial or administrative review (or both), by the Federal Court and the Administrative Appeals Tribunal respectively.

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection.

Other regulators

ASIC cooperates with the following bodies through consultation at senior level and regular contact by operational and policy staff:

- ◆ APRA is the prudential regulator of the Australian financial services industry. It oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies and most members of the superannuation industry.
- ◆ State and territory fair trading or consumer affairs agencies regulate consumer credit under the Uniform Consumer Credit Code. It is proposed that from late 2009 ASIC will be regulating consumer credit under a new national law.
- ◆ The Reserve Bank of Australia regulates monetary policy and the stability of the financial system.
- ◆ The ACCC promotes fair trading (except in financial services which are regulated by ASIC) and competition in the market place.
- ◆ The ASX is a regulated commercial organisation with some monitoring and supervisory responsibilities (e.g. the governance of listed companies and the on-market trade execution by brokers) derived from its licences.

ASIC is a member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies. Other members are: the Reserve Bank, APRA and the Australian Treasury.

Relationship with the responsible Minister

The Ministers responsible for ASIC at 30 June 2009 are the Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP. Minister Bowen replaced Senator the Hon Nick Sherry who was Minister for Superannuation and Corporate Law until 8 June 2009.

Commissioners reported to the Minister through their annual report, and through briefings, submissions and meetings with the Treasurer or the Ministers Bowen or Sherry. ASIC also briefed the Treasury about current issues and proposed changes to the law.

Under s12 of the ASIC Act, the Minister may direct ASIC about policies or priorities in using its powers or performing its functions, but may not direct it about a particular case. Only one such general direction has been given, in 1992, about collaboration and consultation between ASIC and the Director of Public Prosecutions in the investigation and prosecution of serious corporate wrongdoing.

In addition, Commonwealth Ministers and departmental secretaries from time-to-time asked ASIC, along with other agencies, to conform to Government policies affecting its general administration, for example, by referring to particular sources of Government information when publishing ASIC information for small businesses. ASIC exchanged letters of intent with the former Government on expectations of ASIC. These are on ASIC's website.

Reporting to Parliament

ASIC appeared before Committees of the Parliament of Australia on nine occasions: the Parliamentary Joint Committee on Corporations and Financial Services (three), the Senate Standing Committee on Economics (four), the Parliamentary Standing Committee on Public Works (one) and the House of Representatives Standing Committee on Economics (one).

ASIC also submitted its annual report, and replied to Parliamentary questions and inquiries on behalf of constituents.

The Parliamentary Joint Committee on Corporations and Financial Services tabled statutory oversight reports on ASIC in September 2008 and February 2009. This important process enabled parliamentarians to examine ASIC and make recommendations. The Committee reported that it remained 'satisfied that ASIC continues to carry out its functions in accordance with the provisions of the corporations legislation'.

ASIC is a member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies.

Relationship with states and territories

The Commonwealth assumed responsibility for corporate regulation from the states and the Northern Territory in 1991, under arrangements agreed (and subsequently revised) as set out in the *Corporations Agreement 2002*.

This Agreement requires the Commonwealth to consult the Ministerial Council for Corporations (MINCO), comprising Commonwealth, state and territory ministers, in appointing ASIC Commissioners, and requires ASIC to:

- ◆ consult the relevant state or territory minister in appointing regional commissioners
- ◆ maintain offices in each state capital and Darwin, and maintain certain minimum service levels in each state and the Northern Territory, and
- ◆ maintain regional liaison committees in each state and the Northern Territory to consult the local business community, and use its best endeavours to have a Commission member present at those meetings, see page 62.

ASIC attended MINCO to observe and answer questions about the administration of the corporations legislation. It also attended the Ministerial Council on Consumer Affairs as part of its role in protecting consumers in credit, a jurisdiction shared with the states and territories.

Commissioners

The Commission is responsible for the strategic direction of ASIC and its priorities. The Commission meets regularly, usually monthly:

- ◆ to make decisions on matters within ASIC's regulatory functions and powers that have strategic significance, and
- ◆ to oversee the management and operations of ASIC as a Commonwealth Government agency.

The Ministers responsible for ASIC at 30 June 2009 are the Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP.

The Commission appoints and evaluates the performance of Senior Executive Leaders, and approves budgets and business plans for each team.

Individual Commissioners also have executive responsibility for particular stakeholder and deterrence teams, see page 59.

Under the ASIC Act, ASIC is accountable to Parliament and the responsible Minister, to judicial and administrative review, and to the community. See page 60 for information about the Commission members.

The Commission held 25 formal meetings.

Commissioner	Eligible to attend	Attended
Tony D'Aloisio	25	25
Jeremy Cooper	20	19
Peter Boxall AO	9	9
Michael Dwyer	5	5
Belinda Gibson	23	23
Greg Medcraft	8	8

In July 2009, Jeremy Cooper completed his term as a Commissioner. Mr Cooper was appointed to head the Government's review into the governance, efficiency, structure and operations of Australia's superannuation system.

Commissioners' appointment and remuneration

The Governor-General, on the nomination of the Treasurer, appoints ASIC Commissioners. The Treasurer may nominate as Commissioners only people who are qualified by knowledge of, or experience in, business, administration of companies, financial markets, financial products and financial services, law, economics or accounting.

Commissioners are appointed on fixed terms that may be terminated earlier only for reasons set out in s111 of the ASIC Act.

The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

Conflicts of interest

The ASIC Act requires Commission members to disclose to the Minister direct or indirect pecuniary interests in corporations carrying on business in Australia, businesses in Australia or interests regulated by ASIC, or arrangements or agreements for future business relationships.

Chief Legal Office

Michael Kingston, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel to the Chairman on major regulatory and enforcement matters and ASIC's operations and administration. Other independent legal and accounting experts also advised on specific matters.

Top level management

The Commission has delegated various powers and functions to Senior Executive Leaders, Regional Commissioners and staff reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

Financial governance

ASIC operates under the *Financial Management and Accountability Act 1997*, which primarily governs its use of Commonwealth resources and expenditure of public money. For more information about procurement policies see Appendices on page 79.

AUDIT COMMITTEE AND AUDIT, ASSURANCE AND COMPLIANCE SERVICES

The Audit Committee, under a charter agreed between the Committee and the Commission, assist the Commission maintain and improve:

- ♦ the effectiveness and integrity of ASIC risk management and internal controls
- ♦ the credibility, objectivity and quality of ASIC's financial reporting and financial statements, and
- ♦ ASIC's compliance with relevant laws.

The Committee has reviewed ASIC's 2008–09 Financial Statements and provided a degree of assurance to the Commissioners before they signed those statements.

The Committee met four times during the year.

Members	Eligible to attend	Attended
Robert Savage, appointed March 2000; Chairman since January 2005; reappointed as Chairman commencing 30 January 2008.	4	4
Robert Lynn, appointed March 2002; Deputy Chairman since January 2005; reappointed as Deputy Chairman commencing 30 January 2008.	4	4
Byram Johnston, appointed January 2005; reappointed as an independent member commencing 19 January 2009.	4	4
Belinda Gibson, ASIC Commissioner, appointed December 2007.	4	4
Maree Blake, ASIC Qld Regional Commissioner appointed September 2008.	3	3

The Audit Committee Chairman, Deputy Chairman and Byram Johnston are independent members, appointed from outside ASIC. All three independent members are chartered accountants, company directors and have significant financial and business experience. Mr. Johnston was also the independent Chairman of ASIC's IT Board until March 2009.

The internal appointees are ASIC Commissioner Belinda Gibson, representing the Commission, and Queensland Regional Commissioner Maree Blake.

The National Manager Audit, Assurance and Compliance reports to the Audit Committee.

The Committee sends a report to the Commission after each meeting. The Chairman of the Committee meets separately with the ASIC Chairman when required, and the Committee met briefly with newly appointed Commissioners and Senior Executive Leaders during the year.

In 2008–09, the Commission agreed for 2009–10 and following years to transition ASIC's Audit, Assurance and Compliance function to a co-sourced arrangement to utilise the professional experience of an external audit service provider. Deloitte Touche Tohmatsu was selected as the co-sourced provider.

The Australian National Audit Office provides external audit services. Both external and internal audit representatives attend Audit Committee meetings.

Robert R Savage

Chairman, ASIC Audit Committee

Sept 2009

appendices

APPENDICES

Publications

ASIC published the following free publications:

- ♦ electronic newsletters: *FIDO News*, *Financial services update*; printed newsletters: *InFocus* (company information)
- ♦ new consumer brochures (in English)
 - ♦ *Investing in mortgage funds?*
 - ♦ *Investing in property trusts?*
 - ♦ *Thinking about using the equity in your home?*
 - ♦ *Thinking about self-managed super?* (with Australian Taxation Office)
 - ♦ *Paying for funerals: Tips for Indigenous consumers*
- ♦ updated consumer brochures (in English)
 - ♦ *Getting advice*
 - ♦ *Your money* (also in 6 other languages)
 - ♦ *Super decisions* (8 other languages)
 - ♦ *You can complain* (3 other languages)
 - ♦ *Super and us mob*
- ♦ regulatory guides, consultation papers, reports, information sheets and legal (including gazettes), communication and corporate documents. These are accessible through ASIC's website or Infoline.

ASIC published for sale *ASIC Digest*, *ASIC Working Guide for Accountants*, *ASIC Working Guide for Company Secretaries*, *ASIC Working Guide for Company Directors*, *ASIC Financial Services Policy Handbook*, *ASIC Forms on CD-ROM*, *ASIC Managed Investments Handbook*, and *ASIC Policy Alert*.

Freedom of Information Act

You have a right to apply to ASIC for access to documents in ASIC's possession under the *Freedom of Information Act 1982* (FOI Act). You must apply in writing, stating documents you want to obtain. Requests should be addressed to the Administrative Law Coordinator in your state or territory. For further information on how to apply, visit www.asic.gov.au.

Categories of documents in ASIC's possession relate to matters including:

- ♦ operational matters such as:
 - ♦ licence and professional registration applications
 - ♦ applications from businesses, correspondence, internal working papers, policy proposals and submissions, and
 - ♦ administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers
- ♦ law reform, including submissions and proposal papers
- ♦ correspondence with members of the public, government entities, Parliamentary committees, business entities and other bodies
- ♦ administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and staff management, delegation and authorisation
- ♦ reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory documents, media releases, information releases, pamphlets and annual reports, and
- ♦ other documents held as public database information (ASCOT).

As required by s9 of the FOI Act, ASIC advises that you may inspect and purchase by subscription the following documents from Thomson-CPD, phone 1800 036 186: *ASIC Digest*, which contains, among other things, regulatory documents, information brochures, media releases, ASIC advisories, information releases, summaries of most ASIC instruments, class orders, and proformas for various types of standard relief.

Documents available to the public through ASIC's website (www.asic.gov.au), ASCOT or the *ASIC Digest* and library material maintained for reference purposes are not available under the FOI Act.

Commonwealth disability strategy report

As a regulator, ASIC publishes (in formats accessible for people with disabilities) all its publicly available information on regulations, quasi-regulations and compliance reporting. This occurs through its website on the day materials are released, and in hard copy through ASIC's commercial publisher and on request through its Infoline. ASIC's website complies with accessibility guidelines, within the limits of the technology at its disposal.

As an employer, ASIC incorporates the requirements of the *Disability Discrimination Act 1992* when developing and reviewing employment policies, procedures and guidelines: In particular:

- ◆ recruitment information is released in accessible electronic format, within 24 hours, or posted out in hard copy on request within 24 hours. No requests were received for other formats in the financial year
- ◆ Human Resources staff advise managers and recruiters on reasonable adjustments required for job applicants and staff with disabilities (including staff access to training), and
- ◆ information on disability issues is included in training programs as appropriate.

Disclosure under the Environment Protection and Biodiversity Conservation Act

See 'ASIC in the environment' at page 60.

Disclosure under ASIC Act

As required by s136(2)(e), ASIC reports that in 2008–09 it did not exercise its powers under Pt 15 of the *Retirement Savings Account Act 1997* or under Pt 29 of the *Superannuation Industry (Supervision) Act 1993*. No relevant applications were received.

Procurement

The *Financial Management and Accountability Act 1997* primarily governs ASIC's use of Commonwealth resources and expenditure of public money. A central procurement team oversees procurement ensuring that all requirements are adequately met.

Responsibility for procurement lies with the appropriate financial delegates. To support them, the procurement team advises on risk management, probity, specification development and contract management.

The team also manages procurements of \$50,000 or more, and complex procurements below this amount that have been referred by delegates.

Qualified procurement officers with at least a Certificate IV in Government and Procurement, manage complex procurements ensuring ASIC follows the principles and policies of the *Commonwealth Procurement Guidelines*.

All major contracts entered into in 2008–09 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

APPENDICES (CONTINUED)

AusTender

ASIC advertises all tender opportunities through the AusTender website: www.tenders.gov.au.

ASIC has completed procurements to establish panels for the provision of the following goods and services:

- ♦ actuarial calculators
- ♦ computer forensics services
- ♦ hotels and accommodation
- ♦ IT consultancy services
- ♦ IT contracting services
- ♦ legal services
- ♦ recruitment services, and
- ♦ risk management consultancy services.

ASIC also undertook procurement for co-sourced internal audit services, PC and desktop refresh and building fit out.

Contracts of \$100,000 or more were reported on ASIC's website, in accordance with the Senate Order on Departmental and Agency Contracts. Information on expenditure on contracts and consultancies is also available on the AusTender website. ASIC's annual procurement plan was published on AusTender by 1 July 2008, and was regularly updated during the year.

There were no contracts which were exempted from the contract reporting requirements.

Consultancy contracts

During 2008–09, 127 consultancy contracts were entered into involving total actual expenditure of \$4,530,437. In addition, 24 ongoing consultancy contracts were active during the 2008–09 year, involving total actual expenditure of \$281,432. In 2007–08 there were 105 new consultancies with an expenditure of \$8,836,668 and 86 ongoing involving \$817,670.

Disclosure under Commonwealth Electoral Act

Section 311A of *Commonwealth Electoral Act 1918* requires ASIC to report for the 2008–09 financial year on payments (exclusive of GST) made by it or on its behalf to:

- ♦ advertising and polling organisations: Department of Treasury, \$24,869
- ♦ market research organisations: Newspoll Market Research, \$26,543; Data Explorers Ltd, \$58,713; IBIS World Business Information, \$20,700; Galexia Pty Ltd, \$10,000; Investment Trends Pty Ltd, \$100,000; Chant Link and Associates, \$25,343; SuperRatings, \$21,500; Brandmanagement, \$70,735
- ♦ direct mail organisations: Recall Information Management \$447,188; Hermes Precisa, \$219,995, and
- ♦ media advertising organisations: Adcorp Australia Pty Ltd, \$39,819; HMA Blaze \$370,791.

Disclosure under CDDA Scheme

In 2008–09 ASIC made payments under the Compensation for Detriment Caused by Defective Administration Scheme totalling \$38,024.66.

Agency resource statement

ASIC resource statement, 2008–09*
\$'000

	Budget* 2008–09 (1)	Actual expenses 2008–09 (2)	Variation column (1) minus column (2)
A Administered expenses funded by administered appropriations	50,519	62,995	(12,476)
Total administered expenses†	50,519	62,995	(12,476)

B Departmental expenses funded by departmental appropriations

Outcome 1: A fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers

Output group 1.1: Australian Securities and Investments Commission

Output 1: Policy and guidance about the laws administered by ASIC	17,313	18,449	(1,136)
Output 2: Comprehensive and accurate information on companies and corporate activity	75,472	59,177	16,295
Output 3: Compliance, monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity	66,189	69,182	(2,993)
Output 4: Enforcement activity to give effect to the laws administered by ASIC	151,152	147,985	3,167
Total departmental expenses	310,126	294,793	15,333
Total for outcome 1 (A + B)	360,645	357,788	2,857
Staffing (Average FTE)		1,698	

* Based on the revised 2008–09 budget as set out in the 2008–09 Portfolio Additional Estimates Statements.

† Administered expenses are the accrual-based expenses ASIC administers on behalf of the Government. They include refunds to bank and deposit-taking institution account holders, life insurance policy holders, grants under the Assetless Administration Fund and write-down and impairment of assets.

APPENDICES (CONTINUED)

Six-year statistical summary

Business data	2008–09	2007–08	2006–07	2005–06	2004–05	2003–04
Companies (total)	1,700,891	1,645,805	1,572,054	1,480,684	1,427,573	1,359,305
New companies registered	137,410	149,403	156,424	121,298	121,463	122,441
Authorised financial markets	16*	17	17	15	13	8
Licensed clearing and settlement facilities	5	5	5	5	5	4
Australian financial services licensees	4,803	4,768	4,625	4,415	4,135	3,853
Registered company auditors	5,345	5,495	5,658	5,848	6,163	6,506
Registered liquidators	660	674	689	747	762	758
Registered managed investment schemes	4,651	5,108	4,680	4,310	4,093	3,765
Fundraising documents lodged [†]	776	1,011	960	808	1,064	1,148
Product disclosure 'in use' notices [‡]	6,390	9,708	10,066	12,480	12,708	7,563
Takeovers [†]	47	113	65	60	68	67

* Excludes 8 exempt professional markets and 57 exempt low volume markets. Golden Circle Ltd licence was cancelled on 8 August 2008.

† The decline in 2008–09 was due to decreased activity during the GFC.

‡ Financial product issuers notify ASIC about the 'product disclosure statement' issued for each financial product.

ASIC performance data	2008–09	2007–08	2006–07	2005–06	2004–05	2003–04
Criminals jailed	19	23	21	17	27	28
Fundraising where ASIC required additional disclosure	\$4bn	\$3bn	\$17bn	\$10bn	\$6bn	\$4bn
Recoveries, costs compensation, fines or assets frozen	\$28m*	\$146m	\$140m	\$215	\$123	\$121
% successful litigation	90%	94%	97%	94%	94%	93%
Litigation concluded	186 [†]	280	430	386	193	220
Reports of crime and misconduct	13,633	11,436	10,682	12,075	10,752	9,970
Total searches of ASIC databases	60m	51m	55m	45m	36m	36m
% company data lodged on time	95%	95%	95%	94%	94%	92%
Fees and charges raised for the Commonwealth	\$552m	\$545m	\$519m	\$543m	\$531m	\$457m
Staff (average FTEs)	1,698	1,669	1,610	1,471	1,570	1,531
Financial summary (\$m)						
<i>Operations</i>						
Total operating expenses	295	274	256	218	208	196
Total operating revenue	315	292	258	225	208	191
<i>Financial position</i>						
Current assets	116	128	59	41	23	23
Non-current assets	96	50	50	37	35	35
Current liabilities	79	79	67	58	46	43
Non-current liabilities	21	23	21	13	11	20
Total equity	112	76	21	7	1	(5)

* ASIC has taken action to recover money in the Opes Prime and Westpoint matters. See page 16.

† In 2008–09 ASIC concentrated on a smaller number of cases where retail investor/consumer interests or market integrity is most at risk.