

year of action

New responsibilities

As a national body with a track record in regulation and administration, ASIC has been charged with a number of new responsibilities. These changes are designed to improve efficiency and consistency, and reflect the Government's confidence in ASIC. During the year, we made extensive changes to integrate these responsibilities, most of which commence in 2010–11.

Regulation of trustee companies

On 6 May 2010, ASIC became responsible for the regulation of traditional trustee company services. To prepare, we engaged with the Trustee Corporations Association to develop our regulatory approach, and issued industry guidance for trustee corporations about complying with the obligations as an AFS licensee when providing traditional trustee services.

Other regulatory reforms

As part of the AFS licensing regime, margin lenders were required to apply for a relevant authorisation by 30 June 2010. Between 1 February and 30 June, ASIC received over 850 applications.

From 1 May 2010, AFS licensees that are authorised to deal in general insurance products were required to collect and report on data on any insurance business they broker using a prescribed form (Form 701). APRA has been appointed an ASIC agent to collect forms on ASIC's behalf and provide them to ASIC for inclusion on our registers.

Consumer credit and new law

After 12 months of intense preparation, ASIC took over responsibility for regulating consumer credit from the states and territories on 1 July 2010, becoming the national regulator for consumer credit.

Home loans, personal loans, credit cards, consumer leases, pre-arranged overdrafts and line of credit accounts, among other products and services, are now regulated under Commonwealth legislation (*National Consumer Credit Protection Act 2009*), and are administered by ASIC.

ASIC worked closely with industry and other stakeholders, sought feedback on key proposals, and engaged in formal consultation at various stages throughout the credit preparation process. This included working with credit providers and intermediaries to help them prepare for the new regime, and conducting two national roadshows to all capitals and 24 regional centres. These were completed in conjunction with consumer credit legal services, and featured full-day training for more than 600 financial counsellors and credit advocates.

We issued 11 regulatory guides and nine information sheets to help businesses understand their obligations and the credit licensing process. We also established an efficient, online, client-focused registration and licensing process to help businesses comply with their obligations. Over 14,700 credit businesses registered with ASIC prior to 1 July 2010 and we received the first credit licence application within 45 minutes of opening the system at midnight on 1 July.

ASIC also developed various credit-related educational resources for consumers. These included a comprehensive credit booklet, 15 factsheets about various credit products and issues, and new information on the FIDO website.

We have put in place a 14-person credit outreach team that will work with specific groups of citizens and, in particular, with consumers and community workers. They will deliver targeted education programs to those with the greatest need or on issues that are causing the greatest problems in our community, such as mortgage stress.

On 15 June 2010, ASIC began assessing complaints under our new credit jurisdiction and ceased referring complainants back to state and territory regulators. We recruited 25 staff to handle this increase in complaint volumes. We also have a team focused on surveillance and compliance in credit, as well as new deterrence staff specialising in credit.

For more information, see www.asic.gov.au/credit.

ASX/ASX 24 supervision

On 1 August 2010, ASIC assumed responsibility for the supervision of trading on Australia's domestic licensed equity, derivatives and futures markets. This includes the ASX and ASX 24 (formerly known as Sydney Futures Exchange (SFE)). Having one whole-of-market supervisor will streamline supervision and enforcement. It is also the first step in the process for considering competition between market operators (see next item).

To manage a seamless transition, ASIC put in place an integrated market surveillance system, developed a streamlined markets analysis methodology and relationship management model, and engaged in extensive industry consultation.

ASIC issued its Market Integrity Rules based on existing rules around market integrity and established a Market Disciplinary Panel to determine whether rules have been breached.

ASIC also built and trained a quality Market and Participant Supervision (MPS) team, consisting of ASIC staff and external people, all with specialist market experience. The team was complemented by the ASX surveillance staff who transferred to ASIC on 1 August 2010. The activities of the MPS team included reviewing the risk profiles of 45 market participants.

Markets competition

On 31 March 2010, the Government announced its support for competition between markets for trading in listed shares in Australia. It also announced in-principle approval of Chi-X Australia Pty Ltd's Australian market licence application.

Following the announcement, ASIC has commenced work on the regulatory implications of the proposed change. ASIC will undertake extensive public consultation on a proposed framework for competition, including the potential regulatory and economic consequences of possible models.

We are particularly mindful to ensure market competition is implemented in a manner that continues to support the overall integrity of Australia's financial markets. In 2009 ASIC established a Market Supervision Advisory Panel to assist in managing the transfer of supervision and, more recently, to prepare for consultation on market competition.

Business names register

In 2011, ASIC will become responsible for the National Business Names register, taking over from the states and territories. A national online regime for business names will mean a reduction in red tape for businesses operating across state borders, which currently register the same name in different states and territories, and cost, due to a single lower national fee.

During 2009–10, ASIC participated in a government project to design the new online service, commenced building the required systems to prepare for data migration from the states and territories, and provided input into the development of policy and procedures. We also worked with the ATO's Australian Business Register to enable people to register a new business name and register for tax in a single online transaction.



On 1 July ASIC assumed responsibility for Australia's new national credit regime. Ahead of this date, ASIC conducted roadshows on the new regime in every state and territory capital and 24 regional centres.

Over 2,700 people attended and 55 presentations were held. A further 817 people watched a live webcast of one presentation with another 150 accessing a presentation on the ASIC website.

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ASIC's people

ASIC plays a unique role in the Australian economy and our people make a genuine difference to the markets we regulate.

Leadership development

The ASIC Senior Executive Leadership Program was launched in 2009 in response to findings from the 2008 strategic review, which identified leadership as a critical factor in building the culture required to enable ASIC to deliver on its strategic objectives. This involves three phases:

- ♦ assessment: a customised 360-degree online self-assessment survey conducted in June 2009, built around ASIC's core leader capabilities (market focus, looking forward, collaboration, accountable, achievement)
- ♦ feedback: commencing August 2009, executive coaching support was provided to help senior executive leaders understand the survey data and identify development priorities
- ♦ development: five customised modules developed in partnership with the Macquarie Graduate School of Management were progressively rolled out from February 2010.

Mentoring lawyers

ASIC established the Lawyer Network Mentor Program aimed at building legal excellence, supporting the retention of skills and knowledge, and further building mentors' people-management skills. Launched in February 2010, the program successfully established some 100 relationships involving staff at Executive Level 2 mentoring less experienced staff at ASIC 3 and ASIC 4 levels.

Building staff credentials

Improving staff credentials and expertise has been a key focus in 2009–10. A new learning management system has been introduced to facilitate online learning programs, webinars and podcasts. This has accommodated a flexible approach to learning, and programs continue to be developed and sourced to meet skill gaps and track individual learning. Communities of Practice continues to be used to encourage the facilitation of knowledge networks.

Defined 'Learning Pathways' have been established for lawyers, accountants and

auditors, and investigator networks. The pathways also contain core skills in the areas of self and interpersonal, business and technical skills, and have shaped the appointment of a panel of learning and development providers. As a result, we have a panel of around 40 providers made up of universities, professional and industry bodies for the delivery of relevant learning opportunities.

Building on our employment conditions

In 2009 and 2010, staff approved two new enterprise agreements to replace the existing ASIC collective agreement: one for ASIC 1–4 level staff and another for Executive Level staff. The two new agreements build on our employment conditions and will work to support a culture that rewards high performance and recognises flexibility as an integral component in balancing work and other commitments.

As part of the enterprise agreement process, our performance management system and practices were also enhanced via:

- ♦ the introduction of a new five-point performance rating scale to improve the identification and management of all aspects of performance
- ♦ the introduction of a performance rating calibration process to facilitate fairness and equity in performance assessment across ASIC
- ♦ educating managers about performance assessment tools and processes to improve their capability in this area
- ♦ stronger links between performance and reward through improved bonus options, and building these into our policies.



ASIC Chairman Tony D'Aloisio speaking with staff at a morning tea to mark the opening of ASIC's new Sydney headquarters.

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ASIC in the community

The ASIC in the Community program gives employees the opportunity to directly contribute to the community, either by Workplace Giving, volunteering or simply reducing our environmental footprint.

The program is in its third year with some 27 employees who volunteer their time to be part of the ASIC in the Community committee across all ASIC sites. A further 75 employees champion events when they occur.

Workplace Giving results

Through Workplace Giving, ASIC employees support 25 charities through direct donations from their pay. In 2009–10, 8.5% of ASIC employees donated to the program and raised \$62,401.

Inspiring events

During the year, ASIC in the Community hosted three national Workplace Giving speaker's events. The distinguished Australians who presented provided ASIC employees with insights into the work being done by the not-for-profit sector and encouraged them to participate in Workplace Giving.

The events were a discussion on the environment and its potential impact on the global poor with Tim Costello of World Vision and Don Henry from the Australian Conservation Foundation; a presentation on dementia and depression from the Hon John Watkins from Alzheimer's Australia NSW and the Hon Jeff Kennett from beyondblue; and a talk on 'The life you can save' from philosopher and ethicist Professor Peter Singer and Andrew Hewett, the Executive Director of Oxfam Australia.

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Other fundraising

ASIC employees participated in other coordinated fundraising events and appeals during the year. Through donations or sponsorship, they raised a further \$74,298. Combined with Workplace Giving, this produced a total of \$137,000. These additional events included:

- ♦ RSPCA Cup Cake Day: employees baked for each other and raised \$2,858
- ♦ Pink Ribbon Day: employees heard from breast cancer survivors, while raising \$5,913 to help fund research into the prevention and cure of breast cancer
- ♦ Movember: 26 employees participated in the month-long celebration of the moustache and raised \$9,975 for the Prostate Cancer Foundation of Australia and beyondblue
- ♦ Australia's Biggest Morning Tea: employees raised \$4,008 for Cancer Council state bodies
- ♦ ASIC employees generously donated goods during the festive season appeals for the Salvation Army, The Smith Family and St Vincent de Paul.



Tim Costello from World Vision addressing ASIC staff at an ASIC in the Community event.

ASIC in the community (continued)

Volunteering

Volunteering allows ASIC to make a wider contribution to society and build relationships among employees and the community. All ASIC employees have access to one day of volunteering leave for activities facilitated or approved by ASIC in the Community.

This year, ASIC employees took up the opportunity to volunteer on projects including:

- ♦ a book sale for Lifeline in Brisbane
- ♦ the National Breast Cancer Foundation Pink Ribbon Race Day in Hobart
- ♦ the Red Cross's Good Start Breakfast Club to serve primary school children in disadvantaged areas of Adelaide and Perth
- ♦ a luncheon in Sydney for the Mary MacKillop Disability Support Service
- ♦ the Latrobe City Council's Meals On Wheels program.

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Pro bono legal work

ASIC lawyers in Sydney provided pro bono legal services to the National Children's Youth Law Centre. This is a community legal centre dedicated to addressing human rights issues for children and young people in Australia through legal change. It is the only centre of its kind in Australia.

Donating blood

Staff made over 150 blood donations during the year, which the Red Cross Blood Service estimates will save 700 lives. ASIC employees in Sydney were awarded the fourth highest corporate donor in the Sydney CBD during 2009.



International bioethicist Professor Peter Singer addressing ASIC staff in May 2010.

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ASIC and the environment

In all its locations, ASIC is committed to building on efforts to reduce its carbon footprint and energy consumption, and improve waste disposal practices.

6 Star Sydney office

ASIC relocated its offices in Sydney to new purpose-built premises at 100 Market Street at the end of the 2009–10 year. The office space supports a collaborative, flexible and team-orientated working environment, which has been awarded a Certified 6 Star Green Star – Office Design v2 rating, signifying world leadership in environmentally sustainable design. A process is in place to achieve a 4.5 star National Australian Built Environment Rating System (NABERS) rating, which will be achieved through efficient energy and water use, waste management and the way we maintain our internal environment.

Other office initiatives

ASIC's Melbourne office has maintained certification to International Standard ISO 14001:2004 *Environmental Management Systems* and was successfully re-audited during 2009–10. A pilot waste management and recycling program was initiated in March 2010, in conjunction with building management, which saw the landfill waste from seven ASIC floors reduced from 44% to 7% and the introduction of additional waste streams for recycling.

A range of environmental practices are in place across all ASIC offices, including recycling, the use of lighting sensors and timers, the use of recyclable goods, reduced packaging and the availability of parking for cyclists. Further, we focused on sustainable solutions during new office fitouts and refurbishment of sites in Hobart, Traralgon in Victoria, and Perth. This included maximising access to natural light, efficient lighting, effective acoustic design and the use of low volatile organic compound (VOC) paints and materials.

ASIC also adopted a greener approach to technology through the introduction of desktop virtualisation. This significantly reduces the environmental impacts of office computing

equipment by replacing traditional personal computers with smaller and more efficient devices. Superseded PCs were donated to schools as part of the Government Computer Technologies for Schools initiative.

In the coming year, ASIC will implement a policy to address the Australian Government's push for increased printing efficiency to further reduce our environmental impact.

Earth Hour and Ride to Work

ASIC staff participated in Earth Hour, taking steps to ensure non-essential lights, PCs and appliances were switched off before they left work on the weekend of 27–28 March 2010. Over 50 employees also participated in the Ride to Work Day in October 2009 and an environmental footprint web page was developed to raise awareness of environmental issues among ASIC staff.

Disclosure under the *Environment Protection and Biodiversity Conservation (EPBC) Act*

Section 516A of the EPBC Act requires ASIC to report matters relevant to environmentally sustainable development (ESD). To that end, 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
- ♦ ASIC reviews and increases the effectiveness of its environmental impact measures through internal evaluation regimes, environmental auditing, benchmarks and targets.

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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 carries out with its regional stakeholders.

National credit roadshow

ASIC's national roadshow to inform industry and consumers about its new role as the regulator for consumer credit took in 24 regional centres across Australia. Many of these sessions were attended by the ASIC Regional Commissioners responsible for each state and territory.

Education in Tasmania

In June 2010, Tasmanian Regional Commissioner Julie Read conducted sessions for industry and retail investors in Burnie and Launceston. The industry session, 'Hot Topics in the Financial Services Sector', covered current topics, including credit licensing and financial services reform proposals. The retail investor session focused on basic investing principles.

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Queensland liaison

ASIC continued its regular meetings with its Regional Liaison Committee, which comprises approximately 20 stakeholder representatives affected by ASIC's regulatory responsibilities. This committee met four times during 2009–10 and meetings were attended by an ASIC Commission member as well as the Queensland Regional Commissioner. In addition to the formal national credit roadshow, Regional Commissioner Maree Blake held additional stakeholder meetings in Cairns, Mackay and Townsville. ASIC's Brisbane office also delivered financial counselling sessions.

Victorian forums

During October, Victorian Regional Commissioner Warren Day conducted roadshows to business groups (members of local accounting and law firms as well as financial service providers) and forums open to the general public in Geelong, Wodonga, Shepparton, Bendigo and Ballarat. These stakeholders were able to hear about ASIC's forward program of new projects and ask questions about ASIC's operations and strategies. The public forums provided information about the relationship between risk and return, as well as learning how to avoid investment scams.

Western Australia sessions

Western Australia Regional Commissioner Bruce Dodd conducted two rounds of public information sessions in 2009–10. He visited Geraldton, Kalgoorlie, Bunbury and Albany to give regional consumers and investors an opportunity to hear directly from ASIC about its activities. Mr Dodd highlighted ASIC's role and responsibilities in the market, and offered information on basic investment practices that would allow for informed and confident decisions. This series of roadshows also foreshadowed ASIC's new role as consumer credit regulator.

Adelaide information

Throughout the year, South Australian Regional Commissioner Mark Bielecki held a series of booked-out information sessions in Adelaide. The purpose of the sessions was to increase the awareness of ASIC's role, responsibilities and offerings; provide basic information about investing and accessing financial services; and source regional intelligence. In addition, he held Regional Liaison Committee meetings; hosted a business stakeholder function together with a Commissioner; and spoke at public events.

Regional New South Wales and Australian Capital Territory

Delia Rickard, ASIC's ACT Regional Commissioner, held public meetings with industry and local consumers in Canberra and a number of regional NSW centres throughout the year. These helped ASIC better understand the issues affecting consumers and industry in regional centres such as Dubbo, Nowra and Wagga Wagga, as well as enabling ASIC to let consumers and industry know about its priorities and changes to its regulatory responsibilities that directly affected them.

Financial literacy in Northern Territory

In the Northern Territory, a key focus for Regional Commissioner Duncan Poulson's team was providing training about the new national credit laws and assessing complaints about consumer credit matters. This included outreach visits to remote Indigenous communities and a campaign targeting 'book up' providers to ensure that they understood the new credit licensing requirements. The team has also been active in supporting the delivery of a financial literacy program for Australian Defence Force personnel and their families who are based in the Northern Territory.

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Additional ASIC outcomes

ASIC's outcome framework sets out what ASIC has agreed to deliver to Government for 2009–10. It reflects the products and services ASIC delivers, and informs our 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 79. ASIC's 2009–10 framework and performance information is detailed below.

ASIC's outcome framework has been rewritten for the 2009–10 year to reflect ASIC's 2009–10 Portfolio Budget Statement.

Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks

Program 1.1: Research, policy, compliance, education and information initiatives

Objective: Program 1.1 contributes to Outcome 1 by improving industry behaviour where market integrity and consumer confidence are most at risk, and by helping consumers and retail investors make well-informed decisions in the financial economy.

Program 1.1 deliverables	Key performance indicators	2009–10 achievements
Improving industry behaviour Financial economy programs for each major grouping of market participants designed to: <ul style="list-style-type: none"> ♦ monitor market developments and identify and prioritise factors and behaviours most likely to result in threats to market integrity and the fair treatment of consumers ♦ devise and implement information, guidance and regulatory initiatives most likely to reduce the threat of misconduct or mistreatment of consumers and retail investors ♦ target misconduct or mistreatment through tailored deterrence activity. 	Improved confidence in market integrity Improvements in quality and availability of financial advice Improvements in overall financial literacy levels	ASIC looked across the entire financial industry in order to bring about improvements in behaviour. The variety of work is illustrated by the following: <ul style="list-style-type: none"> ♦ of 47 specialised PDS reviews undertaken for OTC products, 34 had deficiencies and remedial action was taken ♦ we conducted a health check on authorised deposit-taking institutions that accounted for 80% of Australia's total term deposits ♦ 240 external administrators were reviewed to test compliance with independence disclosure. Significant policy contributions were made in our submissions to Parliamentary Inquiries into Financial Advisers and Insolvency. Guidance for appropriate behaviour can be seen in our review of compliance with rules surrounding mortgage schemes and unlisted debentures, consultation and advice on agribusiness, and the release of 11 new regulatory guides focusing mainly on credit.

Program 1.1 deliverables	Key performance indicators	2009–10 achievements
<p>Helping retail investors and consumers</p> <p>Retail investor and consumer programs designed to:</p> <ul style="list-style-type: none"> ♦ give consumers and retail investors access to clear, useful information about financial economy products and services ♦ make financial advice more accessible and reliable ♦ enhance community-wide financial literacy ♦ enable consumers and retail investors to better assess the benefits and risks of decisions about financial products and services. 	<p>Improvements in retail investor and consumer perception of information received about products and services</p> <p>Improvements in conduct of market participants and corporates</p>	<p>ASIC has a strong financial education focus. We distributed 37,000 <i>Investing between the flags</i> booklets, and information was sought from our FIDO consumer website 2,195,000 times, which is a 45% increase on 2008–09.</p> <p>We facilitated and supported four meetings of the Australian Government Financial Literacy Board, established a National Education Reference Group, and developed an Indigenous schools program to be piloted in Queensland.</p> <p>Our investor guidance ranged from corporate bonds and capital guaranteed products to the creation of new calculators to assess financial options, and production of credit-related education materials.</p>



ASIC has been supporting money management programs in remote Indigenous communities in the Northern Territory since 2006. MoneyBusiness provides Indigenous people with money management information and supports them to become self-reliant.

Pictured is ASIC's Hannah Roe with MoneyBusiness workers Andrina Tipuamantumirri (sitting) and Kathy Kerinaiaua.

Additional ASIC outcomes (continued)

Program 1.2: Enforcement/deterrence

Objective: Program 1.2 contributes to Outcome 1 by enforcing the law to maximise the deterrent effect and improve behaviour by entities subject to the laws that ASIC administers.

Program 1.2 deliverables	Key performance indicators	2009–10 achievements
<p>Deterrence programs designed to:</p> <ul style="list-style-type: none">investigate suspicious conduct and take appropriate and timely criminal, civil or administrative action, especially where market integrity and consumers and retail investors are most at riskcreate community confidence that the law is being effectively enforcedcommunicate clearly about ASIC's enforcement approach and outcomes to improve industry understanding and drive behavioural change in key risk areasencourage industry participation in enhanced standards of behaviour (alleviating the need for additional regulation). <p>ASIC finances preliminary investigations and reports by liquidators into the failure of companies with little or no assets that have been selected by ASIC, where it appears that enforcement action may result from the investigation and report. A particular focus of the Assetless Administration Fund is to curb phoenix activity.</p>	<p>Clear alignment between ASIC enforcement actions and key risk areas</p> <p>Improved stakeholder perceptions of how ASIC deals with people who do not comply with the law</p>	<p>Achievements illustrate a strong focus on enforcement action, striking an appropriate balance between criminal and civil proceedings.</p> <p>In collaboration with the CDPP, ASIC completed 23 criminal proceedings this year with an 80% success rate, including 12 imprisonments.</p> <p>We took 69 enforcement matters on market integrity with eight significant outcomes.</p> <p>Of the total 90 civil matters, we had a 94% success rate and 156 civil, administrative and criminal litigation actions were completed.</p> <p>A key focus of enforcement work was on company directors, with ASIC taking action against 726. Of these, 554 were prosecuted for 1,010 offences. Penalties included 132 good behaviour bonds and fines totalling \$692,748. As a result of targeted action, 90 directors were banned and a further 22 people were automatically disqualified from managing corporations from the date of their conviction or release from prison.</p> <p>As part of our work with insolvency practitioners, we visited 150 companies near insolvency. More than 20% of all companies reviewed this year were placed into some form of external administration, mostly by the directors. Our administration of the Assetless Administration Fund saw \$3.4 million paid out to liquidators.</p>

Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services

Program 2.1: Legal infrastructure for companies and financial service providers

Objective: Program 2.1 contributes to Outcome 2 by improving ASIC's registry and stakeholder services by developing initiatives for business and consumer stakeholders to:

- ♦ simplify their interactions with ASIC
- ♦ reduce the cost of those interactions.

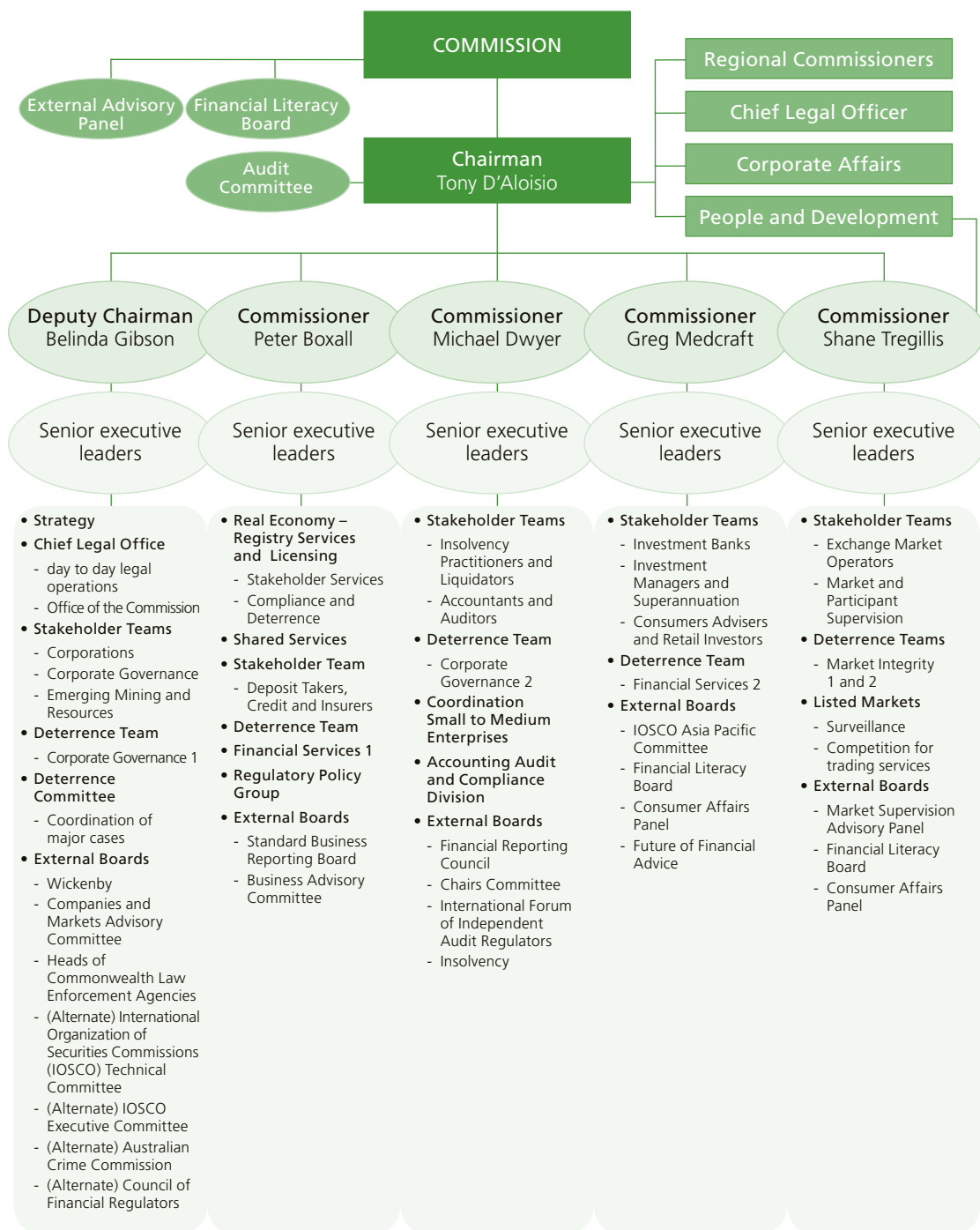
Program 2.1 deliverables	Key performance indicators	2009–10 achievements
Modernising registry services Programs designed to: <ul style="list-style-type: none"> ♦ provide stakeholders with modern, efficient, accurate and cost-effective corporate register and licensing systems ♦ improve public access to information about registered and licensed entities. 	Improved effectiveness and efficiency of registry and licensing services	<p>ASIC manages the registration of Australia's 1.77 million businesses. We recognise the public's growing preference for electronic channels and less 'red tape'.</p> <p>To this end, we completed an international benchmarking process to look for best practice in registry management and are creating a joint company registration searching function with New Zealand.</p> <p>Improvements facilitated the electronic lodgement of 70% of forms, and we have reduced the number of pages in our top 20 paper forms.</p>

Additional ASIC outcomes (continued)

Program 2.1 deliverables	Key performance indicators	2009–10 achievements
Improving stakeholder services		
Programs designed to:		
<ul style="list-style-type: none"> ♦ improve service delivery to better meet stakeholder needs ♦ take prompt and appropriate regulatory action on reports of misconduct ♦ provide accurate information and assistance to the public ♦ provide accurate and useful information to industry stakeholders about the regulatory system and ASIC's administration of it. 	Improved stakeholder satisfaction with ASIC's corporate register and other stakeholder services	<p>The improvements to our stakeholder services programs are reflected in our results, including:</p> <ul style="list-style-type: none"> ♦ 99% of company incorporations completed within one business day ♦ 97% of key documents lodged within 48 hours of receipt ♦ at least 80% of calls at our call centre answered within 60 seconds ♦ 98% of emails responded to within two business days ♦ 2,476 people reunited with a total of \$9.1 million unclaimed funds.
Facilitating business		
Initiatives designed to:		
<ul style="list-style-type: none"> ♦ reduce costs and 'red tape' for business by making it easier to transact with ASIC ♦ improve consultation with regulated entities and other stakeholders ♦ administer the law to enhance commercial certainty and reduce business costs ♦ facilitate inward and outward investment in Australian capital markets. 	ASIC's regulatory system not seen as a major barrier to inward and outward capital flows	<p>To create efficiencies ASIC considers exemptions from certain provisions in the law, as shown in our finalisation of 3,067 out of 3,442 relief applications.</p> <p>Results of our consultation on issues, such as access to advice and quality of advice, include five large licensees working on improvements to quality of advice, and three new scalable advice models being introduced by large licensees to improve access to advice.</p> <p>ASIC has actively cooperated with other regulators to respond to the GFC and facilitate capital flows. We co-led IOSCO work on CDSs, participated in deliberations on unregulated entities, and are helping monitor industry take-up of automated services.</p>

Organisational structure

This diagram reflects the new structure from June 2010.



Organisational structure (continued)

Structural refinement

In 2010, ASIC welcomed the new Deputy Chairman Belinda Gibson, and new Commissioner Shane Tregillis, along with significant increases in the scope of laws that ASIC regulates. As a result ASIC refined its operating structure to ensure we continue to efficiently and effectively deliver our functions.

This featured a reallocation of responsibilities between the Chairman and Deputy Chairman, and the Market Integrity teams being placed under Commissioner Shane Tregillis. These provided a full-time Commissioner to oversee the transfer of markets surveillance from the ASX to ASIC, and consequent bedding down of markets surveillance into business-as-usual activity.

ASIC also streamlined its team structure, reducing the number of deterrence teams from eight to six, and reducing 14 stakeholder teams to 11.



ASIC's Summer School, March 2010 in Melbourne. Reserve Bank of Australia Governor Glenn Stevens takes part in a panel discussion about the implications of the global reform agenda for Australia and how Australasian regulators will deal with the changes.

In detail, this involved:

- ♦ the merger of the Financial Services 2 team and Credit Deterrence team with two other Financial Services teams
- ♦ Major Fraud and International being allocated by major cases to Corporate Governance 1 and 2
- ♦ combining the Investment Managers with Super Funds teams
- ♦ combining the Financial Advisers and FLCARI (Financial Literacy, Consumers and Retail Investors) teams to form Consumers, Advisers and Retail Investors
- ♦ combining Credit Services with Deposit Takers and Insurers.

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ASIC's stakeholders

Who ASIC's work reaches

Our work affects consumers, investors and creditors of corporations and other businesses, including an estimated:*

- ♦ 17.3 million people who have a deposit account
- ♦ 11.3 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)
- ♦ 3.8 million who directly hold shares (excluding any shares held in any type of managed investment or superannuation)
- ♦ 1.8 million who have invested (managed investment/superannuation) through a financial planner/adviser
- ♦ 0.8 million who invest in managed investments.



* Source: Roy Morgan Research, 12 months to March 2010, people aged 14+.

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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. They are also responsible for ensuring the effective delivery of services to stakeholders in their local areas.

An important part of ASIC's engagement with stakeholders is the attendance of ASIC Commissioners at regular Regional Liaison meetings held by ASIC in each state and territory with a wide range of stakeholder representatives.

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 and Participant Supervision. 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 of the 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, Advisers and Retail Investors, 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.)

As well as being Regional Commissioner for Victoria, Mr Day is Senior Executive Leader for Stakeholder Services, which includes ASIC's Client Contact Centre and Misconduct and Breach Reporting teams.



Mr Day joined ASIC in 2003 as a senior lawyer in enforcement and from 2007 was the Specialist Director of Investor and Consumer Protection. Mr Day has led investigations about consumer protection, credit, and unlicensed conduct and illegal schemes. 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 ATO.

Julie Read (Tas.)

Ms Read joined ASIC from the CDPP's 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 is ASIC's South Australian Regional Commissioner and Senior Executive Leader of Corporate Governance. Among other roles, he was previously a Managing Partner of the commercial law firm Finlaysons in Adelaide, and of the Sydney office of law firm Thomsons. Mr Bielecki also led PricewaterhouseCoopers Legal's National Dispute Resolution and Litigation Business Unit.

In addition to his Regional Commissioner and Senior Executive Leader roles, Mr Bielecki sits on a number of ASIC Project Taskforce Boards, including the Board of the Credit Taskforce and the National Business Names Taskforce.



Bruce Dodd (WA)

Mr Dodd was appointed Regional Commissioner for Western Australia and Senior Executive Leader of Emerging Mining and Resources in September 2008. Formerly, he was Senior Partner and Partner in Charge in the Perth office of Mallesons Stephen Jaques, where he specialised in commercial dispute resolution, with a particular emphasis on insurance, insolvency and bank litigation. Mr Dodd has extensive experience in the financial and business markets in Western Australia.



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.



year of ach

Working at ASIC

Health and safety

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

There were 15 workers' compensation claims lodged in 2009–10, with nine claims accepted, three rejected and three pending. The majority of claims were body-stressing injuries affecting back, neck, shoulder and limbs.

ASIC provided preventative education and training sessions across a range of occupational health and safety initiatives – including ergonomics in the workplace, manual handling, hazardous substances and working with hazardous documents – and conducted ergonomic assessments across all offices. The majority of Sydney staff relocated into new premises in 2010 and, subsequently, over 200 workstation assessments were conducted by occupational therapists as a preventative initiative.

Proactive programs

This year, ASIC launched a new initiative focusing on a Mental Health Education Program. The program was initially developed specifically for managers and team leaders to provide them with greater awareness of mental health in the workplace, and to help them recognise the signs and symptoms that support early intervention strategies. The next phase of this awareness program is being developed with a focus on educating staff at all levels.

As part of ASIC's wellbeing program, 795 staff received influenza vaccinations. ASIC encouraged good health by supporting teams in the Global Corporate Challenge in 2009, and staff participated in the 10,000 Steps Challenge. This saw 14 teams undertake a virtual walk from Port Douglas to Hobart with over 40 million steps completed.

Assistance for employees

ASIC's employee assistance program is available to provide independent assistance for personal and work-related problems. The annual utilisation was 5.54%, including family members, compared with a rate of 6.1% in 2008–09.

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, s46 or s47 of the Act.

Employment benefits

ASIC provides a range of financial rewards and non-financial benefits, such as flexible working arrangements, to attract and retain high-quality staff. Eligible employees received performance bonuses (ranging from 3% 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.

ASIC encouraged good health by supporting teams in the Global Corporate Challenge in 2009, and staff participated in the 10,000 Steps Challenge.

Performance payments made in 2009–10 by classification*

Employee level	Number of recipients	Aggregate performance payments \$	Performance payment range		Average performance payment \$
			Minimum \$	Maximum \$	
ASIC 4	88	317,412	788	11,155	3,607
Exec 1	312	1,283,069	502	8,417	4,112
Exec 2	438	2,667,953	765	17,621	6,091
SES	52	691,616	2,936	29,376	13,300
ASIC	890	4,960,050	502	29,376	5,573

* This includes payments for the 2008–09 performance year paid in 2009–10, plus pro-rata payments for the 2009–10 year for staff who left ASIC in 2009–10.

In 2009–10, staff approved two new enterprise agreements to replace the existing ASIC collective agreement: one for ASIC 1–4 level staff and another for Executive Level staff. The agreements build on our employment conditions and will work to support a culture that rewards high performance and recognises flexibility as an integral component in balancing work and other commitments.

ASIC staff below the Senior Executive Service (SES) level are now covered by one of these two enterprise agreements relevant to their classification. These enterprise agreements

replaced the Australian Workplace Agreements (AWAs) that covered most staff, and any supplementation that was granted under the provisions of s24(1) of the *Public Service Act 1999* (Public Service Act).

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.

Industrial arrangements for ASIC staff (as at 30 June 2010)

Classification	ASIC Act s120(3) contract	AWA	EA*	EA [#]	Total
ASIC 1–3 (APS 1–5)			656		656
ASIC 4 (APS 6)			419		419
Exec 1	1			462	463
Exec 2				525	525
SES & equiv	31	23			54
Total	32	23	1,075	987	2,117[†]

* ASIC 1–4 Enterprise Agreement 2009–11

[#] Executive Level Enterprise Agreement 2009–11

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

Working at ASIC (continued)

Salary ranges per annum (as at 30 June 2010)

Classification	Minimum \$	Maximum \$
ASIC 1	38,238	42,261
ASIC 2	44,468	53,201
ASIC 3	56,682	64,973
ASIC 4	67,825	76,782
Exec 1	89,095	103,835
Exec 2	101,455	142,496
SES	131,000	260,000

Remuneration for ASIC's SES level is determined by the responsibility and accountability of the role, comparison 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.

Equal opportunity and merit

ASIC is an equal opportunity employer. Excluding contractors and agency temporary employees, 33% of senior executives are female. Women comprise 58% of total employees. Late in the financial year ASIC commenced a 'Women in ASIC' program to provide targeted support to women in their careers.

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

	Vic		NSW		Qld		WA		SA		
	2010	2009	2010	2009	2010	2009	2010	2009	2010	2009	
Chair			1	1							
Deputy Chair		1	1								
Member	1		2	2							
SES	14	12	34	30	2	2	2	1	1	2	
Exec 2	149	129	230	196	42	32	32	27	13	12	
Exec 1	109	93	185	160	42	29	38	31	17	12	
ASIC 4	135	123	129	115	42	34	25	16	18	17	
ASIC 3	124	122	73	70	32	26	13	11	13	14	
ASIC 2	197	183	28	18	16	15	16	12	10	7	
ASIC 1	33	26									
Contractors§	8	3	55	69	3		1	1			
Total	770	692	738	661	179	138	127	99	72	64	

* 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

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 are required to keep a register of interests that supervisors may inspect at any time, and senior executives are 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.

Other resources

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

Dispute avoidance and settlement provisions are included in the ASIC enterprise agreements.

Fraud control

In 2009–10, ASIC continued to implement the strategies outlined in our Fraud Control Plan, which covers strategies and processes to prevent, detect, investigate and minimise the effects of fraud. ASIC maintained reporting and data collection mechanisms that met our needs and complied with Commonwealth Fraud Control Guidelines 2002.

	ACT		Tas		NT		Total		
	2010	2009	2010	2009	2010	2009	2010	2009	
							1	1	Chair
							1	1	Deputy Chair
							3	2	Member
	1	1	1	1			55	49	SES
	4	4	6	4			476	404	Exec 2
	3	6	5	5	2	2	400	338	Exec 1
	7	3	2	3			358	311	ASIC 4
	3	2	2	3	2	2	262	250	ASIC 3
	5	3	2	2			274	240	ASIC 2
							33	26	ASIC 1
	1	1					68	74	Contractors [§]
	24	20	18	18	4	4	1,931	1,696	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	
	2010	2009	2010	2009	2010	2009	2010	2009	2010	2009
Appointee§										
Chair										1
Deputy Chair									1	
Member										1
Appointee total									1	2
ASIC Act										
Exec 1			1	1						
Exec 2										1
SES	2	2		1					8	7
Contractors#									28	21
ASIC Act total	2	2	1	2					36	29
Public Service Act										
ASIC 1	6	2	2	1	4				12	11
ASIC 2	115	101	43	33	60	56	3	6	32	23
ASIC 3	137	124	79	70	21	23	1	5	20	13
ASIC 4	175	156	122	105	28	26	1	7	18	6
Exec 1	149	130	196	157	23	20	3	12	13	5
Exec 2	140	118	252	219	42	31	8	14	11	4
SES	8	11	13	11	2	2				
Public Service Act total	730	642	707	596	180	158	16	44	106	62
Total	732	645	708	598	180	158	16	44	143	93

* 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				
2010	2009	2010	2009	2010	2009	2010	2009	
1	1					1	1	Chair
	1					1	1	Deputy Chair
3	1					3	2	Member
4	3					5	4	Appointee total
								ASIC Act
	1						2	Exec 1
	1						2	Exec 2
20	10	1	1		4	31	25	SES
40	53					68	74	Contractors [#]
60	65	1	1		4	99	103	ASIC Act total
								Public Service Act
3	3	6	8		1	33	26	ASIC 1
12	4	7	13	2	4	274	240	ASIC 2
6	7	1	6		3	262	251	ASIC 3
9	4	4	5	1	1	358	310	ASIC 4
11	7	3	2	2	3	399	336	Exec 1
18	11	4	4		1	476	402	Exec 2
						24	24	SES
59	36	25	38	5	13	1,826	1,589	Public Service Act total
123	103	26	39	5	18	1,932	1,698	Total

year of action

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
- ♦ receive, process and store, efficiently and quickly, information that is given to ASIC
- ♦ 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*. From 1 July 2010, ASIC regulates credit under the *National Consumer Credit Protection Act 2009*.

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.

Other regulators

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

- ♦ The Australian Prudential Regulation Authority 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.
- ♦ The Reserve Bank of Australia regulates monetary policy and the stability of the financial system.
- ♦ The Australian Competition and Consumer Commission promotes fair trading (except in financial services which are regulated by ASIC) and competition in the marketplace.
- ♦ The Australian Securities Exchange is a regulated commercial organisation with obligations to monitor and enforce its operating rules (e.g. the governance of listed companies and operational activities of brokers in relation to the market) 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 RBA, APRA and Treasury.

Relationship with the responsible Minister

The Ministers responsible for ASIC at 30 June 2010 were the Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP.

Commissioners reported to the Minister through their annual report, and through briefings, submissions and meetings with the Treasurer or Minister Bowen. ASIC also briefed 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 for using its powers or performing its functions, but may not direct it about a particular case. Only one general direction has been given, in 1992, about collaboration and consultation between ASIC and the CDPP in the investigation and prosecution of 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 letters are available on ASIC's website.

Reporting to Parliament

ASIC appeared before Committees of the Parliament of Australia on 11 occasions in 2009–10 the Parliamentary Joint Committee on Corporations and Financial Services (five), the Senate Standing Committee on Economics (five) and the Senate Select Committee on Agricultural and Related Industries (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 2009, February 2010 and June 2010. This important process enabled parliamentarians to examine ASIC and make recommendations.

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
- ♦ maintain certain minimum service levels in each state and the Northern Territory

- ♦ 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.

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.

The Ministers responsible for ASIC at 30 June 2010 were the Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP.



Bernie Ripoll, Chairman of the Parliamentary Joint Committee on Corporations and Financial Services, joined committee members on a visit to ASIC's regional Victorian office at Traralgon in March 2010. Mr Ripoll is photographed with ASIC customer service consultant Louise Quigley.

Where ASIC fits in the regulatory picture (continued)

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
- ♦ to oversee the management and operations of ASIC as a Commonwealth Government agency.

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.

The Commission held 25 formal meetings in 2009–10.

Commission member	Eligible to attend	Attended
Tony D'Aloisio	17	17
Belinda Gibson	15	15
Peter Boxall	16	16
Michael Dwyer	17	15
Greg Medcraft	17	17
Shane Tregillis*	2	2

* Shane Tregillis was appointed as a Commissioner on 7 May 2010.

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.

Delegation of functions and powers

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 78.

revenue

Audit Committee and audit, assurance and compliance services

The Audit Committee, under a charter agreed between it and the Commission, assists ASIC's Chairman in maintaining and improving:

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

The Committee reviewed ASIC's 2009–10 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	No. of meetings attended
Robert Savage Appointed Independent Member, March 2000 Chairman since January 2005 Reappointed as Chairman on 30 January 2008	4	4
Robert Lynn Appointed Independent Member, March 2002 Deputy Chairman since January 2005 Reappointed as Deputy Chairman on 30 January 2008 Retired on 29 January 2010	2	2
Byram Johnston Appointed Independent Member, January 2005 Reappointed as Independent Member on 19 January 2009	4	4
Belinda Gibson ASIC Commissioner Appointed December 2007 Term expired on 1 December 2009	2	2
Maree Blake ASIC Queensland Regional Commissioner Appointed September 2008	4	4
Michael Dwyer ASIC Commissioner Appointed on 1 December 2009	2	2
Geoffrey Applebee Appointed on 1 February 2010	2	2

Audit Committee and audit, assurance and compliance services (continued)

In addition, the Audit Committee had two special meetings during the year to review ASIC's draft Financial Statements and the annual *Financial Management and Accountability Act 1997* compliance certification process.

Independent Members are appointed from outside ASIC. The Deputy Chairman was replaced with a new Independent Member following the expiry of his term of appointment. All three Independent Members are Chartered Accountants and company directors and have significant financial and business experience.

The internal appointees are ASIC Commissioner Michael Dwyer (replacing Belinda Gibson), representing the Commission, and Queensland Regional Commissioner Maree Blake.

A Senior Executive Specialist – Audit, Assurance and Compliance was appointed during February 2010 to lead the Internal Audit team, and reports to the Audit Committee.

The Committee sent a report to the Commission after each meeting. The Chairman of the Audit Committee meets separately with the ASIC Chairman when required. A number of Senior Executive Leaders presented their objectives and priorities at Audit Committee meetings during the year.

ASIC's Audit, Assurance and Compliance function operates as a co-sourced audit arrangement with Deloitte Touche Tohmatsu.

The Australian National Audit Office provided external audit services. Both external and internal audit representatives attended Audit Committee meetings.

Robert R Savage

Chairman, ASIC Audit Committee
July 2010



Hans Hoogervorst, Chairman of the Netherlands Authority for the Financial Markets, gives a presentation on the global regulatory reform agenda at ASIC's Summer School in March 2010 in Melbourne.



appendices

09-10

Appendices

Publications

ASIC published the following free publications through its websites and Infoline:

- ♦ electronic newsletters: *FIDO News*, *Credit Reform Update*, *Market Supervision Update*
- ♦ printed newsletters: *InFocus* (company information)
- ♦ new consumer brochures (in English):
 - ♦ *Investing in corporate bonds?*
 - ♦ *Investing between the flags*
 - ♦ *Credit, loans and debt: stay out of trouble when you borrow money*
 - ♦ *Book-up for traders* (factsheet)
 - ♦ *Book-up for consumers* (factsheet)
 - ♦ Credit factsheets: *Can't pay your debts*, *Car loans*, *Consumer leases*, *Credit cards and store cards*, *Home loans*, *Interest-free deals*, *Love and loans*, *No or low-interest loans*, *Overdrafts*, *Payday loans and other high-cost credit*, *Personal loans*, *Rent to buy*, *Using a broker*, *Your credit report*
- ♦ updated consumer brochures (in English):
 - ♦ *You can complain* (also in five other languages)
 - ♦ *Money talks* (Indigenous radio series CD)
- ♦ information for industry: regulatory guides, consultation papers, reports, information sheets, on-demand podcasts, online services user guides and brochures, and legal (including gazettes), communication and corporate documents.

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
 - ♦ 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
- ♦ 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 pro formas 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, 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)
- ♦ information on disability issues is included in training programs as appropriate.

Disclosure under Commonwealth Electoral Act

Section 311A of the *Commonwealth Electoral Act 1918* requires ASIC to report for the 2009–10 financial year on payments (exclusive of GST) made by it or on its behalf to:

- ♦ advertising agencies: Universal McCann \$120,520
- ♦ market research organisations: SFG Corporate \$82,500, Roy Morgan Research \$367,730, Gordon Renouf \$39,999, Security Industry Research Centre \$46,860, Australian Science Teachers Association \$48,384, Business Educators Australasia Inc \$32,670, Colmar Brunton Social Research \$207,582, Susan Bell Research \$66,874
- ♦ direct mail organisations: nil
- ♦ media advertising organisations: Adcorp Australia Pty Ltd \$97,769, Market U Pty Ltd \$66,440, Department of Treasury \$27,356, Mahlab Recruitment (Vic) Pty Ltd \$28,370.

In 2009–10 ASIC conducted an advertising campaign, 'Consumer Credit, Industry Awareness'. Further information is available at www.asic.gov.au/credit and in the reports on Australian Government Advertising prepared by the Department of Finance and Deregulation, available at: www.finance.gov.au/advertising/index.html.

Disclosure under CDDA Scheme

In 2009–10 ASIC made a payment under the Compensation for Detriment Caused by Defective Administration Scheme of \$6,236.10 to Saltronix Pty Ltd.

Disclosure under ASIC Act

As required by s136(2)(e) of the ASIC Act, ASIC reports that in 2009–10 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 within business units. They are supported by a central procurement team staffed by qualified procurement officers who provide advice on risk management, probity, specification development and contract management.

Low-risk procurements (valued at less than \$80,000) are managed by business units.

Procurements of \$80,000 or more are managed by the business unit and the central procurement team, which ensures that ASIC follows the principles and policies of the *Commonwealth Procurement Guidelines*.

All major contracts entered into in 2009–10 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

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:

- ♦ accounting services
- ♦ recruitment services
- ♦ legal document management services
- ♦ learning and development technical skills
- ♦ catering
- ♦ personal and business effectiveness skills.

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 contracts and

consultancies awarded by ASIC is also available on the AusTender website. ASIC’s annual procurement plan was published on AusTender by 1 July 2010.

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

Consultancy contracts

During 2009–10, 55 new consultancy contracts were entered into, involving total actual expenditure of \$3.59 million. In addition, 27 ongoing consultancy contracts were active during the 2009–10 year, involving total actual expenditure of \$5.6 million.

Consultancy – Trend Data

	2009 –10	2008 –09	2007 –08
Number of new consultancies	55	127	105
Expenditure on new consultancies	\$3.59m	\$4.53m	\$8.84m
Number of ongoing consultancies	27	24	86
Expenditure on ongoing consultancies	\$5.6m	\$0.28m	\$0.82m

Note: The above figures are GST inclusive and include all consultancies over \$10,000 as indicated on AusTender. The figures differ from the consultancy expenditure shown in page 108 of the financial statements, which is the value of all consulting costs exclusive of GST.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at: www.tenders.gov.au.

Agency resource statement

ASIC resource statement, 2009–10

\$'000

		Budget* 2009–10 (1)	Actual expenses 2009–10 (2)	Variation column (1) minus column (2)
Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks				
A	Administered expenses funded by administered appropriations	3,424	3,130	294
B	Departmental expenses funded by departmental appropriations and own-source revenue	284,888	301,525	(16,637)
Total for Outcome 1 (A + B)		288,312	304,655	(16,343)
Staffing (average FTE)		1,428	1,506	(78)
Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services				
A	Administered expenses funded by administered appropriations	63,224	64,877	(1,653)
B	Departmental expenses funded by departmental appropriations and own-source revenue	92,713	85,045	7,668
Total for Outcome 2 (A + B)		155,937	149,922	6,015
Staffing (average FTE)		532	425	107

* Based on the 2009–10 forecast as set out in ASIC's 2010–11 Portfolio Budget Statements.



ASIC's Regional Commissioners aim to have an active program of engagement with stakeholders in their state. Pictured is Tasmanian Regional Commissioner Julie Read with the AICD's Lyn Cox at a stakeholder lunch in Hobart.

Appendices (continued)

Six-year statistical summary

Business data	2009–10	2008–09	2007–08	2006–07	2005–06	2004–05
Companies (total)	1,768,526	1,700,891	1,645,805	1,572,054	1,480,684	1,427,573
New companies registered	157,667	137,410	149,403	156,424	121,298	121,463
Authorised financial markets	16*	16	17	17	15	13
Licensed clearing and settlement facilities	5	5	5	5	5	5
Australian financial services licensees	4,874	4,803	4,768	4,625	4,415	4,135
Registered company auditors	5,270	5,345	5,495	5,658	5,848	6,163
Registered liquidators	664	660	674	689	747	762
Registered managed investment schemes	4,339	4,651	5,108	4,680	4,310	4,093
Fundraising documents lodged	880	776	1,011	960	808	1,064
Product disclosure 'in use' notices	4,698	6,390	9,708	10,066	12,480	12,708
Takeovers	73	47	113	65	60	68

* Excludes 16 exempt professional markets and 68 exempt low volume markets.

ASIC performance data	2009–10	2008–09	2007–08	2006–07	2005–06	2004–05
Criminals jailed	12 ¹	19	23	21	17	27
Fundraising where ASIC required additional disclosure	\$6bn	\$4bn	\$3bn	\$17bn	\$10bn	\$6bn
Recoveries, costs compensation, fines or assets frozen	\$302m	\$28m	\$146m	\$140m	\$215m	\$123m
% successful litigation	91%	90%	94%	97%	94%	94%
Litigation concluded	156	186	280	430	386	193
Reports of crime and misconduct	13,372	13,633	11,436	10,682	12,075	10,752
Total searches of ASIC databases	61m	60m	51m	55m	45m	36m
% company data lodged on time	95%	95%	95%	95%	94%	94%
Fees and charges raised for the Commonwealth	\$582m	\$552m	\$545m	\$519m	\$543m	\$531m
Staff (average FTEs)	1,932	1,698	1,669	1,610	1,471	1,570
Financial summary (\$m)						
<i>Operations</i>						
Total operating expenses	387	295	274	256	218	208
Total operating revenue	381	315	292	258	225	208
<i>Financial position</i>						
Current assets	80	116	128	59	41	23
Non-current assets	175	96	50	50	37	35
Current liabilities	69	79	79	67	58	46
Non-current liabilities	69	21	23	21	13	11
Total equity	117	112	76	21	7	1

¹ Includes the jailing of Oswyn De Silva for contempt of court (civil action).