



# ANNUAL REPORT

## 2014–2015

- ◆ investor and financial consumer trust and confidence
- ◆ fair, orderly, transparent and efficient markets
- ◆ efficient and accessible registration



**ASIC**

Australian Securities & Investments Commission

# Contents

<b>Letter of transmittal</b>	<b>1</b>	<b>3. People, community and the environment</b>	<b>83</b>
<b>Chairman's report</b>	<b>2</b>	3.1 ASIC's people	84
<b>Key outcomes 2014–15</b>	<b>6</b>	3.2 Diversity at ASIC	90
<b>Government priorities and parliamentary inquiries</b>	<b>12</b>	3.3 ASIC in the community	94
<b>Commissioners</b>	<b>15</b>	3.4 Indigenous awareness and action at ASIC	96
<b>1. About ASIC</b>	<b>17</b>	3.5 Environmental performance	97
1.1 ASIC's role	18	<b>4. Financial statements</b>	<b>99</b>
1.2 Corporate structure at 30 June 2015	23	<b>5. Appendices</b>	<b>153</b>
1.3 Regulated populations and key responsibilities	25	5.1 The role of Commissioners	154
1.4 ASIC's surveillance coverage of regulated populations	28	5.2 Audit Committee and audit, assurance and compliance services	155
1.5 ASIC for all Australians	30	5.3 External committees and panels	156
1.6 Financial summary and expenditure	32	5.4 Portfolio budget statement outcomes	161
<b>2. Outcomes in detail</b>	<b>33</b>	5.5 Six-year summary of key stakeholder data	167
2.1 Priority 1 – Investor and financial consumer trust and confidence	34	5.6 Reports required under statute and other reporting requirements	169
2.2 Priority 2 – Fair, orderly, transparent and efficient markets	50	5.7 Consultancies and expenditure on advertising	172
2.3 Priority 3 – Efficient and accessible registration	64	5.8 ASIC's use of its significant compulsory information-gathering powers	175
2.4 Unclaimed money and managing property vested in ASIC	70	<b>Glossary</b>	<b>177</b>
2.5 Assessing misconduct and other reports	72	<b>Compliance index</b>	<b>179</b>
2.6 Performance against Service Charter	78	<b>General index</b>	<b>185</b>
2.7 Regional activities	80	<b>Contact details</b>	<b>inside back cover</b>



- > Investor and financial consumer trust and confidence
- > Fair, orderly, transparent and efficient markets
- > Efficient and accessible registration



**ASIC**

Australian Securities & Investments Commission

**GREG MEDCRAFT**

Chairman

100 Market Street, Sydney  
GPO Box 9827 Sydney NSW 2001  
DX 653 Sydney

15 October 2015

The Hon Scott Morrison MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2015.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* and the 'Requirements for Annual Reports' guide, approved by the Joint Committee of Public Accounts and Audit, and published by the Department of the Prime Minister and Cabinet on 30 June 2015.

I note that you are required under section 136 to cause the report to be tabled in each House within 15 sitting days of receiving it.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G Medcraft', with a long horizontal line extending to the right.

Greg Medcraft  
Chairman

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## Chairman's report

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ASIC's fundamental objective is to allow markets to fund the real economy and, in turn, promote economic growth. This contributes to improved living standards for all Australians.

But markets cannot achieve their purpose in funding the real economy without trust and confidence in them.

As Australia's integrated corporate, markets, financial services and consumer credit regulator, ASIC contributes to Australia's economic reputation and wellbeing. Ensuring investors and financial consumers have trust and confidence in the financial system is at the heart of everything we do.

It is why our strategic priorities are to:

**Priority 1: Promote investor and financial consumer trust and confidence**

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**Priority 2: Ensure fair, orderly, transparent and efficient markets**

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**Priority 3: Provide efficient and accessible registration**

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Our free-market system is based on the principles of investor responsibility, gatekeeper responsibility and the rule of law.

Understanding the behaviour of investors, consumers and gatekeepers, and applying the right interventions including 'nudges', is central to achieving our priorities.

While investors must take responsibility for their decisions, we know their behaviour is influenced by their financial literacy – their knowledge, skills and attitudes – and their behavioural biases. This is why ASIC is focused on providing education and tools to help Australians with their financial decisions.

We assist investors and financial consumers to participate confidently in our financial system by providing financial education through multiple channels recognising the information asymmetry between them and financial services gatekeepers.

This education is targeted at a wide cross-section of our community, from primary and secondary students and apprentices and trainees to people with limited English-language skills, Indigenous people and military personnel, not to mention

those who are simply approaching or going through a life event such as buying a home, divorce or retirement.

For example, ASIC's MoneySmart website – [www.moneysmart.gov.au](http://www.moneysmart.gov.au) – has over 500 pages of information, and was visited over 5 million times in 2014–15. That is a 15% increase on the year before.

With the MoneySmart Teaching program, our target is embedding financial literacy in the National Curriculum. So far 34% of the nation's schools have engaged in the program. In addition, 14,000 teachers have undertaken professional development in financial literacy.

Our gatekeepers are those who have a legal responsibility in the financial system, for instance, product manufacturers, responsible entities, lenders, advisers, directors and auditors.

The behaviour of these gatekeepers is driven by culture, incentives and deterrence.

Each of these drivers of gatekeeper behaviour can affect trust and confidence in the financial system, and whether our markets are fair, orderly, transparent and efficient. Operating in this environment, we work to ensure gatekeepers fulfil their legal responsibilities through our guidance, our surveillance and our enforcement. We seek to ensure the rule of law operates in the way intended, and we provide policy advice to Government to ensure the right deterrents are in place.

## Challenges

Our environment continues to change and we are faced with new opportunities and emerging risks.

ASIC's long-term challenges are:

### **1. Conduct risk and the balance between a free market-based system and investor and financial consumer protection**

We want to make sure participants in our financial system are focused squarely on customers first. And this focus should be reflected in their culture and conduct. Where culture, incentive structures and risk management are poor or misaligned, then conduct risk can crystallise and conflict with the interests of customers. For customers, this can lead to poor outcomes.

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We also need to balance the need for intervention with helping business and allowing businesses to take risks. In this regard, we have cut red tape by almost \$470 million since September 2013.

## **2. Digital disruption and cyber resilience in our financial services and markets**

Digital innovations are disrupting business models in financial services and markets. To keep pace with these changes, in 2015 ASIC launched its Innovation Hub. The hub helps financial technology start-ups navigate the regulatory system, without compromising our strategic priorities.

We also set up a Digital Finance Advisory Committee to help us monitor and understand these developments. Digital platforms that enable crowd-sourced equity funding, marketplace lending, advice and digital currencies have grown. For instance, 'blockchain' technology has the potential to alter fundamentally settlement and registration processes and trading in financial markets.

## **3. Structural change driven by superannuation**

Structural change continues to test the regulatory environment, particularly with the growth in superannuation savings.

ASIC regulates many of the financial products in which superannuation funds invest and the gatekeepers that manage and advise on super.

The spread of market-based financing, driven by growth in super, an ageing population and an evolving funds management industry, impacts our work.

We are meeting this challenge by stepping up our surveillances, responding where clients are getting poor-quality financial advice, and addressing incentives and poor risk management, particularly in large, vertically integrated institutions.

We set up a special project to focus on the conduct of large financial advice firms with some investigations ongoing. In 2014–15, 14 individuals were permanently banned from providing financial advice, and a further 23 individuals were banned or agreed to stay out of the industry



*Greg Medcraft, Chairman*

for shorter periods of time. We also conducted 321 funds management surveillances, including reviewing risk management practices.

## **4. Complexity driven by financial innovation**

The breadth of financial innovation is creating more complexity in products and markets.

To deal with this growing complexity, we are using behavioural insights to better understand how consumers and gatekeepers really behave.

We continue to monitor the marketing of financial products to make sure people are not misled. We have been active in this area. In 2014–15, our work resulted in 54 advertisements being changed or withdrawn.

## **5. Globalisation**

Developments in technology, innovation and international regulation are making the global financial system more integrated, more competitive and more complex. Encouraging further cross-border activity and integration of international markets will mean significant benefits to our Australian markets, our providers and to consumers.

We are implementing G20 commitments to reform our over-the-counter (OTC) derivative markets and our involvement in the International Organization of Securities Commissions (IOSCO) has resulted in a cross-border regulatory toolkit.

## Chairman's report continued

We are working with the Securities and Exchange Commission in the US to enable mutual recognition of retail debt capital offering documents, giving Australian retail investors easier access to a broader range of debt instruments, maturity options, credit ratings and industry sectors. Reciprocally, this will allow Australian issuers of debt instruments easier access to the US retail debt market.

### Detect. Understand. Respond.

We use our 'detect, understand and respond' approach to achieve the best risk resilience we can in the financial system with the resources we have.

Where there is wrongdoing or risk of wrongdoing, we will use the right 'nudge' to change gatekeepers' behaviour.

ASIC is a law enforcement agency. In fact, we devote around 70% of our regulatory resources to surveillance and enforcement.

And for those who break the law intentionally, we will make best use of our resources and powers to ensure there are meaningful consequences.

Our actions are focused on areas that pose the greatest risk to people and the markets we regulate.

## Engagement

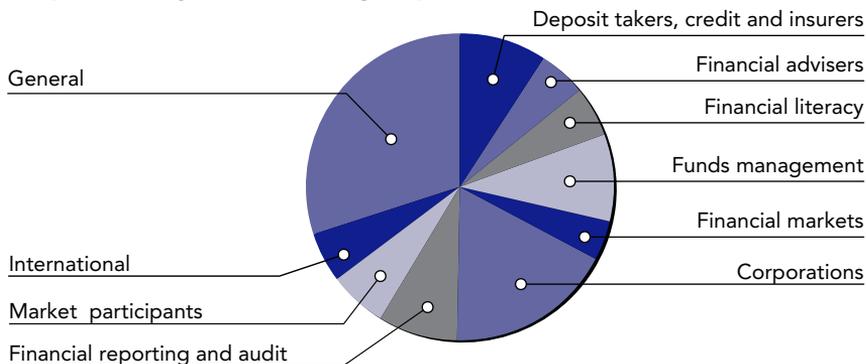
One of the ways that ASIC responds to misconduct or the risk of misconduct is through engagement. Engaging with the boards of our key stakeholders through regular meetings contributes to ASIC achieving our strategic priorities. In 2014–15, our Commission held 13 formal meetings collectively with the boards of financial institutions and industry associations, and individually met with more than 180 Chief Executive Officers and Executive Committees.

The Commission also delivered almost 100 speeches to a wide range of external stakeholders.

Engaging with boards of financial institutions enables ASIC to provide direct feedback to those who oversee these institutions about any compliance or culture issues we are seeing within their organisation. We have shared the outcomes of our surveillances with the relevant boards, and have discussed our concerns where we have found a lack of good culture or compliance.

Engaging with boards of key industry associations allows ASIC to share, often at a thematic level, regulatory, compliance and enforcement issues we are seeing in their industries. Industry associations can then pass this feedback on to their members. Industry associations also share information about matters of interest or concern, which enhances ASIC's understanding of emerging risks.

### Commission speeches by stakeholder group, 2014–15



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## ASIC's people

At ASIC, we pride ourselves on our people and our culture. Our staff bring a range of experiences and diversity of thought to what we do.

ASIC's people are highly skilled professionals. Our values – accountability, professionalism and teamwork – guide us in the way we work, the way we make decisions and how we interact with each other and our stakeholders.

We have done a review to determine the capabilities we need over the longer term. A big part of our workforce planning is informed by our Staff Survey, which in 2014–15 showed our people have a very high level of engagement.

We value a diverse and inclusive workplace and in 2014–15 we set up the ASIC Diversity Council. Along with our existing Women in ASIC program and multicultural and Indigenous committees, we have established LGBTI and accessibility committees. I strongly support these initiatives and the value diversity brings to our workplace.

## Outlook

ASIC is ready to embrace the opportunities and challenges that the longer term will bring.

We recently released our four-year Corporate Plan, which sets out in more detail the challenges we will face and how we will meet them.

We are undertaking some significant internal changes across ASIC, which will streamline the way we capture, share and use information. These projects will build our capabilities, improve our processes and deliver smarter data and better tools for regulation.

This helps us operate better in a dynamic and complex regulatory environment, despite resourcing pressures.

We continue to advocate for an industry funding model to provide us with certainty of funding and to promote better regulatory outcomes. In August 2015, the Government released a consultation paper seeking views on this model and we welcome this process. Such a model will establish a price signal for resources used, which will drive efficiencies in the way ASIC allocates its resources. It will also improve our transparency and accountability. That means business will better understand the job we do by having greater visibility of the cost of doing that job.

We are also supporting the Government in its plans to have a private operator upgrade and operate the registry business.

We look forward to the Government's response to the Financial System Inquiry (FSI). The FSI provided an important and timely opportunity to take stock of where financial system regulation could be improved in Australia.

We also welcome the Government's capability review of ASIC, which will ensure ASIC is best positioned to meet future regulatory challenges.

I know that the exceptional men and women of ASIC are ready to meet these opportunities and challenges that lie ahead over the coming 12 months.



**Greg Medcraft**  
Chairman

## Key outcomes 2014–15

### PRIORITY 1: Investor and financial consumer trust and confidence

Outcome	2014–15	2013–14	2012–13	2011–12
<b>Engagement</b>				
Meetings with industry groups and other stakeholders <sup>1</sup>	627	685	281	> 200
Consultation papers published	6	5	18	11
Industry reports published	10	14	7	7
<b>Surveillance</b>				
High-intensity surveillances completed	557	860	871	> 750
<i>In 2014–15, proactive, risk-based surveillance focused on areas such as financial advice, property schemes disclosure, payday lenders and home building and motor vehicle insurance.</i>				
Instances of potentially misleading or deceptive promotional material withdrawn or amended	54	127	120	80
<b>Guidance</b>				
New or revised regulatory guides published	9	10	31	19
New or revised information sheets	13	18	14	17
Legislative instruments, including amendments and repeals	19	17	21	24
Relief applications received <sup>2</sup>	581	816	1,071	Not available
Approved <sup>2</sup>	409	518	616	Not available
Refused <sup>2</sup>	41	48	172	Not available
Withdrawn <sup>2</sup>	59	250	283	Not available
In progress <sup>2</sup>	72			Not available
<b>Education</b>				
Unique visits to ASIC's MoneySmart website	5.4 million	4.7 million	3.7 million	1.9 million
Users who took action on their finances after visiting MoneySmart	89%	86%	90%	89%
Number of unique school interactions with MoneySmart Teaching <sup>3</sup>	3,185	396	92	Not applicable
<b>Enforcement</b>				
<b>Investigations</b>				
Investigations commenced	77	97	81	103

1. Data reflects reporting in given years on the basis of corporate structure and methodology at that time. Since 2013–14, meetings involving multiple ASIC teams have been counted against each team involved. Data does not include meetings held by Commissioners.

2. Data reflects point-in-time reporting in given years (not available for 2011–12). Break-down of withdrawn and in-progress applications not available in 2013–14 or 2012–13.

3. The MoneySmart Teaching program started in August 2012.

Outcome	2014-15	2013-14	2012-13	2011-12
Investigations completed	88	113	92	118
<b>Criminal actions</b>				
Criminal litigation completed <sup>4</sup>	7	16	14	14
Criminal litigation completed successfully <sup>4</sup>	86%	94%	86%	100%
New criminal litigation commenced <sup>4</sup>	11	13	8	14
Number of people convicted	6	15	12	13
Number of people imprisoned	3	8	8	10
Non-custodial sentences/fines	3	7	4	2
Total dollar value of fines	\$10,000	\$5,000	\$75,000	\$12,000
<b>Civil actions</b>				
Civil litigation completed	43	12	39	79
Civil litigation completed successfully	86%	100%	100%	92%
New civil litigation commenced	20	31	37	36
Total dollar value of civil penalties	\$18,975,000	\$1,500,000	\$677,500	–
<b>Administrative actions<sup>5</sup></b>				
Administrative actions completed	64	67	58	34
New administrative actions commenced	74	60	59	41
People/companies banned from financial services <sup>6</sup>	53	63	50	45
People/companies banned from credit services	39	46	38	9
<b>Enforceable undertakings</b>				
Enforceable undertakings accepted	10	18	12	16
<b>Infringement notices</b>				
Number of infringement notices issued	70	20	8	Not applicable
Dollar value of infringement notices	\$710,440	\$240,200	\$25,300	Not applicable
<b>Compensation</b>				
Compensation or remediation secured	\$35.2 million	\$172.6 million	\$203.9 million	\$11.4 million

### Policy advice

*In 2014–15, we made several submissions to Senate and Parliamentary Joint Committee Inquiries. We also provided policy advice in areas such as cross-border marketing of managed funds and provided technical assistance to Indonesia.*

4. Excludes summary prosecutions for strict liability offences.

5. An administrative action is a decision by a delegate of ASIC to exercise a statutory protective power. Examples of an administrative action are a decision to disqualify a person from managing corporations, prohibit a person from providing financial services or engaging in credit activities, cancel or suspend an Australian financial services (AFS) licence or credit licence, or impose additional conditions on an AFS licence or credit licence.

6. Includes instances where conditions were placed on an AFS licensee.

## Key outcomes 2014–15 continued

### PRIORITY 2: Fair, orderly, transparent and efficient markets

Outcome	2014–15	2013–14	2012–13	2011–12
<b>Engagement</b>				
Meetings with industry groups and other stakeholders <sup>1</sup>	876	487	345	> 200
Consultation papers published	7	4	16	5
Industry reports published	4	4	5	–
<b>Surveillance</b>				
High-intensity surveillances completed	459	907	1,286	> 700
<i>In 2014–15, proactive, risk-based surveillance focused on areas such as financial benchmarks, retail OTC derivative trading, fundraising disclosure, financial reporting, auditors and registered liquidators.</i>				
Trading alerts produced as part of our real-time supervision of financial markets	37,763	36,346	40,368	> 20,000
Number of matters further inquiries were made into as a result of trading alerts	214	224	180	131
<b>Guidance</b>				
New or revised regulatory guides published	13	13	17	10
New or revised information sheets	10	29	13	13
Legislative instruments, including amendments and repeals	20	24	21	5
Relief applications received <sup>2</sup>	1,576	1,913	2,023	Not available
Approved <sup>2</sup>	1,064	1,528	1,431	Not available
Refused <sup>2</sup>	106	85	186	Not available
Withdrawn <sup>2</sup>	268			Not available
In progress <sup>2</sup>	138	300	406	Not available
<b>Enforcement</b>				
<b>Investigations</b>				
Investigations commenced	152	127	112	70
Investigations completed	143	125	94	65
<b>Criminal actions</b>				
Criminal litigation completed <sup>3</sup>	18	16	13	20

1. Data reflects reporting in given years on the basis of corporate structure and methodology at that time. Since 2013–14, meetings involving multiple ASIC teams have been counted against each team involved. Data does not include meetings held by Commissioners.

2. Data reflects point-in-time reporting in given years (not available for 2011–12). Break-down of withdrawn and in-progress applications not available in 2013–14 or 2012–13.

3. Excludes summary prosecutions for strict liability offences.

<b>Outcome</b>	<b>2014–15</b>	<b>2013–14</b>	<b>2012–13</b>	<b>2011–12</b>
Criminal litigation completed successfully <sup>3</sup>	94%	88%	85%	80%
New criminal litigation commenced <sup>3</sup>	17	17	20	13
Number of people convicted	17	15	10	14
Number of people imprisoned	9	6	2	10
Non-custodial sentences/fines	8	9	9	6
Total dollar value of fines	\$40,000	\$80,000	\$105,000	\$22,000
<b>Civil actions</b>				
Civil litigation completed	11	16	11	23
Civil litigation completed successfully	55% <sup>4</sup>	81%	100%	96%
New civil litigation commenced	14	21	17	16
Total dollar value of civil penalties	–	\$1,200,000	\$140,000	\$30,000
<b>Administrative actions<sup>5</sup></b>				
Administrative actions completed	24	22	9	10
New administrative actions commenced	30	21	8	14
People disqualified or removed from directing companies	40	62	72	84
Action taken against auditors and liquidators	6	13	7	7
<b>Enforceable undertakings</b>				
Enforceable undertakings accepted	10	8	8	6
<b>Infringement notices</b>				
Number of infringement notices issued	13	19	9	4
Dollar value of infringement notices	\$673,000	\$1,213,000	\$452,000	\$120,000
<b>Summary prosecutions</b>				
Summary prosecutions for strict liability offences	355	314	528	402
<b>Compensation</b>				
Compensation or remediation secured for investors and financial consumers	\$943,418	\$2.7 million	–	–
<b>Policy advice</b>				

*In 2014–15, we made several submissions to Senate and Parliamentary Joint Committee Inquiries. We also provided policy advice in areas such as corporate bonds, OTC derivative reforms, cyber resilience and financial benchmarks.*

3. Excludes summary prosecutions for strict liability offences.

4. Of the 11 proceedings completed in this category in 2014–15, four of the five unsuccessful actions against individual subjects relate to the matter of Mariner Corporation Limited, which involved litigation on an untested provision of the Corporations Act.

5. An administrative action is a decision by a delegate of ASIC or the Companies Auditors and Liquidators Disciplinary Board (CALDB) to exercise a statutory protective power. Examples of an administrative action are a decision to disqualify a person from managing corporations, prohibit a person from providing financial services or engaging in credit activities, cancel or suspend an AFS licence or credit licence, impose additional conditions on an AFS licence or credit licence or cancel the registration of a person as an auditor or a liquidator.

## Key outcomes 2014–15 continued

### Timeliness and cost of enforcement actions

ASIC recognises the importance of delivering timely enforcement outcomes to deter wrongdoing and promote investor and financial consumer trust and confidence in the financial system and fair, orderly, transparent and efficient markets.

To support our commitment to transparency, for each of the last four years, we report on the average time to:

- ♦ complete the investigation phase of our enforcement activities
- ♦ decision for our criminal, civil and administrative actions finalised in each year.

In all cases, we measure times from the date matters are first drawn to ASIC's attention.

We measure the length of our criminal investigations to the date of referral to the DPP, and civil and administrative investigations to the date proceedings are filed or matters are referred to an ASIC delegate or the CALDB.

The time involved in achieving enforcement outcomes can vary depending on many factors. As enforcement actions tend to run over several years, care needs to be taken in comparing one year to another. For example, the table below shows that the average time for civil actions in which a judgment was achieved in 2014–15 was substantially greater than in the preceding years. This is because

in 2014–15 we achieved final civil outcomes in two matters, Storm and Kamanga Holdings, which were commenced many years previously (6 and 15 years respectively). Excluding those matters, the average times would be similar to the previous years.

The cost involved in achieving enforcement outcomes can also vary. While we cannot currently specify the actual cost of criminal, civil and administrative actions individually, we generally expect administrative actions to be the least expensive. They typically require less resources in the investigation phase to produce a brief, and the costs associated with administrative hearings tend to be minimal. In contrast, criminal and civil actions (including the evidence gathering process) are normally more resource intensive. As the cost of running a criminal trial is borne by the DPP, the cost of civil actions is generally greater for ASIC given it funds counsel through the investigation and litigation phases, as well as the full cost of the civil hearing. In addition, ASIC ordinarily needs to pay a substantial portion of the legal costs of the defendant where we are unsuccessful in civil action, which we do not need to do in criminal or administrative actions.

We will continue to enhance how we measure these factors in the coming year, including the relative cost of different enforcement actions.

### Average times associated with enforcement actions

	2014–15	2013–14	2012–13	2011–12	4-year average
<b>Criminal actions</b>					
Average time to complete investigation	16 mths	18 mths	19 mths	23 mths	19 mths
Average time to criminal court decision	45 mths	40 mths	48 mths	53 mths	46 mths
<b>Civil actions</b>					
Average time to complete investigation	28 mths	20 mths	15 mths	12 mths	19 mths
Average time to civil court decision	53 mths	35 mths	35 mths	37 mths	40 mths
<b>Administrative actions</b>					
Average time to complete investigation	32 mths	33 mths	18 mths	21 mths	28 mths
Average time to administrative decision	22 mths	22 mths	19 mths	17 mths	21 mths

Note: Times rounded to the nearest month.

## PRIORITY 3: Efficient and accessible registration

Total companies registered	2.12 million	2.01 million	1.92 million
New companies registered	212,573	192,211	176,062
Total business names registered	1.99 million	1.74 million	1.49 million
New business names registered	299,988	274,349	19,131 <sup>1</sup>
Estimated savings in fees to register or renew business names	\$40.2 million	\$38 million	\$1.1 million <sup>1</sup>
Calls and online inquiries responded to by our Customer Contact Centre	1,080,690 <sup>2</sup>	881,064	645,742
Forms lodged online	2.4 million	2.4 million	2.1 million
Percentage of forms lodged online	86.1%	84%	75.5%
Number of searches of ASIC registers	76.2 million	68.0 million	71.2 million

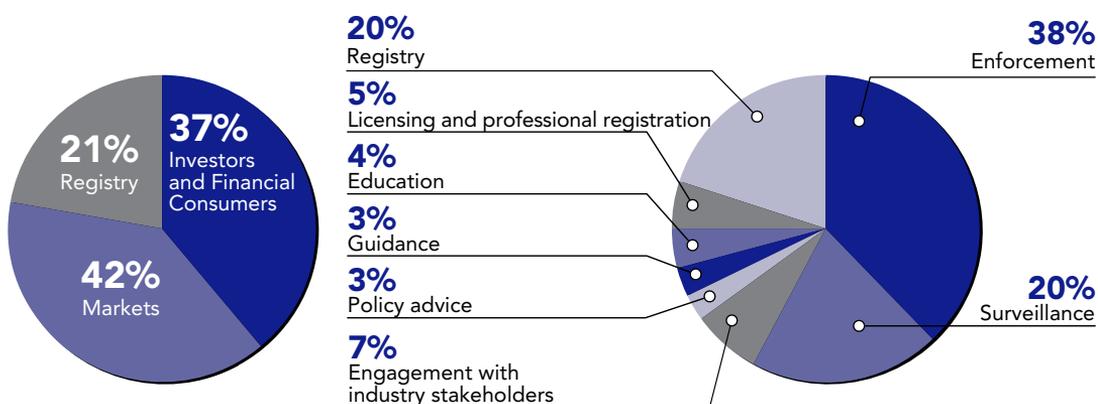
1. From the introduction of the national Business Names Register in May 2012.

2. Includes new online business name inquiry channels.

## ASIC's priorities – resource allocation

The following charts indicate the proportion of ASIC's 2014–15 operating expenditure allocated to achieving each of our three priorities and to each of the tools we use to achieve these priorities.

The percentages are based on ASIC's staff, supplier, finance and asset impairment costs in 2014–15 – totalling \$304.9 million. This figure reflects ASIC's 2014–15 actual costs excluding statutory bodies, and ASIC's costs to support the statutory bodies.



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## Government priorities and parliamentary inquiries

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### Financial System Inquiry

The Financial System Inquiry delivered its final report to Government in December 2014. The inquiry examined how the financial system could best meet Australia's evolving needs and support economic growth. It made 44 recommendations across themes of efficiency, resilience and fairness.

ASIC made two public submissions, one in the initial consultation phase and one responding to the inquiry's interim report.

The inquiry supported many of the changes ASIC recommended in its submissions. These include:

- ♦ lifting standards in financial advice
- ♦ a more flexible regulatory toolkit for ASIC, including product intervention powers and obligations for product issuers and distributors to consider the type of consumer whose financial needs would be addressed by buying the product and the channel best suited to distributing the product
- ♦ increased penalties to encourage better conduct
- ♦ an industry funding model for ASIC
- ♦ ensuring the super system better meets the needs of the retirement phase through default annuity products.

We look forward to the Government's response to the Financial System Inquiry.

### Financial Advisers Register

This year, ASIC launched the Financial Advisers Register, which captures financial adviser qualification, training and professional membership details. The register enables consumers to find out information about advisers and choose an adviser.

### Life insurance advice reform proposals

In October 2014, ASIC released a review of retail life insurance advice. The review found that 37% of life insurance advice did not comply with the minimum standards in the Corporations Act. In response, industry commissioned the Trowbridge Report.

The Financial System Inquiry's final report referenced the Working Group supporting the development of the Trowbridge Report, and recommended a level commission structure for life insurance advice.

The Trowbridge Report was delivered in March 2015.

On 25 June 2015, the Government announced it would proceed with a reform package developed by industry, which included proposals to ban the payment of upfront and ongoing commissions above a certain level to advisers and to introduce clawback provisions.

ASIC announced that we would work with Government, industry and other stakeholders to help lift standards and ensure better outcomes for consumers. We are currently in discussions with Treasury and industry stakeholders on the options for implementation of the reform proposals.

### Making it easier for business

ASIC continues to reduce red tape and lower compliance costs and in 2013–14 we set up a team to further our deregulatory initiatives. We continue to work closely with Treasury, the Office of Best Practice Regulation and the Government to cut red tape.

In 2014–15, ASIC achieved \$119.6 million in compliance savings for business, a significant contribution to the Government's annual red tape reduction target and exceeding the Government's target for ASIC. To date, our total compliance cost savings for business are almost \$470 million, since September 2013.

We are committed to continuing to streamline our processes and make it easier for business to interact with us. For example:

- ♦ in 2014–15, we launched our Innovation Hub to foster innovation and to help fintech start-ups comply with their obligations
- ♦ we estimate that ASIC's Business Names Register will save business over \$215 million, in reduced fees to register or renew business names, in its first five years of operation (May 2012 to June 2017)

- ♦ in May 2015, we piloted our Market Entity Compliance System, a portal that helps market participants, including market infrastructure providers, to comply with their obligations and maintains a record of their interactions with ASIC. The system was rolled out in July 2015.

## Providing relief

Businesses frequently approach ASIC for help to make the law work better for them.

We use our relief powers to set aside certain requirements of the law where there are compliance cost savings that outweigh regulatory risk – including to investors and financial consumers – or result in a small regulatory detriment at most.

In 2014–15, ASIC received 2,157 applications for relief. Of those, we made 1,473 decisions to cut red tape by granting relief. We refused 147 applications, 327 applications were withdrawn, and we are assessing the remaining 210.

We provide industry-wide relief through legislative instruments where appropriate and this provides cost savings for businesses. For example, this year, we gave transitional relief for reporting entities, exempting them from parts of the ASIC Derivative Transaction Rules (Reporting) 2013.

To ensure the transparency of our decisions, we release a report three times a year on our decisions to cut red tape.

## Sunsetting class orders

Under the *Legislative Instruments Act 2003*, all class orders ‘sunset’ or automatically lapse after a specified period (mostly 10 years) unless we take action to preserve them.

At 30 June 2015, there were over 300 ASIC class orders in operation. Of these, 12 were due to sunset in 2015, 85 in 2016, and 134 in 2017.

There is substantial work involved in reviewing sunset class orders, and we consult with affected stakeholders on all class orders.

In 2014–15, ASIC published six consultation papers seeking stakeholders’ views on remaking 24 class orders, repealing 60 and allowing 2 to sunset.

Sunsetting supplements the ordinary processes we use to keep our legislative instruments up to date.

## Other parliamentary inquiries

In 2014–15, ASIC made eight public submissions to Senate and Parliamentary Joint Committee Inquiries, including to the PJC inquiry into the *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014*, which reported in February 2015.

Other key submissions ASIC made this year included our submissions to the inquiries highlighted below, and the Senate Inquiry into foreign bribery, the Senate Inquiry into corporate tax avoidance and the Senate Inquiry into insolvency in the Australian construction industry. These inquiries are ongoing.

### PJC Inquiry into lifting professional, ethical and education standards in the financial services industry

The Parliamentary Joint Committee on Corporations and Financial Services reported in December 2014 on its inquiry into proposals to lift the professional, ethical and education standards in the financial advice sector.

ASIC made a submission in September 2014 setting out our position on:

- ♦ the required level of adviser training
- ♦ how this should be assessed
- ♦ what is required to develop professionalism in the financial advice sector
- ♦ the role of codes of conduct and co-regulation in implementing professional, ethical and education standards.

The inquiry’s recommendations include proposals advocated by ASIC – a minimum degree qualification, a professional year, ongoing professional development and a registration exam. The inquiry also recommended advisers hold membership of a new standard-setting body with an approved professional association.

The Government is consulting to seek views on the recommendations to improve adviser professional standards, including how the proposed model can be implemented.

### Senate Inquiry into financial advice reforms

In September 2014, the Senate announced an inquiry into the implications of financial advice reforms.

## Government priorities and parliamentary inquiries continued

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Ensuring consumers have access to reliable financial advice is a priority for ASIC. We made a submission in December 2014, welcoming the recent changes to the financial advice laws, but noting more could be done to increase competence and professional standards and enhance consumer protection.

The inquiry is expected to report in February 2016.

### Senate Inquiry into digital currency

In October 2014, the Senate announced an inquiry into digital currency.

ASIC made a submission in December 2014 noting that our key issues are whether digital currencies are financial products and whether they are being used to facilitate certain types of crime.

ASIC provides guidance to industry and consumers on digital currencies and their place in the financial services regulatory regime. At a global level, ASIC is also engaged with international regulatory developments around digital currencies.

The Senate Committee's report, released in August 2015, recommended the Australian Government consider establishing a Digital Economy Taskforce to gather further information on the uses, opportunities and risks of digital currencies. This would enable regulators like us to monitor developments, and determine if and when it may be appropriate to regulate digital currency businesses. For example, the inquiry noted the potential of blockchain technology as a new way of recording ownership of assets, and the need to explore the implications of it.

### Senate Inquiry into forestry managed investment schemes

In July 2014, the Senate announced an inquiry into the structure and development of forestry managed investment schemes.

ASIC made a submission in September 2014. Our submission covered ASIC's response to recommendations from prior inquiries, an analysis of the current forestry managed investment scheme market, and an outline of ASIC's actions on the collapse of identified responsible entities of forestry managed investment schemes.

The Committee is expected to report by 12 November 2015.

### Senate Inquiry into ASIC's performance

In June 2013, the Senate referred an inquiry into the performance of ASIC to the Senate Economics References Committee. In response to the Committee's report of 26 June 2014, we have improved our processes and procedures to address concerns about communication, emerging risks and enforcement action.

We remain committed to evaluating our performance and learning from our previous experience. We continue to improve our practices so we can work more effectively.

For example, in 2014–15 we:

- ♦ established an Office of the Whistleblower to monitor the handling of all whistleblower reports, manage staff development and training, and handle the relationship with whistleblowers on more complex matters. The Office will build on improvements we have made to our whistleblower arrangements through the adoption of a centralised monitoring procedure
- ♦ re-designed our website, [www.asic.gov.au](http://www.asic.gov.au), to provide greater accessibility and usability. The newly designed website gives greater prominence to information about our role and functions
- ♦ updated our guidance on enforceable undertakings with information on independent experts and publicity for enforceable undertakings.

To enhance transparency in response to the Senate Inquiry's recommendations, we have also provided additional commentary on:

- ♦ the work of financial services and consumer credit external dispute resolution (EDR) schemes, and the significant issues EDR schemes have raised (see page 48)
- ♦ how we monitor enforceable undertakings, and how the undertakings have led to improved compliance with the law and encouraged a culture of compliance (see page 46).

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## Commissioners

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### **Greg Medcraft**

#### **Chairman, BComm**

Greg Medcraft was appointed ASIC Chairman on 13 May 2011 for a five-year term.

Greg joined as ASIC Commissioner in February 2009. Prior to ASIC, Greg was Chief Executive Officer and Executive Director at the Australian Securitisation Forum (ASF).

Greg spent nearly 30 years in investment banking at Société Générale in Australia, Asia, Europe and the Americas. More recently, he was the Managing Director and Global Head of Securitisation, based in New York.

In 2002, Greg co-founded the American Securitization Forum and was its Chairman from 2005 until 2007, when he returned to Australia. In January 2008, he was appointed Chairman Emeritus of the Forum.

Before joining Société Générale, Greg worked as a chartered accountant with KPMG.

Greg was elected by the International Organization of Securities Commissions (IOSCO) Board in May 2012 as its Chair and was re-elected in October 2014. In his capacity as IOSCO Board Chair, Greg is also a member of the Financial Stability Board, which reports to the G20.



### **Peter Kell**

#### **Deputy Chairman, BA (Hons)**

Peter Kell was appointed ASIC Deputy Chair on 6 May 2013 for a five-year term. Prior to this appointment, he was a Commissioner from 7 November 2011.



From August 2008, Peter was Deputy Chair of the Australian Competition and Consumer Commission (ACCC). He was President of the International Consumer Protection Enforcement Network in 2009–10, and also served on the Consumer Policy Committee of the Organisation for Economic Co-operation and Development (OECD). Peter has been on the Australian Government Financial Literacy Board since its establishment, and is a member of the Commonwealth Consumer Affairs Advisory Council.

Before joining the ACCC, Peter was Chief Executive of CHOICE (formerly the Australian Consumers Association) and a board member of the global consumer organisation Consumers International.

Between 1998 and 2004, he was ASIC's Executive Director of Consumer Protection and its New South Wales Regional Commissioner.



## Commissioners continued

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### **Cathie Armour**

**BEc, LLB (Hons), LLM**

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013 for a four-year term.

Cathie has 18 years experience in legal counsel leadership roles in international financial institutions. Most recently, she was General Counsel for Macquarie Capital and an Executive Director of Macquarie Group, advising on equity, debt and private capital markets, mergers and acquisitions, and financial investment transactions. She has also held senior compliance and operational risk positions at Macquarie Capital and at JP Morgan in Australia. Before she joined ASIC, Cathie was also a member of the ASX Tribunal.

Cathie previously worked in private legal practice for the forerunners of the firms King & Wood Mallesons and Allens in Sydney and for Milbank, Tweed, Hadley & McCloy in New York.



### **John Price**

**BA, LLB (Hons)**

John Price commenced as an ASIC Commissioner on 21 March 2012 for a three-year term, which was extended for a further three years on 21 March 2015.

He has over 15 years regulatory experience in a variety of regulatory roles at ASIC relating to policy making, fundraising, mergers and acquisitions, financial services and products, licensing, insolvency, and financial reporting and audit.

John was previously a member of CAMAC, an advisory body to Government on corporate and markets issues, and also of the Financial Reporting Council, a body providing broad oversight of various accounting and audit-related issues in Australia.

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

Prior to joining ASIC, John worked in the Gold Coast and Brisbane offices of Corrs Chambers Westgarth, a national law firm.



### **Greg Tanzer**

**BEc, LLB (Hons)**

Greg Tanzer commenced as an ASIC Commissioner on 23 January 2012 for a four-year term.

He served as Secretary General of IOSCO from 2008 until early 2012.

Greg was previously Executive Director, Consumer Protection and International at ASIC, where he worked in various senior positions from 1992 to 2008.

Before joining ASIC, Greg worked in the Australian Government Attorney-General's Department and the Department of Finance. He is a qualified solicitor and barrister.

