



Peter Wood, Executive Director, appointed 2001, previously Victorian Solicitor for Public Prosecutions.

Enforcement

Overview

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318 Enforcement staff investigated suspected breaches of the law and:

- had 19 criminals jailed and another 23 convicted from briefs prosecuted by the Commonwealth Director of Public Prosecutions.
- took 81 civil proceedings, resulting in orders against 140 people or companies, \$65 million in recoveries and compensation orders and \$45 million frozen, and
- fined or banned 20 people from directing companies, and 35 people from offering financial services.
- disciplined 10 company auditors and liquidators for misconduct.

“Criminal prosecution remained a central and successful weapon, alongside civil action to reduce damage to investors and consumers.”

Key results

Case	Result
HIH (and Pacific Eagle Equities)	Directors Adler and Williams banned, fined and liable for compensation. Fodera fined.
Harris Scarfe	Jailing of former Chief Financial Officer.
Karl Suleman (Froggy)	Illegal \$130 million scheme wound up. Life ban from managing companies and financial advising.
British Marine Bank Scam	Two criminals jailed for 8 and 7 years.
Yandal	Upheld on appeal over our \$28.5 million claim on behalf of shareholders.

ASIC's responsibilities have broadened to cover misleading and deceptive conduct in financial services, as well as corporate misconduct. Our enforcement results reflected more pre-emptive civil action to prevent or reduce damage to investors and consumers.

Criminal prosecution remained a central and successful weapon. Previous reporting of criminal

matters understated our success, which emerged when we installed our new national case monitoring system. In criminal matters we have now consistently recorded a result against each accused person; and in civil cases we have also recorded a result against each respondent person or company.

Main activities	This year	Last year	%change
Major investigations commenced	246	214	14%
Investigations completed within 12 months	205	182	13%
% investigations completed within 12 months	83%	94%	-11%

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Criminal matters

We had 19 criminals jailed and another 23 convictions from briefs prosecuted by the Director of Public Prosecutions (DPP). Staff investigated and obtained evidence for the DPP, who then decided and prosecuted all indictable matters. We involved DPP officers in considering evidence on potentially serious criminal investigations at an early stage.

19 criminals jailed

What they did:	Names and details of crime	Sentence
Unlicensed people who cheated investors	Raymond Strano defrauded investors of \$973,000 in the fake British Marine Bank.	8 years with a minimum of 5 years, 3 months.
	Leonard Jon Smith defrauded investors of \$870,000 in the fake British Marine Bank.	7 years
	Kevin Anthony Gaw for promoting illegal horse-race betting schemes and making false and misleading statements to investors.	2 years and 4 months, with a minimum of 8 months.
	Robyn Ann-Carrolle Cochrane for acting as an investment adviser without a licence.	6 months concurrently with her sentence for fraud
Financial advisers who cheated their clients	Investment adviser Kerry John Burke defrauded clients of more than \$5.4 million	10 years, with a minimum of 7 years 6 months.
	Insurance broker John Andrew Hurlock defrauded clients of approximately \$35,000.	3 years with a minimum of 9 months
	Stockbroker's employee Julian Kok Chee Lee dishonestly obtained a financial advantage by deception.	2 years, with a minimum of 12 months
	Stockbroker Sean Anthony Seeto defrauded clients of \$298,000.	3 years, 6 months, with a minimum of 1 year

What they did:	Names and details of crime	Sentence
Dishonest company directors and officers	Company director Andrew Kenneth Nuske obtained \$647,000 by misappropriation, false pretences and forgery	7 years with a minimum of 2 years, 6 months.
	Former Harris Scarfe Ltd Chief Financial Officer Allan Hodgson falsified company accounts.	6 years, with a minimum of 3.
	James Bernard McDonnell misappropriated investors' funds and breached continuous disclosure requirements in the Lateral futures and options trading company.	5 years with a minimum of 3.
	Company director Stephen Mark O'Neill for theft, using false documents, and improperly using his position to gain an advantage.	5 years with a minimum of 3 years 6 months.
	Ian Thomas Campbell Westcott misappropriated Lateral investors' funds.	3 years with a minimum of 2.
	Ian Robert Frost obtained finance of more than \$1.5 million through false invoices and other documentation.	3 years with a minimum of 18 months
	[This text has been deleted in accordance with the spent convictions scheme in Part VIIC of the Crimes Act 1914 (Cth).]	[Text has been deleted in accordance with the spent convictions scheme in Part VIIC of the Crimes Act 1914.]
	Company officer Alejandro Aristides Romano issued \$1.5 million in false invoices.	2 years, with a minimum of 1.
	Company officer Anibal Nicholas Romano issued \$1.5 million in false invoices.	20 months, with a minimum of 10 months.
	[This text has been deleted in accordance with the spent convictions scheme in Part VIIC of the Crimes Act 1914 (Cth).]	[This text has been deleted in accordance with the spent convictions scheme in Part VIIC of the Crimes Act 1914 (Cth).]
James Robb, director of a retirement village, failed to refund \$766,463 to deceased estates. He gambled much of the money.	16 months with a minimum of 4.	

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Referrals to the DPP

When we conclude a criminal investigation, the briefs of evidence are referred to the DPP.

Months between resourcing investigation and requesting handover

Months	0-3	3-6	6-9	9-12	12+	Total
Number of briefs 2001-02	6	23	8	3	9	49

Briefs concerned 78 potential defendants. The DPP accepted handover of a brief for prosecution once it decided that the evidence was sufficient to support a conviction and warranted prosecution. In many cases charges were laid within three months of handover being accepted by the DPP.

Civil action and compensation

We took 81 civil proceedings resulting in orders against 140 people or companies. Court orders froze \$45 million for investors and creditors, obtained \$65 million in compensation orders, and wound up illegal schemes. We also took proceedings for civil penalties against directors, company officers or others who failed in their duties.

Major matters are listed below.

Respondents	Results	Amount
Allied Financial Pty Ltd, Wharton Partners, and others	Frozen to assist liquidator. Alleged phoenix operation.	\$30 million
Yandal Gold Pty Ltd, Edensor Nominees Pty Ltd, and subsidiaries of Normandy Mining Ltd	Compensation for former shareholders in Great Central Mines. (Stayed pending decision on special leave to appeal to the High Court.)	\$28.5 million
Confidens Investment Trust members	Assets recovered for superannuation fund members.	\$15 million
Rodney Adler and Adler Corporation	Compensation for HIH Insurance.	\$8 million
Australian Investors Forum	Frozen to protect investors.	\$4.5 million
Leslie Reginald Nelson	Compensation ordered for 120 investors unit trusts.	\$3 million
Phoenix Technology Corporation	Compensation ordered over illegal issue of shares.	\$2 million
NRMA, RACV and Insurance Manufacturers Australia	Compensation over alleged misleading conduct.	\$1.5 million

We saved investors from potentially losing at least another \$291 million by stopping investment offers that inadequately disclosed material information and unlawful investment schemes.

Bannings, fines and disciplinary proceedings

To protect the public, we fined or banned 21 people from directing companies through the Courts or administratively, 35 people from offering financial services, and disciplined 10 company auditors and liquidators for misconduct through Company Auditors and Liquidators Disciplinary Board.

20 company directors and officers banned or fined

Name	Period of banning	What they did
Karl Suleman	Permanently	Operated an unregistered managed investment scheme, while unlicensed.
Terry Norman Stephens	Permanently	Unlawfully offered company shares to the public, and misleading information relating to share dealings.
James Hutchings	Permanently (may apply for review after 5 years)	Operated illegal managed investment scheme that took \$14m from investors
Terrence Tindall	Permanently (may apply for review after 5 years)	Operated illegal managed investment scheme that took \$14m from investors
Leslie Reginald Nelson	Permanently (may apply for review after 5 years)	An accountant, misled and deceived around 120 elderly investors.
Craig John McKim	30 years	Acting as a director of Pegasus Leveraged Options Group while already banned for previous criminal offences.
Rodney Adler	20 years	Acted unlawfully in relation to a payment of \$10 million by an HIH subsidiary to Pacific Eagle Equities Ltd. With Adler Corporation, fined \$900,000.

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Name	Period of banning	What they did
Robert Karl Grossman	10 years	Involved in Onkourse Resource Group.
Angela Iris Hill	10 years	Involved in Onkourse Resource Group.
Ray Williams	10 years	Acted unlawfully in relation to a payment of \$10 million by an HIH subsidiary to Pacific Eagle Equities Ltd. Fined \$250,000.
Ashok Kumar Pal	Until 21 Sept 2010	A director whose company advised retiree clients to put money into unauthorised investments.
Jonathon Broster	5 years (private company) and 8 years (public company)	Made improper use of his position as a former executive manager of the Satellite Group. With related company, fined \$200,000.
Gregory Fisher	5 years (private company) and 8 years (public company)	Made improper use of his position as a former director of the Satellite Group.
Robert Graham Holdsworth	5 years	Made false statements regarding clients' insurance cover.
Anthony Wayne Seymour	5 years	Operating an illegal managed investment scheme.
James Malcolm Tonge	5 years	Repeatedly failed to lodge annual returns and reports to liquidators.
Kerry Janette Nixon	Until 21 Sept 2005	A director whose company advised retiree clients to put money into unauthorised investments.
Peter Kenneth Urquhart	3 years	Running an unlawful managed investment scheme.
Thomas Peter Koltai	Until 4 December 2004	Director of 4 companies that failed to return more than 50 cents in the dollar to unsecured creditors.
Dominic Fodera	Fined	Acted unlawfully in relation to a payment of \$10 million by an HIH subsidiary to Pacific Eagle Equities Ltd. Fined \$5,000.

17 people permanently banned from financial services

Name	What they did
Bradley Francis Flynn	Dishonestly applied \$381,000 of client funds for his own use.
Graeme Charles Bailey	Misappropriated \$11,250 of client funds and interfered with an internal investigation.
Desmond John Trindall	Placed the investment funds of some of his clients in unauthorised investments.
Robert William Thorn	Misused client funds of \$38,250, gave false information and abused his position of trust.
Levi Mochkin, undertook never to advise or deal	Alleged stock market manipulation, false trading and market rigging transactions, allegedly not acting honestly, efficiently and fairly.
Kimberley John Clifton, undertook never to advise or deal	Alleged misleading and deceptive conduct, allegedly dealing with investors money contrary to authorisation, and alleged generally improper practices and conduct.
Michael Hok Chung Lam	Misappropriated \$140,000 from clients. Jailed for a minimum of 2 years 6 months. Operating an illegal managed investment scheme.
Wayne Clifford McNamara	Defrauded a client of securities worth \$65,083, and fraudulently converted a cheque of \$10,375.
Craig Mansfield Williams	Misappropriated \$120,000 of clients' money.
Graeme Edward Smith Hall	Deposited \$1.15 million of nine former clients' money into his own private company.
Ashok Kumar Pal, undertook never to advise or deal	Advised retiree clients to invest in unauthorised investments, losing more than \$3 million.
Wang Wei	Operated an account under a false name, forged signatures to cover his own debts.
Heather Christina Munn	Transferred \$115,000 of customer funds into her personal bank account.
Daryl John Maguire, undertook never to advise or deal	Redeemed approximately \$185,000 from a client's investment and put it into bank accounts he controlled or was associated with.
Peter Alexander Struk	Fraudulently misappropriated \$15,000 of a client's money, for his own purposes.
Ivan Alfred Clarke	Promoted an unlawful investment scheme that took \$18.5 million from 460 investors.
Peter Kenneth Urquhart	Operated unregistered managed investment scheme.

To protect the public, another 18 advisers were banned for shorter periods of time.

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10 company auditors and liquidators disciplined for misconduct

Name	Orders made	What they did
Ross Patrick Zagari, auditor	Cancelled	Convicted and jailed on criminal offences
Wilfred Kelvin, liquidator	Cancelled	Conviction for fraud
Kevin Paul Hoiberg, auditor	Cancelled	Undischarged bankrupt
Ian Denton Stephenson, auditor	Cancelled	Previously prohibited from managing corporations
James Stanley Martin, liquidator	Cancelled	Failed to report to creditors and failed to lodge reports with ASIC
Arthur John Forrest liquidator	Suspended for 2 years	Not fit and proper person to act as a liquidator
William Edward Andrew, liquidator	Suspended	Deficiencies in his liquidation of a company.
David Cassidy, liquidator	Reprimanded	Failed to carry out his duties properly
John Edward Star, liquidator	Reprimanded, to resign all appointments and not to act until 1 July 2003	Failed to carry out his duties properly in relation to National Textiles Ltd and other companies
Philip Charles Anderson, auditor	Not to accept new engagements	Failed to apply audit standards and failed to qualify accounts of a company

Another 8 auditors and one liquidator were disciplined for not lodging statutory documentation.

3 financial services licences revoked

Company	Reason
Saxby Bridge Financial Planning Pty Ltd*	See page 37
ABS Securities Pty Ltd*	See page 37
Cardinal Financial Securities Limited	Subsidiary of Harts Australia that breached licence conditions.

*Subject to AAT review

6 insurance brokers deregistered, suspended or subject to conditions

Name	Period of deregistration	What they did
Allied Asia Holdings (Australia) Pty Ltd	Refused to renew registration	Over 15 year period AAH charged and failed to disclose commissions on insurance premiums.
AP Investments (W.A.) Pty Ltd	Refused to renew registration	Failed to lodge audited accounts for 1999-2000.
Drysham Diversities Pty Ltd	Refused to renew	Failed to lodge audited accounts.
Hedley Goodridge Insurance Agencies Pty Ltd	Refused to renew	Failed to lodge annual audited accounts
Blundell & Associates	Suspended	Must rectify client complaint handling procedures.
Savill Hicks	Suspended	Invested funds in unlawful investments.

Some 6 insurance brokers were prosecuted under the Insurance (Agents and Brokers) Act: two were convicted, one matter was withdrawn and three are still before the courts

33 court enforceable undertakings

ASIC accepted 33 enforceable undertakings to obtain more wide ranging remedies, often on behalf of more people than can usually be obtained in court proceedings. Notable examples included AXA, QBE, NRMA/RACV and Insurance Manufacturers Australia, and follow up court orders against Combined Insurance.

Outlook

We have important matters before the courts, involving high profile corporations, company directors and officers, likely to be vigorously contested. We also face challenges in enforcing laws relating to corporate reporting and disclosure.

Our broader objectives are to:

- manage our high profile investigations to achieve timely and successful results
- seek Government and Parliamentary support for more flexible enforcement remedies
- act against misleading and deceptive conduct affecting consumers
- promote public awareness about scams and fraud as part of our consumer education strategy.



Ian Johnston, Executive Director, appointed 2000, previously served in senior roles within ASIC and the financial services industry

Financial services regulation

Overview

In this section:

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- licensing and business operations
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- legal and technical
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146 Financial Services

Regulation staff:

- licensed or registered 477 financial services advisers and product issuers
- inspected 525 financial services businesses and entities, ran 10 targeted reviews to test compliance with legal requirements, and referred 74 entities or individuals for enforcement action for significant or systemic breaches
- assessed and determined 75 applications for relief from Financial Services Reform Act and 504 applications for relief from disclosure, managed investments and related provisions.

“We built a new electronic licensing system so an expected 7,000 organisations can apply online.”

Key results

Issue	Result
Implementing financial services reform	Delivered new online licensing system, issued guidance and consulted widely. Undertook 1,400 hours of staff training.
Solicitors mortgage schemes	Wound up non-compliant schemes, secured 2 jail terms for fraud and reduced the outstanding problems to manageable levels.
Managed investments review	Produced comprehensive submissions to the Review of the Managed Investments Act. Most of ASIC's recommendations were adopted.
Disclosure of past and prospective financial information	Undertook 130 corrective disclosure activities in relation to retail managed fund-raising.

Main activities	This year	Last year	%change
Australian financial services licences issued*	35	n/a	*n/a
Securities licences issued**	235	268	**n/a
Insurance broker registrations issued**	207	224	**n/a
Managed investment scheme inspections	90	109	-17%
Managed investment schemes registered	600	787	-24%
Responsible entity licences issued***	53	71	-25%
Commercial relief applications assessed	579	n/a	n/a

* First able to be issued from 11 March 2002.

** No longer issued after 11 March 2002.

*** A subgroup of AFS licensees after 11 March 2002.

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Financial services regulation

Licensing & business operations

Financial Services Reform (FSR)

The Act, which commenced on 11 March 2002, allows a two year transition period to harmonise licensing, disclosure and conduct requirements for financial services businesses.

New FSR licensing system

We built a new electronic licensing system so an expected 7,000 organisations can apply online. Existing and new businesses must apply for an Australian financial services licence. Our system automatically tailors the application to include only those matters relevant to the applicant's business.

Some businesses, such as custodians, foreign exchange dealers and non-corporate superannuation funds, will be applying for the first time, some will add new lines of business and others will simply re-apply only for their existing lines of business.

Answering FSR questions

To guide the industry, our staff answered more than 7,300 specific questions, updated answers to

nearly 100 most frequently asked questions, and published an AFS Licensing Kit. We also:

- held seminars for more than 4,500 people around Australia,
- spoke at over 200 industry conferences,
- distributed electronic newsletters to 4,000 people, and
- conducted regular seminars for industry every three months.

We expect to receive about 10,000 applications from product issuers and financial advisers for exemptions, modifications or other rulings.

Licensing operations

Implementing the FSR Act was done in addition to our 'business as usual' licensing of securities and futures dealers, responsible entities, issuing broker registrations and registering managed investment schemes. Three insolvencies of insurance intermediaries came to ASIC's notice.

Regulatory operations

Staff tested compliance based on public complaints and other information. We also tested consumer experiences with financial institutions, checked gaps in regulatory coverage, and reviewed disclosure documents.

Solicitors and finance brokers mortgage schemes

In July 2001 we established that the schemes that were required to run out their business had some 6,000 loans totalling \$1.3 billion, of which approximately 50% were in default. The default rates ranged from 80% in Queensland to 15% in Victoria.

By February 2002 we had reduced:

- run-out loans from 6,000 to 376;
- the number of operators from 186 to 32;
- the affected investors from 20,000 to 2,780; and
- the outstanding run-out default loan value to \$105 million.

We instituted criminal and other proceedings against a number of scheme operators. Two people have already been jailed. We have either initiated or intervened in 10 winding up applications with a further 13 applications to be filed and determined within the next few months. We are also preparing further policy guidance and compliance plan assistance for the industry.

High commission advisers

We targeted a series of surveillances of high commission schemes, leading to a number of enforcement actions.

In one case, we revoked the licences of Saxby Bridge Financial Planning

Pty Ltd and its related company, ABS Securities Pty Ltd, and banned a principal and director Mr Jeffrey Joseph Braysich from acting as an investment dealer or adviser for a period of five years. The matter is now before the Administrative Appeals Tribunal.

Tax schemes

Staff conducted a broader examination of mass marketed tax schemes, an area which attracted public and Parliamentary concern.

We reviewed disclosure documents for 13 schemes, inspected 27 advisers and interviewed 301 investors, finding evidence of:

- higher than usual commissions to advisers
- a failure to disclose important financial information
- absence of a reasonable basis for making some of the projections
- clients placed in tax effective schemes without proper advice or the required disclosures

Disclosing commissions

Evidence suggests that consumers may not be sufficiently aware that some advisers receive higher commissions for recommending in-house products associated with their firm than for out-of-house products. We have obtained additional disclosure of those commissions, and have begun a national campaign on this issue across the banking sector.

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Financial services regulation

Managed investment offer documents

We tightened guidelines on forward looking statements to ensure that prospectuses outlined a reasonable basis for forecasts. We issued 19 stop orders for unsatisfactory disclosure, and required corrective disclosure in the form of supplementary and replacement offer documents in 91 documents. In total we obtained corrective disclosure in relation to 130 fundraising activities.

We received 1176 managed investment prospectuses. Of these, 576 were in short form and 535 were in long form.

Surveillance of managed investments

The law creates a single responsible entity to manage and safeguard investors' funds. To ensure that these entities were complying with the law, we undertook surveillances of 156 responsible entities, both through targeted, proactive campaigns and when we received complaints. Serious or systemic breaches of the law and licence conditions were referred for enforcement action.

Legal and technical operations

Review of the Managed Investments Act

We made detailed submissions to the Government's Review of the Managed Investments Act along with supplementary submissions to the Treasury Consultation Paper. The Review adopted most of ASIC's recommendations.

Applications for relief

Staff assessed and determined around 579 applications for exemptions, modifications and other rulings from product issuers, financial advisers and their legal advisers. This includes 75 FSR-specific applications, 432 non FSR-specific relief (with a high concentration in the funds management sector) and 72 superannuation and insurance related applications. ASIC made 4 instruments for exemptions and modifications under Part 29 of the Superannuation Industry Supervision Act and no instruments under Part 15 of the Retirement Savings Accounts Act.

Policy work

The more significant policy work included:

- enabling managed funds to go on investing in futures contracts prior to FSR transition;
- clarifying FSR licensing requirements and limitations for Registered Independent Options Traders;
- updating policy on time shares, on serviced strata schemes and on mortgage investment schemes;
- facilitating rights issues, private placements and unit purchase plans; and
- adjusting transaction confirmation requirements for non-cash payment facilities that are linked to credit facilities and basic deposit products.

Outlook

Parliament has given us a massive task to implement its financial services reforms smoothly. We must raise standards in particular sectors of the industry. We must become more active and more skilled in superannuation and insurance, where consumers are expected to make decisions despite poor understanding of the system.

Our main objectives are to:

- Raise the financial services industry standards to protect consumers through regulatory operations.
- Provide as much assistance as possible to industry to transition to the FSR Act in the most efficient manner.
- Enhance our capacity in superannuation and insurance to increase consumer confidence and participation in these market.



Markets regulation and policy

Overview

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109 staff in markets, corporate finance and policy:

- regulated Australia's 5 authorised financial markets.
- regulated corporate finance, covering 913 equity fundraisings, 67 takeovers, financial reporting and market disclosure.
- developed 9 policies, 4 guidance and 5 consultation papers to regulate or guide industry and professionals.

“We lifted the quality of fundraising documents through 77 stop orders and guidance on prospective financial information.”

Key results

Issue	Result
Forecasts in prospectuses	We lifted quality of fundraising documents seeking more than \$291 million in capital through 77 stop orders.
Auditing practices	To increase confidence in financial reporting, we championed genuine auditor independence.
Linking Australian and Singaporean markets	Successful regulatory negotiations enabled investors to trade in both markets with a comparable degree of protection.
Financial services reform	Developed and issued 12 policy and guidance papers about administering new licensing and product disclosure requirements.

Main activities	This year	Last year	%change
Authorised financial markets regulated	5	5	nil
Equity prospectuses lodged	913	921	-1%
Equity prospectus stop orders issued	77	81	-5%
Fundraising relief applications	235	306	-23%
Takeovers	67	81	-5%
Takeover relief applications	606	699	-13%
New regulatory policies issued	9	4	225%
Financial reporting relief applications	407	627	-35%

Corporate finance

Audit and financial reporting

ASIC's Chairman spoke out on auditor independence, discussing rotation of audit partners and audit firms, reinforcing substance over form in financial reporting and calling for Australia to influence and adopt international accounting standards.

We reviewed financial reports of 80 listed companies to check compliance with the new accounting standard that replaced "profit and loss" statements with "Statements of Financial Performance". In a relatively small number of cases, we found standards had been interpreted in unusual ways that in some cases were hard to justify. ASIC pursued those matters with the companies concerned.

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Markets regulation and policy

Continuous disclosure to the market

We also took action, in cooperation with the ASX, to obtain additional disclosure from listed companies, including these more prominent examples.

Company	Action we took
Data and Commerce Ltd did not disclose a shortfall in forecast consolidated revenue.	Prohibited from raising capital by short form prospectus, for seven months.
Telezon Ltd did not disclose current cash holdings, the existence and utilisation of certain financial facilities and taxation liabilities.	Shares suspended.
CBD Online Ltd did not properly inform the market about expected losses.	Additional information released to market.
CityView Corporation Ltd: ASIC found an announcement about recent acquisitions in the UK misleading.	Additional information released to market.
Uecomm Ltd: ASIC considered the market was not properly informed about revenue projections and profitability	Additional information released to market.
Australon Ltd had not kept the market fully informed about its revenue projections and fundraising activities.	Additional information released to market.
Stericorp Ltd did not update the market with forecast projections about the 2002, 2003 and 2004 financial years	Additional information released to market.

Facilitating new corporate structures

Brambles Ltd became a dual listed structure. To assist, we granted special relief from the takeovers law and accounting requirements so that the two companies could report as a single entity. For BHP-Billiton, we granted 'fine tuning' relief from accounting standards.

James Hardie Ltd transferred its domicile to the Netherlands, thus becoming a company whose underlying shares no longer traded on the Australian market. ASIC extensively reviewed the scheme of arrangement that brought about this change. We also modified the law so that Australian investors could trade and enjoy the same rights as if they were shareholders.

Prospectuses and forecasts

Of 913 equity prospectuses, compared with 921 last year, floats seeking listing declined, although companies seeking smaller amounts of additional capital increased.

We inspected 237 prospectuses, and dealt with inadequate disclosure primarily through issuing 77 interim and final stop orders on 67 prospectuses that sought more than \$291 million. We found too many prospectuses contained forward looking statements without showing any reasonable basis, and we tightened our guidelines on projections.

Takeovers

There were 67 takeovers, a 17% drop in market and off-market bids from last year. In takeover disputes, we caused companies to correct market statements to ensure the market stays informed. Otherwise,

we encouraged parties to go quickly to the Panel, where we made submissions.

We successfully applied to the Corporations and Securities Panel in two matters concerning:

- Brisbane Broncos Ltd, where the Panel declared unacceptable the use of certain conditions attached to that bid.
- Ausdoc Ltd, where the size of a break fee payable to an undisclosed bidder may have impeded competition for control and operated unfairly for Ausdoc shareholders. The parties undertook not to pay or seek the break fee if the bidder could not ultimately compulsorily acquire all the shares.

Financial markets

Australia linked with Singapore

Following advice from ASIC, the Minister approved ASX rule changes in December that establish a market linkage service to support cross border trading between the two exchanges. The linkage involves an electronic co-trading and clearing arrangement so brokers can trade selected securities listed in the other exchange.

We invited public submissions and negotiated detailed arrangements to ensure that Australian investors and brokers could expect similar levels of protection, and fair and orderly markets. This change also required negotiations between ASIC and the Monetary Authority of Singapore to ensure that information necessary to enforce market rules could be obtained and exchanged.

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Markets regulation and policy

Direct access permitted to offshore trading

We also advised the Minister on applications to allow the European EUREX derivatives market, Hong Kong Futures Exchange and London Metal Exchange to make their screens available in Australia.

Institutions and sophisticated investors may now enjoy direct access at lower cost to these important markets, while retaining similar protection from possible misconduct by brokers who place their orders on these markets.

Financial services reform and Australian markets

All financial market operators in Australia will now require a licence, issued by the Minister on advice from ASIC. We must report to the Minister on how each operator meets the conditions of their licence.

The Reserve Bank of Australia also plays a regulatory role by checking that markets and clearing houses operate in a manner that maintains the stability of the financial system. To ensure effective cooperation, we negotiated and signed a Memorandum of Understanding with the Bank.

Sydney Futures Exchange

The Sydney Futures Exchange, following its demutualisation and corporate restructure, received a new licence to operate its markets, effective in January.

Enron and Australian electricity markets

The Enron collapse in the United States, which has damaged confidence among US investors, also affected Australia.

Through a subsidiary, Enron was a large and active trader in our domestic electricity markets. As soon as the US situation came to our attention, we inspected Enron Australia's books and records, and concluded that the company had to be removed from the market, because it had relied on its US parent for financial guarantees to join that market. Enron Australia's removal was achieved in an orderly manner.

ASX share trading and compliance

ASX shares trade on its own market. To avoid conflicts of interest, ASIC directly monitored daily trading and compliance by ASX with its listing rules in much the same way as ASX oversees other listed entities. No trading halts were required this year.

ASX trading surveillance

ASIC and ASX concluded a joint campaign to check if compliance systems, supervision and training, and record keeping of ASX brokers would effectively detect and deter manipulation and other abusive practices. A number of brokers agreed to tighten internal procedures, and the ASX issued guidance to all organisations.

Policy development

Financial services reform

Policy staff worked under great pressure to complete essential policy, guidance and other information on how ASIC will administer the major changes introduced under the Financial Services Reform Act.

Key documents covered training financial product advisers, organisational capacities, financial resource requirements, dispute resolution procedures, and product disclosure statements. We also issued policy covering new laws on operating financial markets. Transitional issues also presented complex problems. We issued transitional guidance and more than 100 class orders.

Prospective financial information

External studies show that prospective financial information is often unreliable. To raise the quality of forecasts in prospectuses, we issued a draft policy on prospective financial information. The draft will assist companies issuing prospectuses and guide staff when assessing fundraising documents, until a final statement is issued, probably before the end of 2002.

Outlook

Recent corporate collapses and recent shortcomings in disclosure have shown that many directors have not yet embraced the culture of continuous disclosure. These events have reduced market and public confidence in financial reporting, audit, corporate governance, and disclosure.

Technical issues concerning financial services reform are expected to arise during the transition period, requiring additional policy and guidance.

Our broader objectives are to:

- make a greater impact, especially on the directors and auditors of Australia's listed public companies
- maintain the relevance and credibility of Australia's markets in a global context, and
- take on additional roles in regulating and reporting on how market operators have fulfilled their licence obligations.



Peter Kell, Executive Director, also NSW Regional Commissioner, and Delia Rickard, Deputy Executive Director appointed 2001, previously co-directors of ASIC's Office of Consumer Protection.

Consumer Protection

Overview

18 Consumer Protection staff:

- identified compliance issues affecting consumers and worked with enforcement and regulatory staff
- carried out consumer policy and education projects
- researched and analysed consumer issues and risks.

Key results

Issue	Result
International cold calling investment scam	Published research and recommendations to combat these scams that cheated Australians of an estimated \$400 million.
Reporting past performance	Halted potentially misleading advertisements about performance of investment funds.
Insurance claims	For at least 600 Ansett ticket holders, ensured that valid travel insurance claims would be honoured.
Consumer financial literacy	Launched consumer education strategy, the first from an Australian financial regulator.

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- Consumer Advisory Panel Report

“We launched our three year consumer education strategy, the first from an Australian financial regulator.”

Compliance and campaigns

Reporting past performance

ASIC has been monitoring the use of past performance in marketing investments, and is developing guidelines in consultation with industry and consumers.

AXA (National Mutual Funds Management Ltd), advertised past-performance figures that we considered potentially misleading because its print and TV advertisements did not adequately disclose that the past-performance figures were hypothetical.

To fix this problem, the company undertook that all future advertisements would:

- clearly disclose how past-performance figures were calculated, and
- contain prominent qualifiers, including that past performance does not necessarily indicate future performance.

AXA also wrote to all affected unitholders, offering to address any concerns.

Travel insurance

In cooperation with enforcement staff, we had two insurance companies agree to pay all valid claims for cancelled Ansett tickets.

Both QBE Insurance (Australia) Limited and American Home Assurance had refused claims for cancelled Ansett tickets made under policies issued between 10 and 14 September 2001. They argued that on 10 September the collapse of Ansett was a foreseeable event, and therefore they would not cover cancelled Ansett tickets. Many customers were not told of this decision. Ansett tickets were still being issued until 14 September. Between 10 and 14 September 2001, the companies sold around 7,000 policies to domestic air travellers, including many Ansett customers.

Policy and education

Educating investors and consumers

We launched our three year consumer education strategy, the first from an Australian financial regulator, to promote financial literacy. Implementation began through:

- publishing new material for consumers on our **FIDO** website, where visits doubled to 488,000
- producing *You can complain*, on solving problems with financial products and services in English, Chinese, Vietnamese and Arabic, and
- revising and distributing 100,000 copies of *Don't Kiss Your Money Goodbye*, on how to find a good adviser, with the Financial Planning Association of Australia.

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Consumer Protection

New electronic funds transfer code

Our new Electronic Funds Transfer Code of Conduct commenced on 1 April 2002. More than 200 financial services organisations have adopted it, more than under the old Code. Our straightforward *Guide to the EFT Code* for consumers explained its expanded coverage, new rules and additional safeguards.

Good transaction fee disclosure

Among changes adopted under *ASIC's guide to good transaction fee disclosure for bank, building society and credit union deposit and payment products*, deposit taking institutions have begun to:

- summarise fee information on statements,
- warn ATM users if a "foreign ATM" fee applies,
- warn ATM, phone or internet users if they are about to incur a fee by overdrawing an account,
- display a prominent link to fees for internet customers.

Issued in June 2002, the guide sets out current disclosure requirements and ASIC's views on good disclosure.

'Book up' – some consumer problems

We published a study into 'book up', or informal loans, advanced by traders so consumers can buy the trader's goods or services. Used mainly by indigenous Australians, book up proved more widespread than we suspected.

While the system does fill a genuine need, because users cannot easily obtain loans from financial institutions, it has exposed people to exploitation and the risk of fraud. After releasing the report, we co-hosted a successful workshop on Indigenous Consumer Issues with ATSIAC and ACCC and are acting on its recommendations.

Consumer complaint resolution schemes

We approved the Australian Banking Industry Ombudsman scheme, covering the whole banking industry. During the approval process, we negotiated reforms to the governance of the scheme that strengthened its independence.

We are currently processing other applications to approve financial services complaint resolution schemes.

Consumer Advisory Panel

See page 50 for the Panel's report and page 22 for its role.

Research and analysis

International cold calling investment scams

In June we released *International Cold Calling Investment Scams*, with research and recommendations to combat these scams. More than 82 unlicensed overseas telemarketing firms cheated Australian investors of an estimated \$400 million between 1999-2001. Of 7,300 people who contacted ASIC directly, some 80% lost money.

International investment scams are becoming more sophisticated, both in cheating consumers and exploiting the difficulties in cross-border law enforcement. See page 53 for other ASIC action against cold calling.

Monitoring codes of practice

ASIC reported that compliance remained high with the payments system codes of practice and the EFT Code of Conduct during 2000-01. Complaints about unauthorised EFT transactions increased. We warned consumers about the importance of safeguarding their PINs.

Outlook

Our main objectives are to:

- increase our role in research and risk analysis, strengthening our ability to identify and deal with key consumer risks
- increase our educational activities, with a special emphasis on alerting consumers to financial fraud and boosting financial literacy, and
- as a result of the Financial Services Reform Act, start work against misleading or deceptive conduct relating to loans and credit cards.

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Consumer Protection

Consumer Advisory Panel report

This is my last report as Chair, having served for 3 years. Membership will change significantly in 2002-03 so that a range of consumer organisations can participate.

The Panel contributed to important outcomes, including a financial information directory for consumers, a report on the book up system, and multilingual publications on how to complain. We have influenced changes to direct debits, disclosure of bank fees and debate on charges levied on managed investments.

The Panel met four times, and completed projects including:

- a directory of consumer organisations involved in financial services;
- a literature review on 'What is effective consumer education';
- multilingual translations of ASIC's new *You can complain* brochure; and
- research into 'health warnings' in prospectuses.

A research project on finance brokers is still in progress.

I thank all members for contributing.

Barbara Cail AM
Chairman, Consumer Advisory Panel



Left to right: Iain Ross, Catherine Wolthuizen, Barbara Cail AM (Chair), Jenni Mack, Basil La Brooy, David Jackson, Carolyn Bond, Ingrid Gubbay.

Members

Barbara Cail AM (Chair)

Carolyn Bond,
Consumer Credit Legal Service
Victoria

Ingrid Gubbay,
NSW Legal Aid Commission

David Jackson,
Australian Shareholders' Association

Basil La Brooy,
National Information Centre
on Retirement Investments

Jenni Mack,
individual member

Virginia Noonan,
Financial counsellor
(resigned in March 2002)

Gordon Renouf,
individual member

Iain Ross,
Council for the Ageing

Catherine Wolthuizen,
Australian Consumers Association



Greg Tanzer, Executive Director, appointed 2000, also Queensland Regional Commissioner, experienced in corporate law and regulation.

International and regional coordination

Overview

11 International and regional coordination staff:

- managed 304 international requests for assistance
- led ASIC's contribution to international regulation
- coordinated ASIC's 8 Regional Commissioners to maintain service levels.

In this section:

- overview
- key results
- international law enforcement
- international regulation
- regional coordination
- outlook

Key results

Issue	Result
International cold calling investment scams	Took enforcement action and prompted action by overseas authorities.
Global law enforcement	Greater cooperation from jurisdictions previously less able to assist.
Globalisation	ASIC's voice in setting global standards strengthened by election as Chairman of IOSCO's Technical Committee.

“Assistance has markedly improved from jurisdictions not previously able to assist us rapidly with our investigations.”

Main activities	This year	Last year	%change
ASIC requested overseas assistance	95	84	11%
Other regulators requested our assistance	209	210	nil
Visits to ASIC from foreign regulators	42	53	-21%

International law enforcement

Some 63 out of 95 requests to overseas authorities concerned investigations, and we received 52 investigative requests from them. International assistance has proved vital for investigations into HIH Insurance, One.Tel and other matters not yet made public.

Assistance has markedly improved from jurisdictions not previously able to assist us rapidly with our investigations, notably Switzerland, the Bahamas, the Channel Islands.

International cold calling scams

We raised this issue in international meetings and urged overseas authorities to close down these operations. In 2001, Thai, Singaporean, Philippine, Indonesian and Hong Kong authorities shut offices, froze accounts and arrested some individuals. Several regulators and the International Organisation of Securities Commissions (IOSCO) issued media releases and public warnings, following ASIC's initiative.

ASIC:

- intercepted and convicted Paul Richard Bell (alias Dr Richard King), and brought injunctions against Garry Zinn who represented a company being promoted by cold callers
- helped Royal Thai Police gather evidence from Australian victims to assist prosecutions

- published a blacklist on our FIDO website of known cold calling organisations, visited 32,000 times
- regularly warned investors through radio, TV and 18 media releases.

Dealing with overseas-based scams remained difficult because ASIC can act only in Australian courts.

International regulation

ASIC participated in the Executive and Technical Committees of IOSCO, where 150 member organisations represented securities regulators and self regulatory organisations. IOSCO elected ASIC Chairman David Knott as Chairman of its Technical Committee in 2002.

Following September 11, IOSCO announced a multi-lateral Memorandum of Understanding (MOU) to cooperate and share information. ASIC contributed to the MOU and its procedures.

We signed the first international MOU with the UK Financial Services Authority. In addition to enforcement, this MOU heralded cooperation in financial regulation. We negotiated MOUs with Indonesia's new futures regulator, CoFTRA, the SEC of Sri Lanka and revised our MOU with the Hong Kong Securities and Futures Commission.

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International and regional coordination

ASIC sent senior staff to speak at five seminars in the Asia Pacific to assist regulators in emerging markets. We hosted visits from Bangladesh, the Philippines, China, the UK, South Africa, Japan, Indonesia, and the World Bank.

Regional coordination

Service levels were maintained in each State and Territory. Regional Liaison Committees representing the business community met about four times each year, received information on our performance and service, and offered ideas.

ASIC's Regional Commissioners all played national roles as part of our new structure, see page 71. They represented the organisation and reported on ASIC activities and performance to State and Territory Ministers.



Standing left to right: Simon Dwyer (Tas), Mark Drysdale (Vic), Michael Gething (WA), Anthony Beven (NT), Peter Kell (NSW); seated: Ron Ladlay (ACT), Karen Axford (SA).

Outlook

The key issues ahead are to:

- coordinate increasing requests for international investigative assistance and legal advice
- consolidate our work against cold calling and take coordinated action, especially within the Asia-Pacific region
- contribute to international work on audit, financial disclosure, clearing and settlement, risk assessment of managed fund operators, and simplified prospectuses for collective investment schemes, and
- maintain service levels in all States and Territories.



Mark Drysdale, Executive Director, appointed 2000, and Victorian Regional Commissioner, with experience in corporate management and regulation.

Public and commercial services

Overview

332 Public and commercial services staff:

- maintained Australia's public database of 1.2 million companies
- assessed 7,827 complaints from the public about misconduct
- answered 710,000 telephone enquiries
- developed new electronic services for the public and people we regulate
- sold high volume document imaging services on commercial terms.

Key results

Issue	Result
Company searches	A record 6.1 million searches made possible through our website.
Rising public complaints about corporate misconduct	Resolved more than 50% of public complaints, up from 37% last year, through personal contact, warning letters and visits, and information.
Electronic services	New financial services licensing, insolvency reporting and risk scoring systems completed.

Main activities	This year	Last year	%change
Total companies	1,251,237	1,224,207	2%
New companies incorporated	90,175	76,103	18%
Revenue collected for the Government	\$379 million	\$363 million	4%
% public availability of our databases	99.9%	99.9%	nil
Free internet searches	6,135,856	4,626,700	32%
Online paid searches	2,891,549	2,780,169	4%
Over the counter searches	83,937	102,700	-18%
Company data lodged on time	93%	93%	nil
Public complaints about misconduct	7,827	6946	13%
Telephone inquiries	710,000	765,000	-7%

“We reduced the average time taken to make information from company annual returns publicly available.”

Company database

The number of companies registered in Australia increased 2.2 per cent to 1,251,237, below past rates of growth in the 1990s, despite the number of new companies increasing by 18%. Our electronic company registration now accounts for 71% of new companies formed.

Free internet searches

People conducted a record 6.1 million free internet searches of company names, numbers and document lists, up 32%, the most popular service offered through ASIC's website. Some 4,800 people use Company Alert to monitor 28,600 companies, up from 23,800. This free overnight email service notifies any changes to company details.

People made 141,000 searches of licensed and banned advisers, up 38%.

Paid company searches

The total number of paid searches rose 3% to almost 3 million, with 97% of full company searches occurring online, the highest number ever. Only 3% of searches were conducted over the counter in our Service Centres.

Revenue collection more efficient

Our staff collected fees on behalf of the Commonwealth, see page 113. We strengthened our debt recovery processes to improve our receivables/revenue ratio of from 6.4% to 4.5%.

Processing improvements

We reduced the average time taken to make information from company annual returns publicly available.

We delivered this improved level of service with 16 fewer full time equivalent staff dedicated to this work, 8% less than last year.

Data lodgement

We launched a new compliance program to enforce lodgement of public company financial accounts.

More companies are updating and lodging data with us electronically, which helps reduce errors on our database. 755,394 or 66% of all annual returns were lodged electronically, up 3%. Companies electronically lodged 390,764 critical change documents or 56% of changes, a 8% increase over last year.

Some 5,800 agents and officers of small companies now deal directly over the internet to change their data and to lodge and pay for their annual return, up from 4400 last year.

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Public and commercial services

Company information on time

About 93% of companies lodged their information with us on time, the same as last year.

Our compliance program to enforce lodgement of company annual returns resulted in 1,156 successful convictions, up 36%.

Complaints and reports of misconduct

Staff analysed and assessed:

- 7,154 complaints from the public about breaches of the law, up 13%, and
- 4,070 reports from company liquidators, receivers, administrators and auditors, up 5%.

Most complaints came from company external administrators, then from investors or shareholders.

The most common complaints concerned company officers failing to assist external administrators and acting fraudulently or negligently.

More help for complainants

We resolved more than 50% of public complaints, up from 37% last year, through

- 2,600 people assisted to negotiate a resolution,
- 600 warning letters,
- 160 visits or contacts with alleged offenders.

These steps, and 62 minor prosecutions over alleged breaches in straightforward matters, encouraged compliance and resolved problems, particularly among small to medium sized entities.

Complaint statistics

	2001/02	2000/01
Public Complaints		
Public complaints	7827	6946
Outside ASIC jurisdiction	673	604
Net public complaints	7154	6342
Action taken on public complaints		
Resolved by:		
information provided/negotiation	52%	37%
surveillance	5%	9%
investigation	2%	3%
Analysed, assessed and recorded	41%	51%
Statutory reports from external administrators		
Total reports received	4070	3866
No offences reported	128	1091*
Net statutory reports	3942	2775
Action taken on statutory reports		
Resolved by information provided/negotiation	6%	4%
Surveillance	0.1%	0.6%
Investigation	0.3%	1.2%
Analysed, assessed and recorded	93%	94%

* Probably overstated as a result of inconsistent data.

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Public and commercial services

Telephone enquiry services

ASIC's Client Contact Centre handled more than 710,000 calls from the public about:

- routine company housekeeping matters and company searches (about 80%)
- our regulatory and enforcement activities (about 20%).

Routine company administration calls fell again this year, probably reflecting greater use of online facilities and speedier processing of documents and cheques.

However, Infoline, which handled regulatory and enforcement matters, answered 161,000 calls, a 30% increase. Infoline staff helped 94% of callers on the spot. Where another staff member had to ring the caller back, we averaged 76% of call backs within 24 hours, down from 81%.

Electronic services

Online Australian Financial Services licences

The new system, based on key questions, pre-fills data wherever possible, letting licence applicants:

- review answers
- save and print at any stage
- produce tailored declarations and certifications, and
- review a checklist of proof and evidences.

Online insolvency reporting

Liquidators, receivers and administrators can now lodge their documents electronically through our website. Because this data arrives in a structured, consistent and timely manner, we can act on it more quickly and assist government agencies and those interested in corporate insolvencies.

Assessing risks electronically

An automated risk assessment system automatically collects data from our various public and confidential databases to allow staff to assess the seriousness of complaints and statutory reports.

Unclaimed monies

We have improved the accessibility of unclaimed monies for consumers by building a search and retrieval facility on ASIC's website to be launched next year.

Commercial services

Our commercial activities complied with competitive neutrality principles. Within that framework, we specialised in:

- high volume scanning services for organisations that wish to "back capture" data
- document management services in litigation and public inquiries.

Customers included AUSTRAC and Commonwealth Royal Commissions.

Outlook

The Government's CLERP7 law reforms will see companies lodge notices with ASIC only when details change. Companies will no longer be required to lodge a company annual return. This will require major system changes. We must also meet the demand for extended electronic and internet services. In receiving complaints from the public about breaches of the law, we must strengthen our ability to detect and act on emerging issues and risks.

Our objectives are to:

- implement company reporting proposals, if enacted
- expand analysis and reporting about public complaints
- extend our electronic interface, and improve maintenance of Australia's corporate database
- upgrade communications technology, and
- streamline back-office processes.



Carlos Iglesias, Executive Director, appointed 2001, previously ASIC Director, Information Technology and Knowledge Management.

Infrastructure

Overview

295 Infrastructure staff delivered services covering:

- information technology and knowledge management
- human resources
- finance
- business management.

Key results

Issue	Result
ASIC funding	Government agreed to \$90.8 million extra funding over next four years.
Staff development	Launched our first national directory of programs, and doubled our investment in staff development for 2002-03.
Sharing information	Prepared new IT Strategic Plan, established Knowledge Management Steering Committee and hired a National Information Manager.

“Knowledge Management is a key priority and action is already well underway.”

In this section:

- overview
- key results
- information technology and knowledge management
- human resources
- finance
- business management
- outlook

Information technology and knowledge management

IT and KM Strategic Plan

Our new three year IT Strategic Plan focuses on knowledge management, development of internal workflow systems and continued development of e-business systems. Knowledge Management is the key priority, under a steering committee comprising Executive Directors.

The strategy and plan has been developed, a National Information Manager recruited, and action is already well underway.

New network operating system

During the year we completed a major IT infrastructure upgrade, with minimal disruption and resulting in efficiencies for staff and lower IT support costs. The obsolete Banyan Vines network was replaced by Windows 2000. All desktop computers, file servers and printers were also replaced. Windows 95 was upgraded to Windows 2000 and Lotus Notes was upgraded to the latest version.

Key new applications

User Group	What the application delivered
Financial services	On-line licensing system to support the FSR Act
Enforcement	A system to support the management of Enforcement matters.
Complaints	Major changes to the Complaints Management System, including receiving complaints on-line and automated risk scoring.
Public affairs	Conversion of websites to in-house data management and publishing, resulting in efficiencies and lower costs.

Infrastructure

IT leasing and asset replacement

We entered a leasing agreement for all our future IT equipment, to help us predict and manage costs and timing of asset replacement. Using the agreement, we replaced ASIC's mainframe, video conferencing equipment, PCs, printers and a variety of file servers.

IT outsourcing

The Commission approved a revised outsourcing strategy based on a selective sourcing model. Work has commenced on a Request for Proposal to test the market, and the process will be finalised next financial year.

Human resources

Staff development

As a major initiative, the Commission approved a doubling of funds for staff development. We delivered a new national directory of our development programs for leadership, core business and general skills.

As part of our leadership development strategy, we finalised the accredited Leadership Development Program delivered by Mt Eliza Business School. Some 50 managers are enrolled, and successful completion leads to an accredited MBA (Executive) qualification.

Attracting and retaining staff

Under ASIC's new national structure, we refined the recruitment, induction and exit interview processes so that the whole organisation follows a consistent process to select the right staff first time. HR staff participated fully in all selection processes. We also introduced an online induction package on our intranet that is completed by all staff on starting with ASIC.

Employee information

Upgraded management reporting enabled ASIC to identify and monitor workforce trends more promptly. Using our online Employee Self Service system, we simplified approval processes for supervisors and made the system easier for staff to use. We also implemented a new human resources intranet site which has been widely used.

Industrial participation

New Australian Workplace Agreements were negotiated with approximately 350 staff, and all have been approved by the Office of the Employment Advocate and processed by payroll.

Performance management

All staff participated in our performance management process which rewards high performing staff and helps manage underperformance.

Finance

Output pricing and extra funding

ASIC conducted an Output Pricing Review with the Department of Finance and Administration, resulting in an additional appropriation of \$90.8m over four years to implement the Financial Services Reform Act and boost ASIC's enforcement capability.

Unclaimed monies

To answer public queries and process claims more quickly, we built a new unclaimed monies database, consolidating three old databases under the Life Insurance, Banking and Corporations Acts. We also

- upgraded the system for institutions to lodge their data electronically, and
- contributed to a project to enable the public to search our database online.

New structure

After ASIC reorganised itself into seven national directorates, finance staff redesigned internal management and budget reports and substantially changed financial delegations.

Business management

Media relations

To raise awareness of ASIC's enforcement and regulatory results, the Chairman played a stronger part as ASIC's chief spokesperson, thus lifting our profile and building confidence in our law enforcement role. We issued 472 media releases, of which more than 90% were published, and answered thousands of media and public inquiries.

Internet and corporate publishing

Visits to our consumer website, FIDO, doubled to 488,000, and our main website rose 43% to 3.3 million visits. We significantly increased our two electronic newsletters:

	FIDO News	Financial Services Reform
2001-02	5,500	4,000
2000-01	855	1700

For the third year in a row, the Annual Report received a Gold Award from Australasian Reporting Awards Inc. Our hard copy newsletter, ASIC News, was distributed monthly to about 6000 readers, and we contributed regular articles to consumer, investor and professional magazines.

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Infrastructure

Tighter security to protect staff

A special risk assessment was undertaken following the US 11 September terrorist attacks.

Tighter security measures included:

- restricting public access to premises
- improving mail scanning equipment
- training all mail staff, and
- using security personnel in larger offices.

Environment: energy use and recycling

All government agencies must achieve energy savings of 25% by 2003, compared with 1992-93.

We have made significant reductions and expect to reach our target:

Year	MJ per person
2001-02	10,431
1999-2000	14,285
2003 target	10,000

Our offices also recycled waste paper. ASIC's operations have no implications for ecologically sustainable development.

Rationalising property, more efficient services

We reduced our property portfolio, and increased space utilisation per person by 6%, despite office refits to better accommodate the new national structure. In office services, our new national structure helped us cut costs for office services by 10% by reducing duplication and applying best practice.

Outlook

ASIC requires a framework, systems and culture of sharing information. We also must develop the next generation of ASIC leaders and senior managers. Finally, we must use our additional funding wisely and increase internal efficiencies and accountability for costs.

Our key objectives are to:

- implement Knowledge Management processes and technologies
- develop IT systems for corporate law reforms, if enacted
- increase staff development, and develop succession and career planning
- conclude service level agreements with operational directorates and give them greater control over their infrastructure costs, and
- accommodate the additional staff joining ASIC over the next four years within existing space.

Our Staff

In this section:

- staff and basis of employment
- work environment
- senior management
- outlook

“To develop the next generation of ASIC leaders is one of the key needs of the organisation.”

Staff and basis of employment

We employed 1,284 full time equivalent staff over the year, comprising:

- investigators, lawyers, accountants, and analysts
- information processing and customer service staff
- infrastructure staff, and information technology, human resources, financial, and communication specialists.

Staff remuneration

Most staff received remuneration under a certified agreement, and 398 senior staff under individual Australian Workplace Agreements. ASIC contributed to superannuation through Commonwealth Government schemes, State Government schemes for staff who transferred to ASIC in 1991, and private sector schemes for consultants or contractors. See also the financial statements on page 97.

Ongoing and fixed term staff

Basis of employment	No. of staff
Public Service Act, ongoing	976
Public Service Act, temporary, most often for peak company annual return processing	195
ASIC Act consultants, for essential specialist services including investigatory, legal, corporate regulatory and accounting functions	47
Contractors, mainly in information technology	63
Commissioners	3
Total (average FTE over the year)	1284

The percentage of contract and non-ongoing staff remained steady at 26%. This helped us meet seasonal peak workloads in document processing, and also reflected market-based remuneration and employment packages.

Work environment

Staff development and career planning

To develop the next generation of ASIC leaders is one of the key needs of the organisation. We are aiming to create an environment that encourages sharing knowledge and retention of our corporate expertise.

Through Mt Eliza Business School, we have 50 managers currently enrolled in a customised leadership program. Successful completion will result in a fully accredited MBA (Executive) qualification.

To increase training and skills, the Commission doubled the investment in staff development for 2002-03. We are developing succession and career planning for ASIC through capability assessments.

To assist managers and their staff, we prepared and published a national directory of staff development programs.

Performance management

All staff participated in a formal performance management process that assessed performance as exceptional, highly effective, effective, not yet effective or unsatisfactory. Based on this assessment, staff and managers completed development planners to meet agreed development needs in the coming year.

Workplace diversity and equal opportunity

We are an equal opportunity employer. At 30 June 2001, women made up 56% of our workforce. Two Commissioners and one Regional Commissioner were women, and women made up 38% of our executives and senior executives.

We also participated in the Commonwealth strategy to ensure access to recruitment, training and grievance procedures for people with disabilities, see page 76.

Occupational health and safety (OHS)

To make sure that we were maintaining a safe workplace, we completed an external audit of our OHS policies and practices.

Our staff work in well-maintained offices and buildings, creating fewer health and safety risks than in industrial operations. Rehabilitation case managers helped ensure injured staff returned to work early. Our OHS practices were externally audited as part of a regular review, leading to recommendations now being implemented, for example updating our OHS policy and our OHS agreement with the union. No notifiable accidents or dangerous occurrences arose, and we received no directions or notices under OHS legislation covering Commonwealth employment.

Our Staff

Industrial relations

We met regularly with staff and union representatives through our National Consultative Council, which is a feature of the Certified Agreement negotiated last year. We also dealt with union and staff representatives on individual matters. We had no significant national industrial issues or disputes.

Location and profile of staff

As full time equivalents averaged over the year, we employed 543 staff in Victoria, 450 in New South Wales, 114 in Queensland, 84 in Western Australia, 46 in South Australia, 23 in the Australian Capital Territory, 16 in Tasmania and 8 in the Northern Territory. Major offices are located in State and Territory capitals and Traralgon in Victoria. Small service centres are located in Geelong, Gold Coast, Townsville and Newcastle.

Staff (average full time equivalents)	No*	%
Operational and support (ASIC 1 - 4)	766	60%
Senior operational staff (EL1 and EL2)	369	29%
Senior Executive Service	31	2%
Others (contractors, agency staff, consultants)	115	9%
Commissioners	3	n.c.
Total	1284	100

* Average full time equivalents

Senior management

Commissioners, Executive Directors and Regional Commissioners

Our Commissioners are full time executives, see pages 16 and 18. Executive Directors lead seven national directorates, see directorate chapters of this report.

Regional Commissioners, reporting to Commissioners, undertook national roles and represented ASIC in each State and Territory, see below. They are qualified in law or accounting or have extensive regulatory experience.

General Counsel and Chief Accountant

General Counsel is Brendan Byrne, previously counsel for our Regulatory Policy Branch. Ian Mackintosh was Chief Accountant until mid-June 2002, when he left to join the World Bank in Washington.

Outlook

The key staffing need that we plan to deal with over the next three years is to increase the skills and training of our staff to deal with the diverse range of financial markets and services we regulate. We will also develop succession plans and develop the next generation of leaders and managers.

We will also need to harness staff and management support to share information effectively right across the organisation, a task that will underpin our knowledge management strategy.

Regional Commissioner	State/Territory	National role	Term
Karen Axford	South Australia	Insolvency Adviser	February 2004
Anthony Beven	Northern Territory	Consumer Protection Adviser	September 2002
Mark Drysdale	Victoria	Executive Director	December 2004
Simon Dwyer	Tasmania	Enforcement Adviser	October 2003
Michael Gething	Western Australia	Markets and Policy Adviser	June 2004
Peter Kell	New South Wales	Executive Director	July 2004
Ron Ladlay	Australian Capital Territory	Enforcement Adviser	March 2003
Greg Tanzer	Queensland	Executive Director	March 2005

ASIC Audit Committee and audit services

The ASIC Audit Committee assisted the Commissioners with financial reporting and overseeing of the effectiveness and integrity of internal controls and ASIC's audit processes.

The Committee examined ASIC's 2000-01 financial statements, issues concerning the 2001-02 financial statements, and internal and external audit matters, risk assessment, and fraud control planning.

Internal audits conducted during the year included reviews of: IT Security Arrangements, Corporate Card Compliance, Electronic Company Registrations System, Application Software Change Management, Security Deposits of Liquidators, FSR IT Infrastructure Implementation, Privacy & FOI Compliance, Fixed Asset Register Integrity, Accounts Payable, Payroll Processing, Contract

Administration, Corporations Law Revenue Collection & Debt Management, and Property Accounts.

Of the Audit Committee's five members, three (including the Chairman and Deputy Chairman) are suitably qualified persons appointed from outside ASIC. Chairman Merran Kelsall, BCom (Hons), FCA, MBA, is a Chartered Accountant, Consultant and Company Director. Deputy Chairman Robert Savage, BCom, FCA, is a Chartered Accountant and Company Director. The other independent member is Bob Lynn, FCA and Chartered Accountant. The internal appointments comprise one Commissioner and one Regional Commissioner.

The Committee met five times during the year. Details of membership and attendance were:

"The Committee examined ASIC's financial statements, issues, risk assessment and fraud control."

Members	Meetings attended
Merran Kelsall, Chairman - appointed 29 January 1998	5
Robert Savage, Deputy Chairman - appointed 1 March 2000	5
Bob Lynn, appointed 1 March 2002	1
Berna Collier, ASIC Commissioner, appointed 1 March 2002	2
Simon Dwyer, Tasmanian Regional Commissioner, appointed 5 April 2001	5
Jillian Segal, ASIC Deputy Chair, retired 25 March 2002	3
Karen Axford, South Australian Regional Commissioner, retired 29 November 2001	1

The Australian National Audit Office provided external audit services, Chartered Accountants Ernst & Young provided internal audit services, and Simon Farrer held the position of National Manager Audit. Both external and internal audit representatives attended Audit Committee meetings.

Merran Kelsall, Chairman,
ASIC Audit Committee,

5 July 2002

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In this section:

- publications
- freedom of information
- Commonwealth Disability Strategy Report
- Electoral Act disclosure

Appendices

Publications

We published the following free publications:

- Electronic newsletters:
FIDO News (financial tips and safety checks) *Financial Services News* (financial services reform).
Printed newsletters: *ASIC News* (regulation and enforcement), *InFocus* (company information)
- Brochures: *Don't kiss your money goodbye*, *Super decisions*, *You can complain*.
- Annual report, occasional reports, papers and information sheets on a wide range of topics accessible through our website or Infoline.

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

Freedom of Information Act 1982

The public may obtain copies of documents in ASIC's possession under the Commonwealth *Freedom of Information Act 1982* (FOI Act) by making an application addressed to the Administrative Law Coordinator in the State or Territory in which the applicant resides or to the Manager, Administrative Law, National Office Sydney.

ASIC maintains the following categories of documents which are in its possession as required by section 8 of the FOI Act:

- documents relating to meetings of ASIC, meetings between ASIC and government and non-government bodies, business communities and committees
- documents relating to Parliamentary committees and Parliamentary questions
- papers relating to new and amending legislation
- general correspondence with members of the public

- documents relating to applications from businesses, including:
 - correspondence, statistics, policy documents and registration materials relating to licensees, receivers, auditors, liquidators and official liquidators
 - internal working papers and statistics relating to examination and assessment of financial and accounting information, securities and futures and other matters
 - applications and submissions made to ASIC.
- documents, books and records of companies and individuals obtained pursuant to ASIC's information gathering powers; investigation reports and prosecution briefs
- documents relating to administrative law matters
- registers of instruments of delegation, direction and authorisation
- documents relating to accommodation, estimates, accounts, expenditure, banking arrangements and internal audit; computer systems and purchases, human resources, recruitment and staff management
- handbooks, guidelines, manuals, policy statements, practice notes, media releases, information releases, pamphlets and annual reports and other documents held as public database information (ASCOT) (see note below).

As required by section 9 of the FOI Act, ASIC makes available to the public the following documents for inspection and purchase by subscription from the Centre for Professional Development, telephone 03 92050600.

ASIC Digest – which contains Policy Statements, Practice Notes, information brochures, Media Releases, Information Releases, public memoranda, summaries of most ASIC Instruments, class orders, ministerial orders, pro-formas for applications, legal commentary and accounting commentary.

Note: Documents that are made available to the public on ASCOT, in the *ASIC Digest* and by the Centre for Professional Development are not available under the FOI Act.

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Appendices

Commonwealth Disability Strategy Report

As a regulator, ASIC is expected to publish, in formats accessible to people with disabilities, all its publicly available information on regulations, quasi-regulations and compliance reporting. This occurs through our website on the day materials are released, and in hard copy through our commercial publisher and on request through ASIC's national Infoline. A disability expert reviewed our website and found that our regulatory and compliance materials were accessible. However, some relatively minor changes were required, which will be completed during 2002-2003.

As an employer, ASIC incorporated the requirements of the Disability Discrimination Act 1992 when developing and reviewing employment policies, procedures and guidelines.

- Recruitment information was prepared and released in accessible electronic format, usually within 24 hours, or posted out in hard copy on request within 24 hours. No requests were received for other formats.

- Human Resources staff advised managers and recruiters on reasonable adjustments required for job applicants and for staff with disabilities (including staff access to training).
- Information on disability issues was included in training programs as appropriate.
- ASIC also has internal and external grievances procedures, including review of actions under the Public Service Act and appeals to the Australian Public Service Commission. Grievance provisions have been included in the ASIC certified agreement. Staff also had access to an Employee Assistance Program. ASIC received no complaints regarding disability issues during 2001-02

Disclosure under Commonwealth Electoral Act 1918

Section 311A of this Act requires us to report for the financial year ended 30 June, payments made by us or on our behalf to:

- polling organisations, advertising agencies and media advertising organisations: nil
- market research organisations: Chant Link & Associates \$89,173
- direct mail organisations: City Mail Room \$49,830 and Security Mailing Services \$13,237.

Financial comparisons: Corporations Act and new functions

The Ministerial Council for Corporations asked ASIC to disclose a comparison of costs and revenue attributable to the new functions we received on 1 July 1998, compared with our traditional Corporations Act functions. See below.

	National corporations scheme 2001-02	National corporations scheme 2000-01	New financial services functions 2001-02	New financial services functions 2000-01	Total 2001-02	Total 2000-01
Operating revenue (mil)	143.7	134.3	10.6	9.9	154.3	144.2
Operating expenses (mil)	149.2	131.7	10.7	11.6	159.9	143.3

Six year summary

2001/2002 2000/2001 1999/2000 1998/1999 1997/1998 1996/1997

Business information

Number of registered companies	1,251,237	1,224,207	1,195,851	1,149,297	1,088,192	1,026,206
New companies incorporated	90,175	76,103	105,472	98,038	97,031	92,680
Australian Financial Services licensees*	35	n/a	n/a	n/a	n/a	n/a
Securities dealers*	2,302	2,250	2,081	1,833	1,547	1,608
Investment advisers*	223	224	224	231	227	241
Futures brokers*	119	121	120	108	99	97
Futures advisers*	74	70	65	64	40	51
General insurance brokers*	977	975	1,043	n/a	n/a	n/a
Life insurance brokers*	293	263	225	n/a	n/a	n/a
Foreign insurance agents*	17	14	12	n/a	n/a	n/a
New managed investment schemes registered	599	787	1,780	502	313	144
Prospectuses lodged	2,089	2,744	1,033	707	683	602
Takeovers	67	81	81	73	76	75

ASIC performance data

Investigations commenced	246	214	200	207	215	186
Litigation concluded	205	150	173	154	199	178
% successful litigation**	92%	71%	75%	89%	90%	84%
Company searches through online brokers	2,891,549	2,780,169	2,666,835	2,141,783	1,922,408	1,704,403
Over the counter searches at ASIC offices	83,937	102,700	161,069	191,831	284,150	382,252
ASIC website browses	6,135,856	4,626,700	3,214,852	n/a	n/a	n/a
% company data lodged on time	93%	93%	94%	93%	94%	94%

Financial summary (\$m)

Operations

Total operating expenses	159.9	143.3	143.0	145.2	134.6	131.7
Total operating revenue	154.3	144.2	140.2	146.7	130.8	133.3
Revenue transferred to Commonwealth Consolidated Revenue Fund (\$ m)	383	348	361	332	326	298

Financial position

Current assets	20.5	15.1	12.2	12.1	10.4	13.5
Non-current assets	27.8	22.1	24.9	25.6	25.6	25.8
Current liabilities	27.5	18.6	21.7	17.1	15.6	21.3
Non-current liabilities	21.6	16.4	16.6	18.9	19.6	13.7
Total equity	(0.9)	2.2	(1.1)	1.7	0.8	4.3

* The AFS licence commenced on 11 March 2002 and will progressively replace all other categories asterisked. Licences and registrations for those other categories ceased after that date.

** Prior years may understate success rate, see page 25.