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ANNUAL PERFORMANCE STATEMENT

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Introductory statement

I, Greg Medcraft, as the accountable authority of the Australian Securities and Investments Commission, present the 2015–16 annual performance statement of the Australian Securities and Investments Commission, as required under paragraph 39(1)(a) of the PGPA Act. In my opinion, the annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

ASIC's purpose

ASIC's vision is to allow markets to fund the real economy and, in turn, economic growth.¹ In doing so, we contribute to the financial well-being of all Australians.

To give effect to this vision, we focus on our objectives:

- ♦ promoting investor and consumer trust and confidence
- ♦ ensuring fair and efficient markets
- ♦ providing efficient registration services.

Long-term challenges and key risks in 2015–16

ASIC's *Corporate Plan 2015–16 to 2018–19* identified the long-term challenges to our strategic objectives, and the key risks flowing from those challenges that warranted our attention in 2015–16.

In 2015–16, the **long-term challenges** to ASIC's objectives were:

- ♦ balancing a free market-based system with investor and consumer protection, with a focus on ensuring that the culture and conduct of financial system participants emphasises putting the interests of their customers first
- ♦ digital disruption to existing business models and channels
- ♦ structural change in our financial system through growth of market-based financing, largely driven by growth in superannuation
- ♦ financial innovation-driven complexity in financial products and markets
- ♦ the impact of globalisation on financial markets, products, and services.

In 2015–16 the **key risks** flowing from our long-term challenges were:

- ♦ gatekeeper conduct with a particular focus on:
 - responsible entities
 - lenders
 - markets
 - directors, auditors and insolvency practitioners
- ♦ cyber attacks
- ♦ poor financial advice
- ♦ misalignment of retail product design and distribution and consumer understanding
- ♦ cross-border businesses, services and transactions.

Responding to our long-term challenges and key risks

In 2015–16 we focused on achieving our vision and objectives through our 'detect, understand and respond' approach. ASIC:

- ♦ **detects** misconduct or the risk of misconduct through surveillance, breach reporting, reports from whistleblowers and the public, and data gathering and matching
- ♦ **understands** and analyses the intelligence we receive
- ♦ **responds** to misconduct or the risk of misconduct through education, disrupting harmful behaviour, enforcement, communicating the actions we take, engagement with industry and stakeholders, guidance and policy advice.

1. Based on *Corporate Plan 2015–16 to 2018–19*, page 2; Portfolio Budget Statement 2015–16, Outcome 1, page 168.



Performance criteria

Our *Corporate Plan 2015–16 to 2018–19* sets out a range of performance indicators against our key activities and regulatory tools:

- ♦ Stakeholder engagement
 - Streamlined licensing for fintech start-ups.
 - Industry messages delivered to stakeholders.
- ♦ Education
 - Production, delivery and promotion of ASIC's MoneySmart website financial literacy resources and tools.
 - People enabled to check adviser credentials and helped to choose an adviser.
 - Number of unique visitors to ASIC's MoneySmart website, and proportion who took subsequent action on their finances.
- ♦ Guidance
 - Published regulatory guidance, including about remediation.
 - Number of new or revised regulatory guides published.
 - Number of relief applications received and approved.
- ♦ Surveillance
 - Number of surveillances completed.
 - Number of failures to comply with conduct obligations detected and responded to.
 - Improvements made by entities in response to identified areas needing improvement.
 - Published reports on surveillance outcomes.
 - Data matching and analytics, including detecting and responding to potential cyber attacks.
- ♦ Enforcement
 - Successful enforcement or other regulatory action.
 - Percentage of misconduct reports resolved resulting in changes to systems, processes or procedures, or corrective disclosures made.
 - Number of investigations and criminal and civil litigations and administrative actions completed.
 - Percentage of successful criminal and civil litigations.
 - Number of enforceable undertakings accepted.
- ♦ Policy advice
 - Identification of policy issues and law reform options through policy advice to the Australian Government, Treasury and parliamentary committees and inquiries (e.g. implementation of the Financial System Inquiry).
 - Progression of international policy initiatives and participation in forums with other jurisdictions to support Australia's national interest in innovative businesses, services and transactions in global markets; and bilateral and multilateral engagements established.

2.1 Investor and consumer trust and confidence



One of ASIC's objectives is promoting investor and consumer trust and confidence. The trust and confidence of investors and consumers is necessary to drive competitive, efficient and well-functioning financial services and credit markets.

Under the Portfolio Budget Statement 2015–16, our deliverables are designed to:

- ♦ educate investors and promote information about risk, reward and diversification, and improve financial literacy levels so investors and consumers are empowered with trust and confidence in the financial system
- ♦ hold people with a trusted role in the financial system (that is, gatekeepers such as advisers, custodians, and product manufacturers and distributors) to account if they are not meeting their obligations
- ♦ supervise and hold accountable those in the financial services sector where misconduct is detected
- ♦ recognise and understand how and why investors and consumers make financial decisions, and respond using this understanding.

Our success is measured by the extent to which:

- ♦ investors and consumers have trust and confidence to participate, and when participating, in the financial system
- ♦ product issuers, credit providers and advisers meet required standards
- ♦ fair and efficient processes are in place for resolution of disputes
- ♦ misconduct causing investor and consumer detriment is detected, responded to (including by being remedied, and reported, by regulated entities in a timely fashion) and deterred.¹

This objective reflects consumers' ability to participate confidently in financial services and credit markets, as well as measuring the behaviour of the financial services and credit businesses those consumers interact with, such as banks, credit unions, insurance companies, financial advisers, managed investment schemes and superannuation funds.

Our *Corporate Plan 2015–16 to 2018–19* sets out a range of performance indicators in relation to our key activities for 2015–16. The following section of this annual performance statement sets out our performance against these indicators.

1. Portfolio Budget Statement 2015–16, Program 1.1.



Key outcomes 2015–16

Investor and consumer trust and confidence

Outcome	2015–16	2014–15	2013–14	2012–13
Stakeholder engagement				
Meetings with industry groups and other stakeholders ¹	799	627	685	281
Consultation papers published	16	6	5	18
Industry reports published	18	10	14	7
Education				
Unique visits to ASIC's MoneySmart website	6.1 million	5.4 million	4.7 million	3.7 million
Users who took action on their finances after visiting MoneySmart	90%	89%	86%	90%
Number of unique school interactions with MoneySmart Teaching ²	5,079	3,185	396	92
Guidance				
New or revised regulatory guides published	17	9	10	31
New or revised information sheets	9	13	18	14
Legislative instruments made, including amendments and repeals	48	19	17	21
Relief applications received ³	451	581	816	1,071
Approved ³	300	409	518	616
Refused ³	24	41	48	172
Withdrawn ³	61	59	250	283
In progress ³	66	72		

1. Data reflects reporting in given years on the basis of corporate structure and methodology at that time. In 2013–14, there was a change in methodology. As a result, meetings involving multiple ASIC teams have been counted against each team involved. Data does not include meetings held by Commissioners. In 2015–16, a substantial part of the increase in stakeholder engagement numbers was due to a particularly intensive year of engagement given our work on fees disclosure, risk management arrangements and law reform initiatives.
2. The MoneySmart Teaching program started in August 2012.
3. Data reflects point-in-time reporting in given years. Break-down of withdrawn and in-progress applications not available in 2013–14 or 2012–13.

2.1 Investor and consumer trust and confidence continued

Outcome	2015–16	2014–15	2013–14	2012–13
Surveillance				
High-intensity surveillances completed	461 ⁴	557	860	871
<i>In 2015–16, proactive, risk-based surveillance focused on areas such as financial advice, vertically integrated businesses in the funds management industry, interest-only home loans, funeral insurance and consumer leasing.</i>				
Instances of potentially misleading or deceptive promotional material withdrawn or amended	45	54	127	120
Enforcement				
Investigations				
Investigations commenced	93	77	97	81
Investigations completed	79	88	113	92
Criminal actions				
Criminal litigation completed ⁵	7	7	16	14
Criminal litigation completed successfully ⁵	100%	86%	94%	86%
New criminal litigation commenced ⁵	13	11	13	8
Number of people convicted	7	6	15	12
Custodial sentences (including fully suspended) ⁶	3	5	13	11
Non-custodial sentences/fines	4	1	2	1
Total dollar value of fines	\$8,500	\$10,000	\$5,000	\$75,000
Civil actions				
Civil litigation completed	36	43	12	39
Civil litigation completed successfully	94%	86%	100%	100%
New civil litigation commenced	44	20	31	37
Total dollar value of civil penalties	\$1,275,000	\$18,975,000 ⁷	\$1,500,000	\$677,500
Administrative actions⁸				
Administrative actions completed	74	64	67	58
New administrative actions commenced	51	74	60	59
People/companies banned from financial services ⁹	81	53	63	50
People/companies banned from credit services	55	39	46	38

4. Includes 102 high-intensity surveillances completed by Small Business Compliance and Deterrence which are not reported elsewhere in this Annual Performance Statement.

5. Excludes summary prosecutions for strict liability offences.

6. The reporting of this outcome in 2015–16 has changed compared to previous years (for 'number of imprisonments') to take account of custodial sentences that have been fully suspended. The figures for 'non-custodial sentences/fines' from 2012–13 to 2014–15 have also been adjusted because of this change.

7. The civil penalty amount of \$18,975,000 in 2014–15 related to The Cash Store Pty Ltd matter.

8. 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.

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

Outcome	2015–16	2014–15	2013–14	2012–13
Enforceable undertakings				
Enforceable undertakings accepted	13	10	18	12
Infringement notices				
Number of infringement notices issued – ASIC Act ¹⁰	9	32	16	3
Dollar value of infringement notices – ASIC Act ¹⁰	\$93,600	\$319,400	\$163,200	\$19,800
Number of infringement notices issued – National Credit Act ¹⁰	87 ¹¹	38	4	5
Dollar value of infringement notices – National Credit Act ¹⁰	\$1,130,500 ¹¹	\$391,000	\$77,000	\$5,500
Compensation				
Compensation or remediation	\$210.5 million ¹²	\$35.2 million	\$172.6 million	\$203.9 million
Policy advice				
<p><i>In 2015–16 we made several submissions to Senate and Parliamentary Joint Committee inquiries. We also provided policy advice in areas such as small amount credit contract laws, financial adviser professionalism and training, life insurance reforms, Stronger Super reforms and the Asia Region Funds Passport.</i></p>				

10. In 2015–16, ASIC changed the way we report ‘number of infringement notices issued’ and ‘dollar value of infringement notices’ to provide a break down between ASIC Act and National Credit Act matters. The figures for 2012–13, 2013–14 and 2014–15 have been adjusted to reflect the change in our reporting.

11. Two entities were issued 22 and 58 infringement notices respectively under the National Credit Act.

12. In 2015–16, there were six matters that comprised 79% (\$165.5 million) of the total figure for compensation or remediation.

2.1 Investor and consumer trust and confidence *continued*



2.1.1 Deposit-takers, credit and insurers

ASIC's work in this sector is focused on conduct by credit licensees (lenders and intermediaries) and insurance providers. Our work focused on promoting responsible lending practices and addressing the sale of inappropriate products to consumers. It is critical that lenders and insurers do not put consumers into unsuitable products that could put them at risk of experiencing substantial financial hardship and undermine investor and consumer trust and confidence in the financial system.

Stakeholder engagement

In 2015–16, we held 194 meetings with stakeholders, including industry associations such as the Australian Bankers Association, the Insurance Council of Australia, the Customer Owned Banking Association and the Mortgage and Finance Association of Australia, to provide further guidance in areas where ASIC would like to see cultural change, such as the payday lending industry and the sale of add-on insurance products.

We also engaged with financial counsellors and community legal centres in local and regional areas to provide guidance on developing areas of financial services and credit activities.

Guidance

Non-cash payments

ASIC made changes to the ePayments Code that will make it easier for businesses to give information to their customers digitally. This follows similar changes to the Corporations Act.

ASIC preserved the current exemptions for non-cash payment facilities for three more years to provide certainty to industry that the current policy settings and regulatory approach will continue while the Government, ASIC, APRA and the RBA consider the changes required to implement the Financial System Inquiry report.

The Financial System Inquiry recommended graduating retail payments regulation and making the ePayments Code mandatory.

We also provided clearer and simpler guidance to industry on non-cash payment facilities by consolidating seven separate class orders into one legislative instrument.

Surveillance

In 2015–16, ASIC completed 152 high-intensity surveillances of the consumer banking, consumer credit and insurance sector.

In 75 surveillances, we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures detected and our response to those failures (such as working with individual entities to improve their practices) are set out below.

Interest-only home loans

ASIC's review of more than 140 consumer interest-only home loan files from 11 bank and non-bank lenders found lenders needed to lift their standards to meet their responsible lending obligations. Lenders were often failing to consider whether an interest-only loan would meet a consumer's needs, particularly in the medium to long term. For example:

- ♦ in 30% of files reviewed, there was no evidence that the lender had considered whether the interest-only loan met the borrower's requirements
- ♦ in over 20% of files reviewed, lenders had not considered the borrower's actual living expenses when approving the loan, but relied instead on expenditure benchmarks.

In response to our review, we released a report in August 2015 that made a number of recommendations for lenders and brokers to help them comply with their responsible lending obligations. Following ASIC's review, all 11 lenders either changed their practices or committed to implementing necessary changes in 2015–16.

Consumer leasing

ASIC's review of consumer leases found that they can be a very expensive option for consumers seeking to access common household goods, and that the market for consumer leases is failing many low-income consumers. We released a report setting out our findings in September 2015, and provided a copy of this report to the Government's review of the law's effectiveness in dealing with small amount credit contracts (which also considered consumer leases).

Add-on insurance sold through car dealerships

ASIC's review of add-on insurance sold through car dealerships detected that:

- ♦ some consumers agreed to buy add-on insurance products when they were unaware of the cover offered or even the premium. The sales process inhibited good decision-making by consumers – for example, the consumer only had a short period of time to understand and familiarise themselves with the insurance offered
- ♦ life insurance sold through car dealers is often substantially more expensive than comparable life insurance products and provides very low claim payouts relative to premiums
- ♦ there were high levels of sales to consumers who may not need life cover – for example, young people with no dependents.

In response to our review, we released two reports in February 2016 setting out our findings. We have asked insurers to address our concerns in relation to the design, price, structure and sales practices for these products. If industry cannot voluntarily develop changes to deliver better outcomes to consumers, we will consider taking further action.

ASIC has also conducted a review of add-on products sold by general insurers, and found similar poor consumer outcomes. We will publish a further report in 2016–17 on add-on products offered by general insurers.

Funeral insurance

ASIC's review of funeral insurance detected that funeral insurance premiums tend to rise steeply for people over 50 and that many people cancel their policy in the first few years, losing the benefit of premiums already paid.

In response to our review, we released a report in October 2015 that recommended insurers do more to ensure consumers understand key features of the policy when it is sold to them, especially when selling to vulnerable groups like Indigenous consumers. We also recommended that insurers provide an upfront estimate of the total cost of the policy in defined scenarios and, where applicable, disclose the risk that premium payments have the potential to exceed the benefit amount.

ASIC has been encouraged by steps the industry has taken in response to increased scrutiny and has urged insurers to carefully consider what additional measures they can put in place to ensure good consumer outcomes.

Margin lending

ASIC's review of the lending practices of six margin lenders (covering 90% of the market) found that in certain circumstances four of the five margin lenders who approved 'double-gearred' margin loans, did not, despite the associated risks, take additional steps to meet their responsible lending obligations when approving the loans.

In response to our review, one margin lender decided to cease offering double-gearred loans. The remaining four lenders made several commitments to reduce risks, including ensuring that their policies have, or continue to have, extra buffers to allow for interest rate rises and/or changes in expenses, lower maximum allowable loan amounts and lower loan-to-value ratios for double-gearred borrowers.

2.1 Investor and consumer trust and confidence *continued*

Life insurance

ASIC is undertaking a broad industry-wide review of claims handling in the life insurance sector. This initial review is aimed at determining whether there are concerning claims-handling practices across the industry. We will complete this initial review and issue a public report in October 2016.

Mortgage broker remuneration

ASIC has, at the request of the Government, commenced a review of the effect of current mortgage broker remuneration structures on the quality of consumer outcomes. Our review involves examining data on residential mortgages from a range of industry participants, including lenders, aggregators and mortgage brokers, to assess whether:

- ♦ there are material differences in consumer outcomes (for example, loan size and default rates) between loans originated through the broker channel and those obtained directly from the lender
- ♦ lenders that are vertically integrated are receiving a greater portion of loans from mortgage broker businesses which they own.

We also conducted two roundtable discussions attended by regulators and a range of industry stakeholders, including lenders, aggregators, brokers and consumer advocates in February 2016.

We will provide the findings of our review to Government by the end of 2016.

Enforcement

Punitive outcomes

Consumer leasing

In November 2015, the Federal Court awarded penalties totalling \$1.25 million against consumer leasing company Make It Mine Finance Pty Ltd ('Make It Mine'). The court found that Make It Mine failed to disclose important information to its customers, breached various responsible lending obligations and operated for a period while unlicensed.

In addition to the penalties, in September 2015, Make It Mine agreed to ASIC imposing a condition on its credit licence that required it to engage an independent external compliance consultant to review and report to ASIC on its policies and procedures to ensure compliance with consumer credit laws.

Payday lending

In October 2015, the Federal Court found that payday lenders, Fast Access Finance Pty Ltd, Fast Access Finance (Beenleigh) Pty Ltd and Fast Access Finance (Burleigh Heads) Pty Ltd (the FAF companies) breached consumer credit laws by engaging in credit activities without holding an Australian credit licence.

ASIC was concerned that the FAF companies' business model was deliberately designed to avoid the protections offered to consumers by the National Credit Act, including the cap on interest charges (FAF companies were charging interest well in excess of the 48% interest rate cap).

In November 2015, the Court made declarations and ordered the FAF companies to pay compensation, amounting to approximately \$17,000, to five consumers who gave evidence in the proceedings, by 14 December 2015. The FAF companies have not paid this compensation as they state they are impecunious.

In March 2016, the penalty hearing proceeded before Justice Dowsett in the Federal Court in Brisbane. Judgment on the quantum of penalty has been reserved.

Loan fraud

We continue to take action on loan fraud involving false loan applications and supporting documents. In 2015–16, for example:

- ♦ Emma Feduniw (also known as Emma Khalil) pleaded guilty to providing documents (false borrower employment letters) to Westpac in support of eight home loan applications totalling \$2.7 million knowing that they contained false or misleading information. In many cases the loan applicant had never worked for the particular employer.
- ♦ Former Sydney finance broker, Jennifer Mary Farias, pleaded guilty to three charges of loan fraud involving 10 loan applications submitted to a credit provider containing false invoices and false information. Ms Farias was convicted and sentenced to a one-year intensive correction order and ordered to pay compensation totalling \$100,000.
- ♦ As a result of our investigation into Myra Home Loans Pty Ltd (Myra), Aizaz Hassan and Mohamed Radhi Maki Ebrahim Ahmed both pleaded guilty to one count of common law conspiracy to defraud and were each sentenced to five years community correction orders. The investigation into the fraudulent loans arranged by Myra centred on a conspiracy to defraud banks and other financial institutions by creating and using false documents to support loan applications submitted on behalf of Myra clients. The false documents included bank statements, payslips, citizenship certificates and statutory declarations.

Infringement notices

In 2015–16, 87 infringement notices totalling \$1.13 million were paid under the National Credit Act.¹

Protective outcomes

In 2015–16, we achieved a number of outcomes to promote compliance with the National Credit Act:

- ♦ 33 credit licences cancelled or suspended
- ♦ three credit licensees had conditions placed on their licence
- ♦ 13 individuals were permanently banned from engaging in credit activities
- ♦ six individuals were banned from providing credit services for shorter periods.

We acted to protect consumers from advertising and debt collection processes that were potentially misleading. For example, as a result of our actions, GE Money changed its advertising of personal loans and debt consolidation loans. The overall impression given by the advertisement was that all customers would receive an interest rate that was 'one of the best rates in the market'. We were concerned that the advertising was misleading because only some customers qualified for the lowest interest rate that was offered.

We acted to protect consumers from poor practices in the motor vehicle finance sector. For example, as a result of our actions:

- ♦ Capital Finance Australia Limited, a subsidiary of Westpac Banking Corporation, paid \$493,000 in penalties and implemented new procedures to ensure compliance after ASIC found it breached consumer protection provisions in the National Credit Act relating to the repossession of motor vehicles.
- ♦ Car finance provider, BMW Australia Finance Ltd (BMW Finance), paid \$391,000 in penalties and had a condition placed on its Australian credit licence. The licence condition requires BMW Finance to appoint an independent compliance consultant after ASIC found it breached consumer protection provisions relating to responsible lending and the repossession of motor vehicles.

1. Compliance with an infringement notice is not an admission of guilt or liability. The recipient is not taken to have contravened the National Credit Act.

2.1 Investor and consumer trust and confidence continued

Remedial outcomes

In 2015–16, our actions contributed to over \$125.9 million being refunded or compensated. For example:

- ♦ In response to ASIC concerns about responsible lending and credit cards, Westpac committed to a remediation program that included customer refunds and a contribution of \$1 million to support financial counselling and literacy. The remediation program involved reviewing credit limit increases previously provided where a cardholder experienced financial difficulty. Westpac also agreed to change its credit limit increase processes to ensure that, at a minimum, reasonable inquiries are made about a customer's income and employment status before the limit is increased.
- ♦ In March 2016, Nimble Australia Pty Ltd (Nimble) agreed to refund over 7,000 customers more than \$1.5 million after ASIC detected significant deficiencies in Nimble's compliance with the responsible lending laws when providing short-term loans to consumers. Nimble also agreed to make a \$50,000 contribution to Financial Counselling Australia.
- ♦ In November 2015, the Commonwealth Bank of Australia agreed to refund approximately \$80 million to around 216,000 Wealth Package customers as compensation for failing to apply fee waivers, interest concessions and other benefits since 2008. The benefits related to home loans, credit cards and transaction accounts. The bank engaged an independent firm to review and provide recommendations to improve controls, ensure its remediation process would identify all affected package holders, and ensure an accurate calculation of refunds.

Policy advice

Small amount credit contract laws

ASIC made two submissions to the independent review of the small amount credit contract laws. ASIC's submissions to the review supported changes to improve consumer outcomes in relation to small amount credit contracts and low-value leases of household goods. The submissions were based on our surveillance of these product providers.

Credit card interest rates and impairment of customer loans

We made submissions to the Government inquiries into credit card interest rates and the impairment of customer loans (for additional information, see page 7).



2.1.2 Financial advisers

ASIC's work in this sector is focused on improving the quality of financial advice. Poor financial advice can undermine investor and consumer trust and confidence in the financial system. We worked to improve the quality of financial advice by addressing conflicted advice, misaligned incentives and inadequate risk management, removing 'bad apple' advisers and taking other regulatory action where advice was not in the client's best interests.

Stakeholder engagement

In 2015–16, we held 213 meetings with financial advice industry stakeholders, including the Australian Bankers' Association, Association of Financial Advisers, CPA Australia, Financial Planning Association of Australia, Financial Services Council and SMSF Association on issues such as life insurance reforms and robo-advice.

Robo-advice

The provision of digital advice (also known as robo-advice or automated advice) has grown rapidly in Australia since 2014. ASIC supports the development of a healthy and robust digital advice market in Australia. In an environment where only around 20% of adult Australians seek personal financial advice, we think that digital advice has the potential to offer an attractive, convenient and low-cost service to retail clients who may not otherwise seek advice.

To assist those providing, or intending to provide, digital advice, we have met with 29 digital advice providers in 2015–16 to understand their business models and discuss any regulatory issues. From our discussions with industry it became clear that digital advice providers would benefit from specific guidance from ASIC (see below).

Guidance

Remediation by advice licensees

A key part of an AFS licensee's obligations is remediating clients for losses suffered following non-compliant advice, fraud or other breaches of the law.

In December 2015 we consulted on draft guidance on review and remediation programs conducted by AFS licensees who provide personal advice to retail clients. After submissions closed on our consultation paper in February 2016, we held roundtables with key stakeholders to discuss the issues raised in their submissions. Our final guidance will be issued in 2016–17.

SMSF advice

In July 2015, we released two information sheets to improve the quality of advice provided by advisers on SMSFs. The information sheets are intended to help advisers comply with their conduct and disclosure obligations under the Corporations Act and outline what ASIC looks at when undertaking surveillance in this area. The information sheets also specify the types of risks and costs that an adviser should consider, discuss and then disclose to clients when providing advice on establishing or switching to an SMSF.

Robo-advice

In March 2016, we released a consultation paper on the provision of digital advice to retail clients in Australia. The consultation paper sought feedback on issues unique to digital advice businesses – in particular the organisational competence obligation that applies in a digital advice context and the ways in which digital advice licensees should monitor and test their algorithms. We published our regulatory guide on 30 August 2016.

Surveillance

In 2015–16, ASIC completed 130 high-intensity surveillances to monitor how financial advisers complied with their advice conduct obligations.

In 84 surveillances, we detected and responded to failure by financial advisers to comply with their conduct obligations. Examples of these and other surveillance activities, including the types of failures detected and our response to those failures (such as, improvements to practices of financial advice licensees and their representatives), are set out below.

2.1 Investor and consumer trust and confidence *continued*

Professional indemnity insurance

ASIC's review of the availability and cost of professional indemnity insurance for AFS licensees providing financial product advice found that the market is stable and insurance is available. However, we also found that there is a gap between our requirements in Regulatory Guide 126 *Compensation and insurance arrangements for AFS licensees* and the professional indemnity insurance policies that are generally available (for example, in relation to defence costs and fraud and dishonesty cover).

In response to our review, we released a report setting out our findings in December 2015. ASIC expects industry to address the gaps between our requirements and their professional indemnity insurance policies. ASIC will follow up with surveillance of financial advice licensees' professional indemnity insurance and if we find problems we will consider taking further action.

Use of the term 'independent' by AFS licensees

ASIC's review of the use of the word 'independent' in marketing and promotional materials detected instances of inappropriate use. The independence of financial system gatekeepers such as financial advisers is an important issue for consumers and investors due to the influence it has on their investment decisions and choice of adviser. Consumers must not be misled into believing that an adviser is independent and free from influence by commissions or other benefits or associations if that is not the case.

In response to our review, a number of AFS licensees – Wilson HTM Ltd, iSelect Life Pty Ltd and Citywide Insurance Brokers – took steps to remove or amend claims made about the independence of their services.

Fee for no service

In April 2015, we announced an investigation into multiple instances of licensees charging clients for financial advice that was not provided. Most of the fees have been charged as part of a client's service agreement with their financial adviser.

Our investigation into licensees charging fees without providing the requisite services is ongoing.

In 2015–16, a large AFS licensee self-reported a breach to ASIC and made changes to their supervision and monitoring systems to reduce the likelihood of similar breaches occurring. A remediation program to provide refunds to clients was also implemented.

Enforcement

Protective outcomes

We have taken enforcement action to protect the public where, for example, individual advisers and AFS licensees have not acted in the interests of investors and consumers.

In 2015–16, ASIC cancelled, suspended or placed conditions on seven AFS licences, with five additional AFS licensees voluntarily handing in their licence. Four individuals were permanently banned or agreed to stay out of the industry permanently and a further six individuals were banned or agreed to stay out of the industry for shorter periods. For example:

- ♦ we imposed new conditions on the AFS licence of Sentinel Private Wealth Pty Ltd (Sentinel), following concerns over the company's compliance with financial services laws such as inadequate measures to manage its risks and effectively monitor and supervise its staff. Following an independent review commissioned by Sentinel, the financial planning firm has appointed a compliance officer and enhanced its policies and procedures.
- ♦ we permanently banned Andrew Moroney from providing financial services following findings that he operated a business model that prioritised his own interests ahead of his clients. Mr Moroney's advice practice annually recommended that his clients replace one insurance policy with another. This meant Mr Moroney received a high up-front commission payment each year for each replaced insurance policy. Clients who entered into a new life insurance policy annually risked exclusionary periods or revised terms.

ASIC's wealth management project

The ASIC wealth management project was established in late 2014 to lift the standards of major financial advice providers, the quality of their financial advice, and their remediation programs for clients who have suffered loss as a result of their failure or action. The wealth management project focuses on the largest financial advice firms.

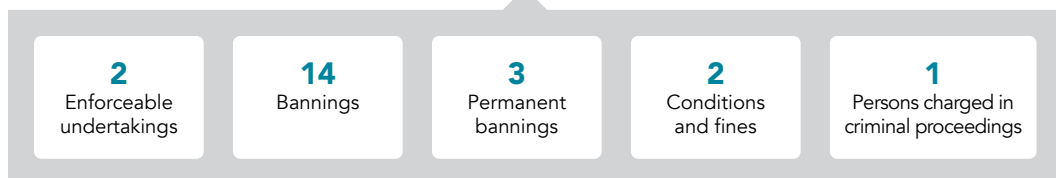
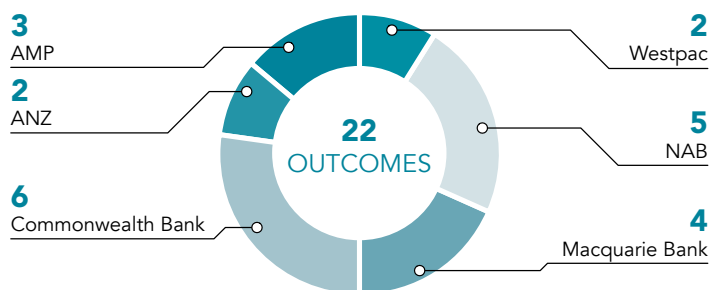
Our work in the wealth management project covers a number of areas including:

- ♦ working with the largest financial advice firms to address, identify and remediate non-compliant advice
- ♦ undertaking a significant number of investigations and risk-based surveillances which target a range of misconduct, including quality of advice in large, vertically integrated institutions.

We have achieved significant regulatory outcomes against licensees and advisers over the life of the project. For example, our actions resulted in 14 advisers being banned from the financial services industry either permanently or for a period of time. Highlights included:

- ♦ In April 2016, Hardik Bhimani was permanently banned from providing financial services after an investigation found he had misappropriated advice fees owed to his employer, charged his clients excessive fees, and failed to provide a client with statements of advice.
- ♦ In October 2015, Sharnie Kent was banned from providing financial services for eight years after an investigation found she had contravened financial services laws, was involved in Commonwealth Financial Planning Limited's contravention of financial services laws and was not adequately trained or competent to provide financial services.

Wealth management project—Life of project



Our project work includes working with licensees on compliance programs. Since commencement of our project, the National Australia Bank has launched a financial advice remediation program to determine if compensation should be paid to clients and Macquarie Equities Ltd completed a

program of compliance work involving, in part, an assessment of the quality of advice for sample periods.

ASIC has also been working with licensees on programs to remediate clients where licensees charged clients for financial advice, including annual advice reviews, where the advice was not provided.

2.1 Investor and consumer trust and confidence continued

Protective outcomes (continued)

We also accepted five enforceable undertakings from advisers and AFS licensees. For example, in May 2016, we accepted an enforceable undertaking from Brian Dobinson, which permanently prevents Mr Dobinson from being involved in any capacity with the provision of financial services or products. Mr Dobinson provided financial product advice through his related entities including Dobinson Holdings Pty Ltd and Lighthouse Redcliffe Pty Ltd. He was an authorised representative of Total Financial Solutions Australia Limited between 1 October 2010 and 11 December 2015.

Our surveillance found that Mr Dobinson failed to act in his clients' best interests when providing advice. Under the additional licence conditions, Total Financial Solutions Australia Limited implemented a remediation program for all clients who received advice from Mr Dobinson. This program is being overseen by an independent expert to ensure any clients who were provided advice that was not in their best interests by Mr Dobinson will receive appropriate remediation including, if applicable, compensation.

Remedial outcomes

When investors and consumers have suffered loss due to alleged failures within an organisation, ASIC often works with that organisation to ensure people are appropriately compensated. For example:

- ◆ In 2015, ANZ announced it would reimburse several thousand clients who had paid for an annual review that may not have been provided. In 2015–16, we worked with ANZ to agree on an appropriate remediation methodology to ensure clients are appropriately compensated. The total amount will be approximately \$30 million.
- ◆ During 2015–16, ASIC continued to supervise the remediation program implemented by Macquarie Equities Limited following the conclusion of its enforceable undertaking in January 2015. Since the remediation program was implemented in late 2014, Macquarie Equities has approved remediation payments in excess of \$17 million. ASIC noted an overall improvement in the quality of Macquarie Equities' documentation.

Policy advice

Adviser professionalism and training

In its response to the Financial System Inquiry, the Government agreed to increase professionalism, education and training standards for financial advisers. Key elements include requirements for advisers to hold a degree, pass an exam, undertake continuing professional development and subscribe to a code of ethics. The Government also agreed to establish an independent, industry-funded body to set details of the new standards.

The Government released draft legislation for public comment on 3 December 2015. In October 2015 and May 2016, together with key industry stakeholders, we attended two roundtables hosted by Treasury to discuss implementation of the reforms.

Life insurance reforms

In December 2015, the Government released draft legislative amendments and explanatory material containing proposed amendments to the Corporations Act to remove the exemption from the conflicted remuneration provisions for life insurance advice, and to allow benefits to be paid to advisers if requirements imposed by ASIC are met. The draft legislative amendments give ASIC power to make a legislative instrument to set out a maximum level of upfront and ongoing commission payments permitted in relation to life insurance products and the amount of upfront commissions to be repaid to life insurers ('clawback').

We are working to develop our approach to implementing the life insurance reforms. We engaged with key industry stakeholders through two roundtables hosted by Treasury in October and November 2015.

We subsequently released for consultation our proposals to implement aspects of the retail life insurance industry reforms that relate to commission payments and clawback. We also sought feedback on the information that life insurers should report back to us so that we can monitor the reforms and understand developments in the life insurance industry.

External dispute resolution schemes

ASIC's role

ASIC administers the financial services and consumer credit dispute resolution framework, which includes internal dispute resolution (IDR) and external dispute resolution (EDR). Within this framework, ASIC is responsible for setting or approving standards for IDR procedures and approving and overseeing the effective operation of approved EDR schemes.

ASIC publishes guidance to ensure that EDR schemes meet the approval criteria, which include benchmarks relating to independent governance, efficiency, effectiveness, accountability and fairness. Each quarter, senior ASIC staff meet with senior EDR scheme personnel to discuss key trends and issues arising from complaints, as well as policy and regulatory issues and law reform.

There are currently two ASIC-approved EDR schemes: the Financial Ombudsman Service (FOS) and the Credit and Investments Ombudsman (CIO).

Dispute resolution reviews

The dispute resolution framework plays an important role in promoting consumer and investor trust in financial services markets. The two industry based schemes – CIO and FOS – and the statutory Superannuation Complaints Tribunal together deal with around 40,000 consumer and small business disputes each year.

In April 2016, the Government announced an independent review, led by an expert panel, of the financial system's EDR and complaints framework. The Panel will consider whether changes to current dispute resolution and complaints bodies are necessary to deliver effective outcomes for users in a rapidly changing and dynamic financial system. The Panel will report to Government by the end of March 2017.

The Government also requested that FOS consider extending its current jurisdiction to include a wider range of small business loans, including a review of monetary limits and compensation caps. This would extend FOS' small business jurisdiction beyond the minimum

set out in the Corporations Act. The FOS Board is leading public consultation on this issue.

ASIC welcomes the announcement of both these reviews.

Systemic issues and misconduct

As well as resolving many thousands of disputes each year, EDR schemes must identify, resolve and report to ASIC on systemic issues and cases of serious misconduct.

Systemic issues typically have implications beyond the immediate actions and rights of the parties to the dispute, such as where a system error inside a financial institution affects many consumers. The schemes identify potential systemic issues arising out of disputes and first raise these directly with licensees. Where a systemic issue is confirmed, the relevant licensee must work with the scheme to remedy the problem, which could include compensating consumers or refunding fees or money paid. Not all matters will be confirmed as definite systemic issues. However, they may result in other positive outcomes for licensees and consumers. For example, they may help licensees identify training gaps or opportunities for improvements to processes.

Serious misconduct may involve fraudulent conduct, grossly negligent or inefficient conduct, or wilful or flagrant breaches of relevant laws.

In 2015–16, FOS reported 58 definite systemic issues and five cases of serious misconduct to ASIC. The CIO reported 38 definite systemic issues and six definite cases of serious misconduct. ASIC assessed these reports and, where appropriate, used the information to inform current or new investigations.

External review of schemes

Under ASIC's approval guidelines, approved schemes must commission an independent review of their operations and procedures every five years.

The CIO is due for its next independent review in 2016 but this process has been deferred in light of the broader review of the EDR framework due to report in March 2017.

2.1 Investor and consumer trust and confidence *continued*



2.1.3 Investment managers and superannuation

ASIC's work in this sector is focused on conduct by responsible entities and superannuation trustees. Investor and consumer trust and confidence in our financial system is undermined when poor gatekeeper culture and incentives lead to investors being treated unfairly. This can result in significant loss for investors, particularly of retirement savings in the funds management sector. Our work focused on the prevention of wrongdoing in this area.

Stakeholder engagement

In 2015–16, we held 331 meetings with funds management stakeholders. This was a particularly intensive year for industry engagement because of our work on fees disclosure, risk management arrangements and law reform initiatives such as crowd-sourced equity funding. We held regular liaison meetings with industry associations such as the Association of Superannuation Funds of Australia, the Alternative Investment Management Association, the Financial Services Council, the Property Funds Association and Property Council. We presented at a number of industry conferences and delivered a national stakeholder update, *ASIC Insights*. We also contributed to the *ASIC Wealth and Funds Management Update* released in March 2016.

Guidance

Fees and cost disclosure

ASIC continues to engage with superannuation trustees and responsible entities to ensure that fees and costs disclosed to investors in product disclosure statements and periodic statements are accurate and consistently disclosed across the industry. In November 2015, we updated our guidance on fee and cost disclosure for superannuation trustees and responsible entities. Our work will help improve the quality of disclosure to investors, which will strengthen their confidence in superannuation and managed investments.

Risk management arrangements of responsible entities

ASIC is developing guidance to assist responsible entities to comply with their risk management obligations under the Corporations Act. This will include guidance for responsible entities on issues such as the monitoring and reporting of financial requirements and conducting internal audits of high risk areas of the business. We anticipate publishing a consultation paper in 2016–17.

Marketplace lending

In March 2016, ASIC released an information sheet to help providers of marketplace lending (also known as 'peer-to-peer') products with information about their regulatory obligations. Marketplace lending is an innovative product that matches people who have money to invest with people who are looking for a loan. The information sheet describes the current regulatory regime and provides good practice strategies for marketplace lenders. We have encouraged fintech start-ups who are looking to provide marketplace lending to use the information sheet to understand the current regulatory framework.

Surveillance

In 2015–16, ASIC completed 77 high intensity surveillances to review how responsible entities, superannuation trustees and other entities operating in the wealth management sector complied with their obligations.

In 60 surveillances, we detected and responded to a failure or failures by responsible entities, superannuation trustees and entities providing related services to comply with their conduct obligations. Examples of these and other surveillances activities, including the types of failures detected and our responses to those failures (such as, improvements to practices of responsible entities and superannuation trustees) are set out below.

Risk profiled entities project

ASIC undertakes an annual conduct review of responsible entities and superannuation trustees to assess compliance with the AFS licence obligations, rectify any deficiencies and improve overall industry standards.

In September 2015, we provided an overview of the compliance issues detected during our surveillance of responsible entities and superannuation trustees in 2014–15. In response to the compliance failures and areas of concern, we required relevant responsible entities and superannuation trustees to:

- ◆ amend and update compliance measures
- ◆ develop procedures such as those related to due diligence and authorisation of disclosure documents and promotional material
- ◆ withdraw disclosure documents and marketing materials
- ◆ issue revised or supplementary disclosure.

For example, a responsible entity agreed to improve its compliance arrangements following our surveillance. This included making improvements to its record-keeping practices, establishing clear lines of reporting within the managed fund, and enhancing documented procedures for reporting to ASIC.

Two superannuation trustees agreed to improve their compliance arrangements following our surveillance. This included making improvements to their dispute resolution, disclosure and breach reporting procedures. In particular, one trustee made improvements to its website to better describe the features of its 'self-managed' option.

Our broader surveillance activities also resulted in a number of other regulatory outcomes, including referrals to enforcement, withdrawal and revision of disclosure, and more broadly, amendments and improvements in the quality of licensees' compliance arrangements and governance frameworks.

For example, improvements to compliance arrangements included some responsible entities:

- ◆ amending their conflicts of interest policy and procedures, conflicts register and compliance plan
- ◆ updating compliance arrangements and resources and rectifying overdue accounts
- ◆ amending processes in response to findings about valuation, oversight of financial reports, documentation and management of conflicts of interest, monitoring of scheme assets and disclosure (including on websites).

Vertical integration

In March 2016, ASIC released a report outlining findings of an extensive review of conflicts management practice in vertically integrated businesses in the funds management industry. We were specifically concerned about those entities which operate at least two businesses, such as funds management, responsible entity, superannuation trustee, platform structure (Investor Directed Portfolio Services (IDPS) and IDPS-like structure), investment administration and custody business. Our view is that these models may create more opportunity for conflict to arise.

Our review found that many organisations appear to take their conflicts management obligations seriously, with detailed and tailored policies that appear to be embedded in business practices from boards and senior management, cascading down to business units. However, in some organisations reviewed, it appeared that the conflicts policy is one of many policies which have been prepared to satisfy a regulatory requirement rather than seeking to properly identify and address conflicts and embed requirements to address conflicts into business practices. We will factor our findings into future risk-based assessments.

2.1 Investor and consumer trust and confidence *continued*

Effectiveness of executive officer remuneration and systemic transparency disclosures

In September 2015, we followed up on an earlier surveillance that detected instances of non-compliance with disclosure requirements (related to executive remuneration and other information about superannuation funds' governance) introduced as part of the Stronger Super reforms. We provided guidance to trustees on a number of simple changes they could make to their websites to enhance disclosure, including how to improve navigation and how to best display information (such as proxy voting). We also contacted 21 superannuation trustees about concerns we had with their executive officer remuneration and systemic transparency disclosures.

Enforcement

Punitive outcomes

We took action involving managed funds so investors can have trust and confidence in their investments in financial markets. For example:

- ♦ In May 2016, the Supreme Court of Queensland found five former executives of MFS Investment Management Limited liable for breaching their directors' and officers' duties. The MFS Group, subsequently known as Octaviar, collapsed in 2008 owing \$2.5 billion. ASIC launched civil action alleging the senior executives misappropriated \$143.5 million of unitholders' money to repay debts of the MFS Group companies. We alleged the conduct involved falsifying and backdating company documents to justify the transactions. Our action addressed the core obligations of a responsible entity and its directors and officers to operate the fund with care and diligence, and in the best interests of the fund's members. A hearing is scheduled to commence in October 2016 in relation to the penalties that should be imposed on the defendants.
- ♦ In December 2015, the Federal Court made orders to wind up five of the managed investment schemes operated by Avestra Asset Management Limited (Avestra) and, in February 2016, the court ordered the liquidation of Avestra itself. We alleged that Avestra contravened its duties in relation to a number of managed investment schemes for which it is the responsible entity. We alleged that Avestra borrowed money on an unsecured basis from the property of its schemes, and invested scheme property in entities and offshore funds connected to its directors without proper due diligence or regard for the interests of members. In April 2016, the court made orders to proceed with the liquidation of Avestra and to join former Avestra directors Paul Rowles and Clayton Dempsey as defendants.

Protective outcomes

ASIC has taken a number of actions to improve compliance and protect the interests of unit holders, investors and members.

In 2015–16, we cancelled or suspended five AFS licences, issued three infringement notices and issued final and interim stop orders. For example:

- ♦ We cancelled the AFS licences of TMK Index Limited and Ergo Capital Limited for failing to comply with key obligations, including requirements around the lodgement of accounts, breach notifications, meeting Net Tangible Asset requirements and maintaining adequate, competent staffing arrangements.
- ♦ We suspended the AFS licence of Dunfo Capital Pty Ltd (formerly GSM Financial Group Pty Ltd) for failing to comply with a number of key obligations including requirements around lodging financial statements and auditor reports on time, meeting Net Tangible Assets requirements and maintaining the competence to provide financial services.
- ♦ We imposed a final stop order on a product disclosure statement where we had concerns about disclosure of commission payments, conflicts of interest, the extent of the issuers' mandate to invest in a margin foreign exchange and the performance record of the fund.

Remedial outcomes

In 2015–16, we monitored the payment of compensation to investors and consumers. For example, our actions resulted in ANZ agreeing to pay compensation of \$4.5 million to customers and rectification and other remediation of approximately \$49 million, in respect of breaches by its subsidiaries OnePath Custodians Pty Ltd, OnePath Life Limited, OnePath Funds Management Limited and OnePath General Insurance Pty Limited. An example of a breach included 1,422 superannuation fund members having \$28.7 million in contributions allocated to the incorrect superannuation account of the member for up to 12 months. ANZ has now returned these funds to the correct accounts and provided over \$400,000 compensation for lost earnings and/or incorrect fees. ANZ also agreed to appoint PricewaterhouseCoopers to undertake an independent review of its OnePath subsidiaries' compliance management framework.

Policy advice

Asia Region Funds Passport

During the year, ASIC continued to provide technical assistance to Treasury in developing and negotiating the Asia Region Funds Passport. In April 2016, Australia, Japan, Korea and New Zealand signed the Asia Region Funds Passport Memorandum of Co-operation and subsequently Thailand also signed. The passport is an international initiative that facilitates the cross-border offering of eligible collective investment schemes while ensuring investor protection in economies participating in the Passport. The Memorandum of Cooperation sets out the internationally agreed rules and cooperation mechanisms of the Passport and came into effect on 30 June 2016. Participating economies have up to 18 months to implement domestic arrangements. ASIC is now assisting Treasury to implement the domestic arrangements, ensuring Australia is in a position to take advantage of this initiative.

Law reform in managed investment schemes

ASIC continues to assess the limitations of financial services licensing for responsible entities. In 2015–16, we continued to provide advice to Treasury and Government by identifying policy issues and recommending law reform options for the managed investments sector. A specific area of focus was technical assistance to Treasury about proposals for the introduction of Corporate Collective Investment Vehicles and Limited Partnership Collective Investment Vehicles.

We also contributed to Government and Parliamentary inquiries, such as the recent Senate Economics Reference Committee's inquiry into the structure and development of forestry managed investment schemes. The Committee published its final report on 14 March 2016.

Law reform in superannuation

We continue to contribute to law reform initiatives from Government in superannuation, including aspects of the Stronger Super reforms, such as portfolio holdings disclosure and product dashboard. In December 2015, we released the results of the consumer testing undertaken by a consultant in relation to the choice product dashboard to coincide with Treasury's consultation on the proposed dashboard legislation.

We have also made a number of submissions (including to Treasury) on the objectives of superannuation, and contributed a submission to the Productivity Commission on the competitiveness and efficiency of superannuation.

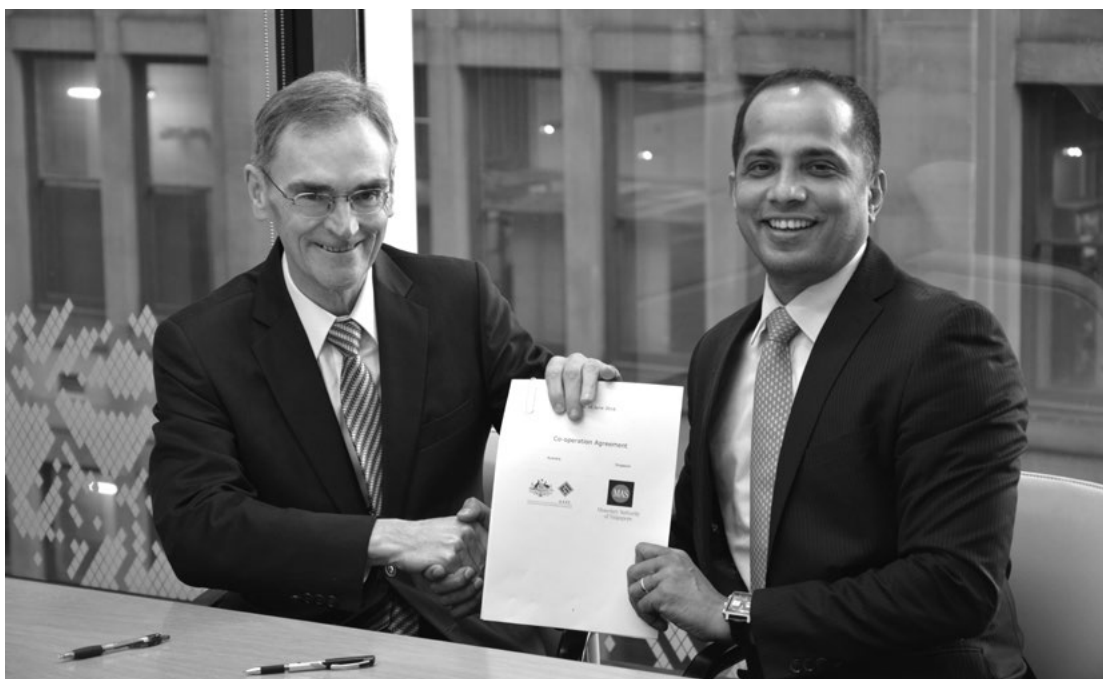
International cooperation

Innovation, developments in technology and international financial regulation mean financial markets throughout the world are increasingly integrated, competitive and complex – calling for coordinated international responses.

Our international cooperation work in 2015–16 included:

- ♦ making 362 international cooperation requests and receiving 398 requests from international financial regulators and law enforcement agencies on various topics, including investigations, compliance and surveillance, enforcement, policy research, general referrals, delegations, licensing or due diligence
- ♦ meeting with 17 delegations, including from emerging markets, to discuss consumer protection and market regulation
- ♦ entering into cooperation agreements with the United Kingdom's Financial Conduct Authority and the Monetary Authority of Singapore which will provide financial technology companies with more support (before, during and after authorisation) as they attempt to enter their respective markets (see 'Innovation Hub' on pages 80–81)
- ♦ jointly leading a new initiative to establish an Asia–Pacific Regional Supervisory College Forum. This initiative is designed to enhance supervisory cooperation and facilitate information sharing efforts in the Asia–Pacific region in relation to targeted financial groups that have regional systemic importance.

We also participated in forums with other regulators, for example participating in IOSCO committees dealing with the key emerging issues of digital disruption, innovative technologies being applied in financial markets ('fintech') and cyber resilience.



ASIC Chairman Greg Medcraft and Sopnendu Mohanty, Chief Fintech Officer, Monetary Authority of Singapore, with the cooperation agreement signed in June 2016.



2.1.4 Financial literacy

ASIC's aim is to strengthen the capacity of Australian consumers and investors to make informed financial decisions. We seek to achieve this through a combination of education initiatives, information and guidance, and stakeholder engagement.

ASIC's MoneySmart website promotes financial literacy in the Australian community, with online tools, calculators and publications that cover a diverse range of personal finance topics, ranging from calculating the real cost of buying and running a car, through to investment decision making and retirement planning. We also promote financial literacy in schools and further education with online resources for students and professional development for teachers through ASIC's MoneySmart Teaching program.

Stakeholder engagement

ASIC liaises and partners with a range of organisations, at both the national and international level, as we strive to support the financial literacy of Australians.

ASIC and the Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board provides independent and strategic guidance to Government and ASIC on financial literacy issues, and in particular on the implementation of Australia's National Financial Literacy Strategy, led and co-ordinated by ASIC.

ASIC and the National Financial Literacy Strategy

ASIC leads the National Financial Literacy Strategy 2014–2017 which is a flexible framework to guide the action of all stakeholders with an interest in improving the financial literacy of Australians.

As well as delivering its own initiatives under the National Strategy, ASIC liaises with financial literacy stakeholders from across the government, business, community and education sectors, both within Australia and internationally.

In November 2015, we released the first Annual Highlights Report on activities delivered under the National Strategy, including the activities of partners such as the Departments of Human Services, Social Services, Prime Minister and Cabinet, Office for Women and the Australian Defence Force; state and territory education departments, individual schools and training organisations; and a wide range of community and financial services organisations.

National Financial Literacy Stakeholder Forum 2015

In November 2015, we brought together 150 key stakeholders for a one-day National Financial Literacy Stakeholder Forum in Sydney. With a theme of 'Innovation', the Forum gave participants an opportunity to take stock of progress under the National Financial Literacy Strategy, to showcase best practice and hear from international and Australian experts.

Research on financial literacy

ASIC has now completed four six-monthly waves of the Australian Financial Attitudes and Behaviour Tracker research, with the first wave being conducted in 2014. In December 2015 and June 2016, we released reports on the third and fourth waves of the research. Key insights from the research include:

- ♦ Attitudes towards finances have remained relatively consistent across first to fourth waves, with around 60% of people reporting they're confident about managing their money, while close to 33% find dealing with money stressful and overwhelming
- ♦ 75% of people report using a budget in the past six months, with the majority (60%) saying they stuck to it mostly or always
- ♦ 80% of people report saving some money within the past six months. However, close to 10% said they wouldn't be able to cover three months' living expenses if faced with a sudden loss of income.

2.1 Investor and consumer trust and confidence continued

- ♦ Understanding of the key investing concepts of 'diversification' and 'the risk/return trade-off' remains a challenge for many, with only 40% people saying they had heard of and understood diversification and 33% saying they had heard of and understood the risk/return trade-off.

Education and guidance

We assist investors and consumers to make better financial decisions, including through providing trusted and impartial financial guidance and tools available on ASIC's MoneySmart website. In 2015–16, we produced and delivered 86 new financial literacy resources.¹

ASIC's MoneySmart website

ASIC's MoneySmart website is a central source for trusted and impartial financial guidance and online tools on money matters.

There were over 6.1 million visits to ASIC's MoneySmart website in 2015–16. It attracts, on average, over 750,000 visits a month. Research shows that 31% of adult Australians in the survey sample are aware of ASIC's MoneySmart and 90% of users took action on their finances after visiting the website.

Our suite of responsive online tools and mobile apps is designed to prompt consumers to take action, and leverages the increased use of smartphones and tablets. Around 42% of the visits to ASIC's MoneySmart website now come from these devices.

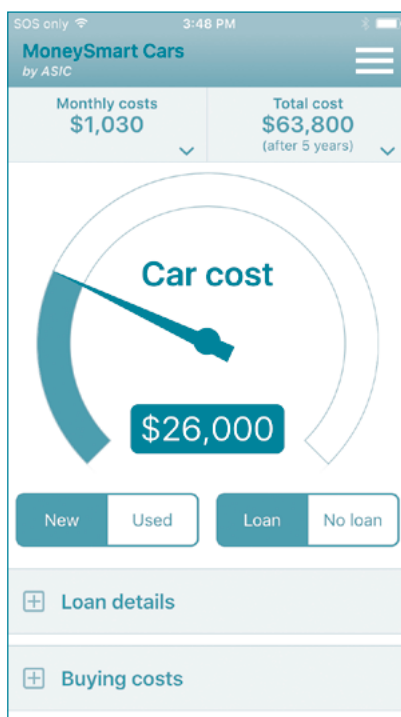
Our online calculators are designed to give consumers direction and motivate them to achieve their financial goals. The most popular calculators offered on ASIC's MoneySmart are the Budget Planner, the Mortgage Calculator and the Income Tax Calculator. In 2015–16, our online calculators were used, on average, 393,000 times per month.

'How MoneySmart are you' campaign

In April and May 2016, ASIC conducted a national campaign to build awareness and increase usage of the resources and tools on ASIC's MoneySmart. The 'How MoneySmart Are You' campaign, featuring interactive videos and digital advertising, was designed to encourage Australians aged 25–55 to take positive financial action by using the budget planner, mortgage calculator, superannuation calculator and retirement planner on ASIC's MoneySmart.

ASIC's MoneySmart Cars app

The purchase of a new car is a major financial decision for many Australians. In June 2016, ASIC launched our MoneySmart Cars app to assist consumers to compare finance options and make sound decisions around purchasing a new car. The new mobile app is designed to help consumers work out the real cost of buying and running a car and to identify hidden costs and alternative ways to finance a car. The app also supports and complements ASIC's regulatory work relating to car finance and sale of add-on insurance products in car yards.



1. 'Financial literacy resources' have been defined to include any webpages, tools, calculators, infographics or videos that were released for the first time, or substantially revised or updated, in the last 12 months.

Investing challenge

In January 2016, ASIC launched a new interactive tool that explains key investment concepts and product types to investors. This will help them to understand and manage investment decision making. ASIC's MoneySmart 'Investing Challenge' is designed to help investors develop new skills such as how to judge a good investment, how to diversify their portfolio and identify product risks. Investors choose a topic of interest and answer a series of short questions designed to get them thinking about and evaluating their knowledge of the topic.

Interest-only mortgages – informing Australian consumers

In August 2015, ASIC released a report that found lenders were falling short of their responsible lending obligations when providing interest-only loans. To help borrowers better understand the longer term implications of interest-only loans, ASIC published new guidance on ASIC's MoneySmart website, including an interest-only loan calculator and infographic. The calculator

works out repayments before and after the interest-only period and the total cost of an interest-only loan compared to a principal and interest loan. The infographic shows the long-term cost of choosing an interest-only period of 10 to 15 years.

Resources for consumers

ASIC has developed a range of resources designed to support the financial decision making of consumers who may be more vulnerable and those experiencing particular financial challenges.

In collaboration with the Department of Human Services, ASIC launched the *Rent vs Buy Calculator* to help people understand the real cost of consumer leasing. Since its launch in September 2015, an average of 5,000 people use the calculator each month.

In May 2016, ASIC launched a *Divorce and Separation Financial Checklist* and the *Asset Stocktake Calculator* to help people manage the financial impacts of divorce, separation or relationship breakdown.

Home > Tools & resources > Calculators & apps > Interest-only mortgage calculator

Interest-only mortgage calculator

This calculator helps you work out:

- The repayments before and after the interest-only period
- The total cost of an interest-only mortgage
- How much more you will pay with an interest-only mortgage compared to a principal and interest loan

Estimated time: 2 mins

View all calculators

Interest-only mortgage details

Amount borrowed:

\$500,000

Interest rate:

8.00%

Repayment frequency:

Monthly

Length of loan:

30 years

Interest-only period:

15 years

Fees:

\$10 Monthly

Results

Interest-only mortgage:		Principal & Interest mortgage:	
Monthly repayments (15 years):	\$2,510	Monthly repayments (30 years):	\$3,008
Monthly repayments (15 years):	\$4,229		
Total cost:	\$1,213,071	Total cost:	\$1,082,791

You will pay **\$130,280** more with an interest-only mortgage over the life of the loan.
After 15 years your monthly repayments will increase by \$1,719.

About this calculator - disclaimer & assumptions

2.1 Investor and consumer trust and confidence *continued*

ASIC's MoneySmart Teaching – building a financially literate future generation

ASIC works collaboratively with state and territory Education Departments under a National Partnership Agreement to deliver ASIC's MoneySmart Teaching program. This national program is recognised internationally as a leader in supporting the teaching of financial literacy in the formal education sector.

The program builds the capability of teachers to teach financial literacy through targeted professional development and the provision of engaging classroom resources aligned to the Australian Curriculum. This work has been strengthened through a partnership with the Australian Curriculum and Assessment Authority and the Australian Taxation Office to map ASIC's MoneySmart Teaching resources to the latest version of the Australian Curriculum endorsed by Ministers in September 2015.

In 2015–16, over 50% of schools engaged with some aspect of the program. Since the program began in 2012, more than 20,500 teachers have received financial literacy professional development through ASIC's MoneySmart Teaching workshops and online modules.

Among the key resources developed for ASIC's MoneySmart Teaching program in 2015–16 was an online professional development module for primary school teachers on how to use real life money and financial concepts to engage students in mathematics. It shows how taking a broader approach to the design of learning for the Australian Mathematics Curriculum – by using financial literacy as the context – creates richer learning experiences for students.

International financial literacy education

ASIC is a member of IOSCO's Committee on Retail Investors, supporting its policy work on retail investor education, financial literacy and investor protection. In 2015–16, we led the Committee's work on investment risk education, culminating in the publication of the final IOSCO report, *Sound Practices in Investment Risk Education*. The report explores how regulators can use education to help retail investors make more informed investment decisions, profiles initiatives that have worked well and identifies key themes and good practices.

In February 2016, we hosted 32 delegates from around the world for a meeting of IOSCO's Committee on Retail Investors. The meeting featured presentations by a range of academics and researchers, international regulators and financial services representatives on topics such as insights from behavioural economics, the implications of new financial technologies for investor education, investor engagement and emerging risks and the impact of cognitive decline on financial decision making by seniors.

ASIC also represents Australia on the Organisation for Economic Co-operation and Development (OECD) International Network on Financial Education (INFE). This network promotes and facilitates international cooperation between policy makers and other stakeholders on financial education issues worldwide. In 2015–16, ASIC contributed to the OECD/INFE Policy Handbook on National Strategies for Financial Education, published in November 2015. Australia is a featured case study in the handbook.

Financial Advisers Register

The national register of financial advisers contains details of persons employed or authorised – directly or indirectly – by AFS licensees to provide personal advice on 'relevant financial products' to retail clients. It includes information about financial advisers' qualifications, training and professional memberships. From October 2015 all changes for financial advisers and authorised representatives can be notified online.

At 30 June 2016, there were over 23,000 financial advisers on the register and in 2015–16 there were over 790,000 searches of the register. The high volume of searches shows that investors are interested in accessing information to help them select a financial adviser appropriate to their needs.



23,000+
financial advisers
on the register



790,000+
searches of
the register

Timeliness and cost of enforcement actions

ASIC recognises the importance of delivering timely enforcement outcomes to deter wrongdoing and promote investor and consumer trust and confidence in the financial system.

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
- ♦ the average time to achieve a criminal, civil or administrative decision in each year.

We measure the length of our criminal investigations from the date matters are first drawn to ASIC's attention to the date of referral to the DPP, and the length of civil and administrative investigations from the date matters are first drawn to ASIC's attention to the date proceedings are filed or matters are referred to an ASIC delegate or the Companies Auditors and Liquidators Disciplinary Board.

The average time to criminal and civil court decisions, and administrative decisions, is measured from the date the investigation phase is finalised. Note that this methodology is different to figures reported in previous ASIC annual reports.

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 2015–16 was substantially less than in the preceding years. This is due to the relatively short period of time required to finalise a large number of proceedings where we sought orders to appoint liquidators to companies. The time taken to both complete the investigation and receive a court decision for criminal matters in 2015–16 has increased due to a number of complex matters that were contested by defendants.

Average times associated with enforcement actions

	2015–16	2014–15	2013–14	2012–13	4-year average
Criminal actions					
Average time to complete investigation	24 mths	16 mths	18 mths	19 mths	19 mths
Average time to criminal court decision	31 mths	29 mths	22 mths	29 mths	27 mths
Total	55 mths	45 mths	40 mths	48 mths	46 mths
Civil actions					
Average time to complete investigation	12 mths	28 mths	20 mths	15 mths	19 mths
Average time to civil court decision	10 mths	25 mths	15 mths	25 mths	19 mths
Total	22 mths	53 mths	35 mths	40 mths	38 mths
Administrative actions					
Average time to complete investigation	20 mths	32 mths	33 mths	18 mths	27 mths
Average time to administrative decision	6 mths	13 mths	13 mths	10 mths	11 mths
Total	26 mths	45 mths	46 mths	28 mths	38 mths

Note: Times rounded to the nearest month.

Remedial outcomes: Enforceable undertakings

In 2015–16, ASIC accepted 22 enforceable undertakings. Following acceptance of an enforceable undertaking, we worked with companies and independent experts to improve the culture and compliance practices of companies, resulting in improved compliance with the law and positive, long-lasting behavioural change. For example:

- ♦ In October 2015, we accepted an enforceable undertaking from Simply Energy Solutions Pty Ltd (SES). Between February 2014 and April 2015, SES marketed and sold solar panel systems at a price over and above the cash price for the goods. The enforceable undertaking requires SES to reduce the amount payable under existing contracts to the market value of the solar panel system, and allow the customer to continue to pay the market value of the solar panel systems by way of instalments. SES also agreed to provide training to its employees and officers on compliance with the National Credit Act and Regulations.
- ♦ In February 2016, we accepted an enforceable undertaking from ACE Insurance. Under the enforceable undertaking, ACE Insurance is required to appoint an independent expert to review its compliance systems, implement a remediation plan to compensate affected consumers and make a donation of \$1 million to financial counselling and financial literacy initiatives.
- ♦ In May 2016, we accepted an enforceable undertaking from HSBC Bank Australia Ltd (HSBC) that requires HSBC to review and remediate clients who received potentially deficient advice on retail structured products between January 2009 and March 2013. Under the enforceable undertaking, HSBC is required to implement a remediation plan to ensure that affected clients are reviewed and remediated in an efficient, honest and fair manner, and appoint an independent expert to report to ASIC on the adequacy of HSBC's review and remediation program. HSBC also agreed to develop and implement an assessment plan to determine whether

the problems identified in the advice on structured products extend to clients who were advised to invest in other types of products between January 2009 and March 2013, and if so, to ensure those other affected clients are fairly remediated.

- ♦ In November 2015, we accepted an enforceable undertaking from three J.P. Morgan entities in relation to breaches of disclosure requirements set out in the class order licensing relief for foreign financial service providers. Under the enforceable undertaking, J.P. Morgan has agreed to implement a remediation program, including appointing an independent expert to review the compliance framework relevant to the disclosure requirements.

In accordance with our policy introduced in February 2015, we continued to report publicly on compliance with undertakings given on or after 9 March 2015. Public reporting on compliance with enforceable undertakings improves our accountability for the regulatory outcomes we seek to achieve by accepting an enforceable undertaking.

In June and July 2016, we published two final reports on compliance with the enforceable undertakings given by:

- ♦ Barack Properties Pty Ltd (dated 18 March 2016)
- ♦ J.P. Morgan Securities plc, J.P. Morgan Securities (Asia Pacific) Ltd and J.P. Morgan Securities LLC (dated 15 November 2015).

We also published one interim report on compliance with the enforceable undertaking given by Jason Churchill and Churchill Consulting Services Pty Ltd dated 6 January 2016.

Our compliance reports are available on our enforceable undertaking register at www.asic.gov.au/euregister. Further guidance on our approach to accepting undertakings and public reporting on compliance can be found in Regulatory Guide 100 *Enforceable undertakings*.



Culture and conduct in financial services and markets

Culture is a key driver of gatekeeper conduct. Culture can be seen in remuneration and incentive structures, demonstrating a commitment to good consumer outcomes, and in approaches to claims and complaints handling and breach reporting.

Our work in 2015–16 focused on improving culture of gatekeepers in our financial system which is central to investor trust and confidence.

For example:

- ♦ we undertook a review on culture, conduct and conflicts of interest in vertically integrated funds management businesses
- ♦ we are examining broader trends in the financial advice industry following our surveillances as part of the fee for no service and wealth management projects
- ♦ we continued to deliver our conduct risk message to domestic and international stakeholders. As at 30 June 2016, ASIC has presented its conduct risk message to approximately 3,000 bankers from 14 investment banks, as well as approximately another 500 staff at industry forums in order to raise awareness and standards on conduct in the industry
- ♦ we undertook proactive surveillances on 26 investment banks and market participants to better understand their appetite, attitude and approach to managing conduct risk. Our work on conduct risk has resulted in a number of positive behavioural changes by stakeholders. We continue to engage with our stakeholders on areas of concern
- ♦ we issued a supplementary questionnaire to gauge the level of implementation in Australia of internationally endorsed regulatory remuneration practices, including those from the European Banking Association, the UK Financial Conduct Authority and Prudential Regulation Authority, the Financial Stability Board and the Swiss Financial Market Supervisory Authority.

We are also developing culture indicators to inform our ongoing risk-based surveillance work.

Our focus on improving culture was also evidenced in the 2016 ASIC Annual Forum theme of 'Culture Shock', which explored the role of culture in driving conduct and what this might mean for how we adapt to changes like digital disruption and globalisation.

2.2 Fair and efficient markets

One of ASIC's objectives is ensuring fair and efficient markets.

Under the Portfolio Budget Statement 2015–16, our deliverables are designed to:

- ♦ supervise equities and derivatives markets and detect, understand and respond to market misconduct
- ♦ supervise market operators for compliance with statutory obligations
- ♦ promote good corporate governance
- ♦ hold people with a trusted role in the financial system (gatekeepers such as auditors, directors, market operators and participants) to account if they are not meeting their obligations.

Our success in achieving this objective is measured by the extent to which:

- ♦ participants in financial markets meet required standards
- ♦ issuers and their officers meet required standards
- ♦ financial markets are fair and efficient
- ♦ misconduct is detected, responded to and deterred.¹

This objective focuses on financial markets and the important gatekeepers within Australia's financial system, such as brokers and other market participants. It also addresses the behaviour of corporations and directors who use equity and debt markets to fund their businesses, as well as gatekeepers such as auditors and liquidators.

Our *Corporate Plan 2015–16 to 2018–19* sets out a range of performance indicators in relation to our key activities for 2015–16. The following section of this annual performance statement sets out our performance against these indicators.

1. Portfolio Budget Statement 2015–16, Program 1.1.



Key outcomes 2015–16

Fair and efficient markets

Outcome	2015–16	2014–15	2013–14	2012–13
Stakeholder engagement				
Meetings with industry groups and other stakeholders ¹	903	876	487	345
Consultation papers published	12	7	4	16
Industry reports published	11	4	4	5
Guidance				
New or revised regulatory guides published	14	13	13	17
New or revised information sheets	7	10	29	13
Legislative instruments made, including amendments and repeals	65	20	24	21
Relief applications received ²	1,531	1,576	1,913	2,023
Approved ²	951	1,064	1,528	1,431
Refused ²	56	106	85	186
Withdrawn ²	346	268	300	406
In progress ²	178	138		
Surveillance				
High-intensity surveillances completed	980 ³	459	907	1,286
In 2015–16, proactive, risk-based surveillance focused on areas such as financial benchmarks, retail OTC derivative trading, fundraising disclosure, financial reporting, auditors and registered liquidators.				
Trading alerts produced as part of our real-time supervision of financial markets	44,224	37,763	36,346	40,368
Number of matters further inquiries were made into as a result of trading alerts	206	214	224	180

1. Data reflects reporting in given years on the basis of corporate structure and methodology at that time. In 2013–14, there was a change in methodology. As a result, 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. Break-down of withdrawn and in-progress applications not available in 2013–14 or 2012–13.
3. Due to a change in methodology in 2015–16, additional surveillance activities, such as enquiries into potential market misconduct, have been included.

2.2 Fair and efficient markets continued

Outcome	2015–16	2014–15	2013–14	2012–13
Enforcement				
Investigations				
Investigations commenced	113	152	127	112
Investigations completed	96	143	125	94
Criminal actions				
Criminal litigation completed ⁴	18	18	16	13
Criminal litigation completed successfully ⁴	94%	94%	88%	85%
New criminal litigation commenced ⁴	6	17	17	20
Number of people convicted	15	17	15	10
Custodial sentences (including fully suspended) ⁵	15	13	10	6
Non-custodial sentences/fines ⁵	–	4	5	4
Total dollar value of fines	\$115,000	\$40,000	\$80,000	\$105,000
Civil actions				
Civil litigation completed	18	11	16	11
Civil litigation completed successfully	100%	55% ⁶	81%	100%
New civil litigation commenced	30	14	21	17
Total dollar value of civil penalties	–	–	\$1,200,000	\$140,000
Administrative actions⁷				
Administrative actions completed	28	24	22	9
New administrative actions commenced	19	30	21	8
People disqualified or removed from directing companies	39	40	62	72
Action taken against auditors and liquidators	24	6	13	7
Enforceable undertakings				
Enforceable undertakings accepted	9	10	8	8

4. Excludes summary prosecutions for strict liability offences.

5. The reporting of this outcome in 2015–16 has changed compared to previous years (for 'number of imprisonments') to take account of custodial sentences that have been fully suspended. The figures for 'non-custodial sentences/fines' from 2012–13 to 2014–15 have also been adjusted because of this change.

6. 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.

7. 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, cancel or suspend an AFS licence, impose additional conditions on an AFS licence or cancel the registration of a person as an auditor or a liquidator.

Outcome	2015–16	2014–15	2013–14	2012–13
Infringement notices				
Number of infringement notices issued – Market integrity rules ⁸	9	9	12	9
Dollar value of infringement notices – Market integrity rules ⁸	\$984,000 ⁹	\$541,000	\$1,015,000	\$452,000
Number of infringement notices issued – Continuous disclosure ⁸	4	4	6	1
Dollar value of infringement notices – Continuous disclosure ⁸	\$132,000	\$132,000	\$198,000	\$66,000
Summary prosecutions				
Summary prosecutions for strict liability offences	410	355	314	528
Compensation				
Compensation or remediation	–	\$943,418	\$2.7 million	–
Policy advice				
<i>In 2015–16, we made several submissions to Senate and Parliamentary Joint Committee inquiries. We also provided policy advice in areas, such as crowd-sourced equity funding and insolvency law reforms.</i>				

8. In 2015–16, ASIC changed the way we report ‘number of infringement notices issued’ and ‘dollar value of infringement notices’ to provide a break down between continuous disclosure and market integrity rule matters. The figures for 2012–13, 2013–14 and 2014–15 have been adjusted to reflect the change in our reporting.

9. The number of infringement notices issued in 2014–15 and 2015–16 did not change. The average value of the infringement notices issued was significantly higher (\$109,333) compared to 2014–15 (\$60,111).

2.2 Fair and efficient markets *continued*



2.2.1 Corporations (including emerging, mining and resources)

ASIC's work in this sector during 2015–16 focused on gatekeeper conduct. Poor conduct by gatekeepers, such as directors, can undermine investor trust and confidence in the market. Our work in this sector also focused on risks associated with financial innovation-driven complexity and globalisation.

Stakeholder engagement

In 2015–16, we held 81 meetings with stakeholders, including the Australian Institute of Company Directors, ASX, the Governance Institute of Australia, the Takeovers Panel, staff of the Foreign Investment Review Board, and the Australian Shareholders' Association. Key issues discussed included voting by show of hands or proxy, remuneration, electronic disclosure, culture and corporate governance and proxy advisers. We also held corporate finance meetings twice yearly in Sydney, Melbourne, Brisbane, Perth and Adelaide that were attended by over 600 corporate finance advisers.

We worked with other bodies to achieve effective regulation. For example, in 2015–16 we engaged with ASX on their listing rules in cases where a company proposes to list with only a small free float. This will help ensure that potential shareholders have better information about the company before deciding whether to invest.

Guidance

Consolidation of fundraising guidance

We have simplified our legislative instruments and regulatory guidance on fundraising. In March 2016, we consolidated seven regulatory guides about disclosure documents into one new regulatory guide. We also repealed five class orders which were no longer relevant and consolidated 26 existing class orders into 13 new legislative instruments.

Facilitating business

ASIC facilitates many complex transactions by providing relief, where appropriate, from the requirements of the Corporations Act.

ASIC facilitated the complex mechanics around National Australia Bank's demerger of CYBG Plc, a UK-based banking group. NAB sought to exit its investment by demerging 75% of CYBG Plc shares to NAB shareholders by scheme of arrangement and capital reduction, and selling the remaining 25% of CYBG Plc shares under an institutional offer. ASIC's relief facilitated a number of technical aspects of the demerger and IPO transaction, which also involved coordination with local and overseas regulators and securities exchanges.

We closely monitored the competition for control of Asciano Limited. In a landmark transaction, we provided relief to facilitate a successful \$9 billion joint takeover by two consortiums led by Qube Holdings Limited and Brookfield Infrastructure Partners Limited through a scheme of arrangement.

Improved guidance on forward-looking statements for mining companies

In April 2016, we released an information sheet to draw together and explain the existing rules and reference sources on forward-looking statements commonly made in the mining and resources industry relating to production targets and forecast financial information. This 'one-stop-shop' reference guide aims to help reduce business costs and risks of litigation or regulatory action. Further dialogue with industry on this information sheet is ongoing.

Discussions with industry and the ASX on forward-looking statements are ongoing.

Enhanced corporate governance website

To assist companies to understand their obligations and improve their practices, ASIC launched significantly enhanced corporate governance content on our website. The new corporate governance webpage brings together all of ASIC's speeches and published articles, as well as more traditional guidance through regulatory guides and information sheets.

Reports on corporate finance regulation

We published two corporate finance reports in August 2015 and February 2016 highlighting key statistical information about corporate finance regulation for the half year. The reports aim to provide greater transparency of ASIC's role in the regulation of corporations in Australia. They note key trends and detail our work in the regulation of fundraising, mergers and acquisitions, corporate governance, and other general corporate finance areas.

Surveillance

In 2015–16, ASIC completed 414 high-intensity surveillances to monitor how companies and their directors complied with their obligations under the Corporations Act. Our surveillance activities focused on improvements in disclosure or compliance with the law with respect to specific transactions.

In 315 surveillances, we detected and responded to a failure or failures by companies and their directors to comply with their conduct obligations. Examples of these and other surveillance activities, including the type of failures detected and our response to these failures (such as working with entities to improve disclosure and issuing stop orders) are set out below.

Improving fundraising disclosure

In 2015–16, we reviewed 757 prospectuses and offer documents, which made up over 85% of all documents lodged with ASIC. We actively examined due diligence materials in a number of cases to ensure disclosure was not misleading. We required improved disclosure to be lodged in 19% of these documents, impacting around \$6.4 billion of fundraisings. We issued 58 interim stop orders, with most of these revoked when corrective disclosure was lodged, and made eight final stop orders to prevent fundraising where we had concerns.

Examples of where we responded to failures to comply with fundraising requirements include:

- ♦ Following a range of disclosure concerns raised by ASIC, Bitcoin Group Ltd, a digital currency miner, was required to lodge two replacement prospectuses and two supplementary prospectuses. We also required the company to remove misleading statements on Chinese language social media sites.
- ♦ AfterPay Holding Limited was one of many initial public offerings (IPOs) in the fintech space that came to market in 2015–16. We raised concerns around disclosure of the business model and issued an interim stop order. A replacement prospectus clarified our concerns and a successful \$25 million fund raising proceeded.
- ♦ We took action against Black Mountain Resources for their poor disclosure about convertible notes and failure to comply with accounting standards. As a result, Black Mountain will not be permitted to use reduced disclosure rules and will be required to issue a full prospectus if seeking to raise funds from retail investors.

Due diligence practices in initial public offerings

In July 2016, we published a report outlining the findings of our review into the due diligence practices of issuers and directors in IPOs. Between November 2014 and January 2016, ASIC conducted systematic reviews of the due diligence practices of 12 IPO issuers, ranging from small and mid-sized to larger offers and a sample of offers from emerging market issuers. Our review found a close correlation between defective disclosure in a prospectus and poor due diligence. Common concerns generally identified among small to medium-size firms included variation in the quality of due diligence processes, a 'form over substance' approach and a lack of involvement by the directors of the issuer. Our report makes good practice recommendations for effective due diligence, including around director involvement in the due diligence process and engagement of appropriate professional and expert advisers.

Monitoring takeovers

ASIC monitored 40 new takeover bids in 2015–16. Where necessary, we intervened to seek better disclosure or conduct to ensure companies' transactions and control transparency was appropriate and legal. We assessed the disclosure and terms of 54 proposed acquisitions under court-approved schemes of arrangement.

We took two applications to the Takeovers Panel on proceedings for Ainsworth Game Technology Limited and Condor Blanco Mines Limited, and made submissions on a further 16 matters before the Panel.

2.2 Fair and efficient markets *continued*

ASIC used our compulsory notice powers to support a Takeovers Panel application by Affinity Education Group Limited (Affinity). This resulted in an order that required alleged associates of acquirer G8 Education to dispose of a number of shares in Affinity.

Corporate governance

We monitor the conduct of directors and other important gatekeepers. In 2015–16, we reviewed 316 related party transactions – particularly fundraising and control transactions – to assess conflicts of interest. We required re-lodgement of 7% of these notices and undertook additional surveillance on a further 5%.

We monitor trends in corporate governance by assessing issues arising out of Annual General Meetings, engaging with ASIC's Director Advisory Panel and assessing international developments.

Improved disclosure for emerging market issuers listing on ASX

In 2015–16, we saw many emerging market issuers coming to terms with Australian standards of due diligence, disclosure and other listing requirements as they sought to list on the ASX. Our responses to these developments included:

- ♦ We required a replacement prospectus to be lodged to address disclosure concerns for Dongfang Modern Agriculture Holding Group Limited, an emerging market citrus producer seeking to raise \$5 million.
- ♦ King of Gold Group Co Ltd is a Chinese gold explorer that attempted to raise \$40 million through listing on the ASX. ASIC raised significant disclosure concerns including inconsistent statements in the Chinese legal due diligence report on the ownership of the mining licenses, incorrect translations of source documents, lack of historical financial information and unclear description of tenements in the independent geologist report. A final stop order prevented the fundraising from proceeding.

- ♦ Living Cities Development Group Limited (formerly Ferrowest) was a suspended Australian-focused mineral explorer which sought to become a China-based property developer and raise up to \$5.5 million. ASIC took stop order action to improve disclosure around its business model and financial disclosure.

- ♦ Mazu Alliance Ltd (Mazu) made a second attempt to re-list on the ASX, after ASIC issued a stop order on their first attempt earlier in the financial year. A replacement prospectus was required to address ASIC's concerns which included ownership and use of the land in China. Mazu was however unable to satisfy ASX requirements for readmission and was subsequently delisted.

Enforcement

Punitive outcomes

Continuous disclosure

Where senior officers of publicly listed companies fail to ensure that the published financial results of listed companies are true and accurate and do not mislead the market, investor trust and confidence in the market is undermined. For example, in May 2016, the former Managing Director and CEO of Sigma Pharmaceuticals Ltd, Elmo De Alwis, and former Chief Financial Officer, Mark Smith, were sentenced for charges in relation to falsifying books and giving false or misleading information to directors and auditors. They were sentenced to 12 months imprisonment and fined \$25,000.

Directors' duties

ASIC continues to take action to protect investors where directors fail to discharge their duties with care and diligence or fail to act in the best interests of the corporations they serve. For example:

- ♦ Former Kleenmaid director Gary Collyer Armstrong was sentenced to seven years in jail for his role in the collapse of the national whitegoods distributor. In August 2015, Mr Armstrong pleaded guilty to insolvent trading and fraudulently obtaining \$13 million from Westpac.

- ♦ In May 2016, the Federal Court in Adelaide disqualified three former directors of Astra Resources Limited from managing corporations. The Court found that Astra Resources raised more than \$6.5 million illegally from 281 investors during 2011 and 2012, in contravention of the fundraising provisions of the Corporations Act. The Court found that directors Dr Jaydeep Biswas, Ms Silvana De Cianni and Mr Barrie Meerkin failed to take reasonable steps to prevent these contraventions. Dr Biswas and Ms De Cianni were disqualified for 12 years and Mr Meerkin for nine years.

Protective outcomes

Continuous disclosure

Continuous disclosure is one of the key foundations of investor trust and confidence in the market. In 2015–16, ASIC took action to protect investors from companies that failed to meet continuous disclosure and other reporting requirements. For example, in May 2016, we obtained a winding up order against Continental Coal Limited (CCC) to protect the interests of shareholders, investors and creditors. The winding up application was made on the basis that CCC was not being properly managed and that the company had been involved in multiple contraventions of the corporations legislation, including failure to comply with continuous disclosure obligations, failure to lodge audited accounts and convene its annual general meeting, and insolvency. ASIC had earlier restricted CCC from issuing a reduced content prospectus until 26 February 2017.

Remedial outcomes

Continuous disclosure

We accept enforceable undertakings where companies fail to meet their continuous disclosure obligations. For example, in June 2016, ASIC entered into an enforceable undertaking with Rhinomed Ltd following the company's failure to disclose market information that would have reasonably had a material impact on its share price. This followed separate, previous continuous disclosure failures by the company. Under this enforceable undertaking, an independent expert will identify deficiencies in Rhinomed Ltd's continuous disclosure policies and procedures, and then review the company's rectification of these deficiencies. Rhinomed Ltd also paid an infringement notice in relation to its failure.¹

Policy advice

Fundraising reforms

We provided advice to Government regarding crowd-sourced equity funding. The proposed reforms are aimed at providing small unlisted public companies with easier access to fundraising through innovative platforms.

ASIC continued to examine policy interest surrounding fundraising for cooperatives and mutuals. This included appearing before the Senate Economics Reference Committee inquiry into cooperatives, mutuals and member owned firms and advising Treasury on their response to the committee's report.

We also continued to liaise with Treasury regarding progress on reforms to improve the effectiveness of the simple corporate bond regime.

1. Compliance with an infringement notices is not an admission of guilt or liability. Rhinomed Ltd is not taken to have contravened s798H(1) of the Corporations Act.

2.2 Fair and efficient markets continued



2.2.2 Insolvency practitioners

ASIC's work in this sector is focused on gatekeeper conduct by insolvency practitioners (registered liquidators). Poor conduct by registered liquidators, including their failure to detect and report inappropriate conduct of principals, can undermine investor and creditor trust and confidence in the market.

Stakeholder engagement

Liaison with registered liquidators

In 2015–16, we held 51 meetings with stakeholders. This included the Australian Restructuring Insolvency and Turnaround Association (ARITA), the main organisation representing insolvency practitioners (including registered liquidators).

We hold biannual regional meetings in each state (as well as the Northern Territory and ACT) with registered liquidators and other stakeholders in the insolvency sector.

We also engaged with our stakeholders by writing articles for industry publications. We authored three articles which appeared in the *Australian Insolvency Journal* (the quarterly journal of ARITA), as well as co-authoring an article for *Inpractice* (the monthly journal of CPA Australia).

Powers to appoint liquidators

We used our wind-up powers to appoint liquidators to abandoned companies and help employees access their entitlements under the Fair Entitlements Guarantee. In 2015–16, we exercised our powers to appoint liquidators to 31 abandoned companies that owed 68 employees more than \$1.8 million in entitlements.

Work with liquidators when companies fail

A particular focus of our engagement with registered liquidators in 2015–16 has been when companies fail, particularly through our administration of the Assetless Administration Fund, the Liquidator Assistance Program and enforcement action against directors and others based on registered liquidator reports to ASIC.

During the year, we approved over 260 Assetless Administration Fund applications of the 700 assessed, and assisted liquidators to obtain books and records or reports as to affairs in over 400 external administrations.

Report on supervision of registered liquidators

We published our fifth annual report, covering the 2015 calendar year, about our supervision of registered liquidators.

Our report sets out the work ASIC undertook in promoting higher standards and sanctioning poor performing registered liquidators. This promotes competence and independence and militates against improper gain.

Reports of alleged misconduct about registered liquidators decreased from 446 in 2013 and 384 in 2014 to 364 in the 2015 calendar year. ASIC's ongoing educational work with registered liquidators to improve their communication with creditors contributed to the decrease. The overall downward trend in reports of alleged misconduct about registered liquidators is encouraging.

Educating creditors

Part of ASIC's response to reports of misconduct is to educate the person (usually a creditor) about the applicable law or practice, including providing information about the standard insolvency process. Approximately 72% of reports of misconduct about registered liquidators involved such circumstances.

Guidance

External administration

In 2015–16, we reissued an information sheet that provides practical guidance to assist registered liquidators to understand what forms need to be lodged and published in an external administration.

Surveillance

In 2015–16, ASIC completed 27 high intensity surveillances of insolvency practitioners involving issues of independence, competence or improper gain. We also completed 216 reviews of registered liquidators' compliance with reporting and publishing requirements.

In 20 surveillances, we detected and responded to a failure or failures by registered liquidators to comply with their conduct obligations. Examples of these surveillance activities, including the types of failures to comply with conduct obligations detected and our response to those failures, are set out below.

Pre-insolvency advice

The pre-insolvency advice market is a growing and largely unregulated, unlicensed market. Not all pre-insolvency advice is bad or improper. However, we are concerned that some advisers may aid and abet directors in breaching their duties and promote illegal phoenix activity that undermines market confidence and reduces the assets that might otherwise be available for creditors in a formal external administration.

We have sought to better understand these advisers and their business models using market intelligence from registered liquidators. We have also assisted registered liquidators through the Liquidator Assistance Program and the Assetless Administration Fund. This helps the liquidator recover assets for the creditors' benefit. Liquidators are required to report fully to ASIC which, in turn, helps our investigations and legal action.

We conduct investigations into corporate failures where we are concerned about the activities of pre-insolvency advisers and the liquidators involved.

We work closely with other regulators, including the Australian Financial Security Authority, the Department of Employment, the Fair Work Ombudsman and the ATO. ASIC participates in the Phoenix Taskforce and the Serious Financial Crime Taskforce. The taskforces facilitate information sharing that assists ASIC to identify illegal phoenix activity.

Compliance with reporting and publishing requirements

ASIC completed 216 surveillances of registered liquidators' compliance with reporting and publishing requirements. The key objective of this work is to further build confidence in the insolvency market and our regulation of it through compliance. Non-compliance with simple obligations can reflect more serious problems with insolvency practices.

Our surveillances detected three instances where registered liquidators did not comply with statutory lodgement and publication obligations which are designed to allow creditors and others to participate in the insolvency process. In response, we accepted voluntary undertakings from the three registered liquidators. Each liquidator and their advisers worked with us to rectify the issue to the extent possible and pay all relevant fees required by law. They also undertook to implement firm-wide training to promote a better compliance culture.

Reactive surveillance reviews

In 2015–16, ASIC conducted 69 reactive surveillances following reports of alleged misconduct focusing on practitioner independence, competence and remuneration. These surveillances resulted in registered liquidators improving their behaviour. For example:

- ♦ ASIC detected that a registered liquidator had failed to adequately investigate and document companies' affairs and provide adequate details to creditors. In response, ASIC accepted a voluntary undertaking requiring the liquidator to engage an independent quality reviewer to review a series of his external administrations.
- ♦ ASIC detected that a registered liquidator had failed to comply with the requirement to provide an initial estimate of remuneration to creditors. In response, the liquidator agreed to provide ASIC with a copy of their next three initial creditor circulars in a voluntary administration to allow us to verify that they have complied with the requirement.

2.2 Fair and efficient markets continued

Enforcement

Protective outcomes

We take strong action to ensure liquidators meet their obligations to creditors. In 2015–16, for example:

- ♦ We accepted an enforceable undertaking from registered liquidator, Anthony Christopher Matthews, of accounting firm, Anthony Matthews & Associates. ASIC had reviewed Mr Matthews's conduct as voluntary administrator of Sapphire (SA) Pty Ltd (formerly trading as River City Grain Co.) and formed the view that he had failed to meet the duty to creditors to adequately investigate and document investigations and report alleged offences to ASIC. The enforceable undertaking prevents Mr Matthews from accepting any new appointments for two months and requires Mr Matthews to appoint an independent expert at his own cost to review his insolvency practice.
- ♦ We successfully obtained an order from the Supreme Court of Victoria that the appointment of Mr Gideon Rathner as voluntary administrator of Planet Platinum Ltd on 4 May 2015 was invalid, void and of no effect. The court found that the only reason the directors had appointed Mr Rathner as an administrator was for the improper purpose of preventing ASIC from having a provisional liquidator appointed to the company, and not because they had formed a view that it was insolvent or likely to become insolvent.
- ♦ We filed an application for the court's inquiry into the conduct of a Melbourne-based registered liquidator. We also filed an application with the CALDB to cancel the registration of a NSW registered liquidator.

Directors of failed companies are required to assist liquidators. In 2015–16, we prosecuted over 400 directors for failing to assist registered liquidators.

Policy advice

Insolvency law reform

We continued to assist the Government on policy issues, particularly in the development of the *Insolvency Law Reform Act 2016* and its innovation agenda.

ASIC made a submission to the Productivity Commission's inquiry into business set up, transfer and closure. ASIC's submission supported reforms to promote a rescue culture for financially distressed companies that have some prospect of rehabilitation, including safe harbour reforms and reforms to the operation of *ipso facto* clauses. The Australian Government has adopted these proposals to improve Australia's insolvency laws as part of the National Innovation and Science Agenda.



2.2.3 Financial reporting and audit

ASIC's work in this sector is focused on gatekeeper conduct by directors and auditors. Poor gatekeepers conduct (including failing to identify, address and report inappropriate conduct of principals) can undermine investor trust and confidence in the market.

Stakeholder engagement

In 2015–16, we held 140 meetings with domestic stakeholders with a focus on improving financial reporting and audit quality. We maintain strong relationships with Australia's three largest accounting bodies – CPA Australia, Chartered Accountants Australia and New Zealand, and the Institute of Public Accountants. We also liaise with other stakeholders including accounting firms, the Group of 100, the Australian Institute of Company Directors and user groups.

Guidance

Registration of company auditors

In 2015–16, we released a revised regulatory guide on the registration of company auditors. The revised guide simplifies and improves the registration process for prospective auditors, including approval of a new competency standard for satisfying practical experience requirements, and updating the professional indemnity insurance requirements for authorised audit companies and newly registered company auditors. The changes to the registration process will reduce red tape and ensure appropriate standards for new company auditors are met.

Digital financial reporting

ASIC accepts digital financial reports for lodgement in place of paper or PDF reports. These reports can be displayed in a web browser and can be structured using hyperlinks. In June 2016, we published a video to assist companies to simplify their financial reports and encourage digital financial reporting.

Financial reporting quiz

ASIC continues to host an on-line quiz to help directors test their knowledge of financial reporting and direct them to additional resources that may assist further. The quiz was developed with the largest Australian accounting bodies and the Australian Institute of Company Directors. During 2015–16, 931 directors completed the quiz.

Surveillance

Financial reporting surveillance and audit

In 2015–16, we completed 461 surveillances (149 of which were high-intensity) to monitor compliance with financial reporting and audit requirements.

In 90 surveillances we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures detected and our response to these failures are set out below.

Financial reporting surveillance

In 2015–16, we reviewed over 350 financial reports of listed entities and other public interest entities. Our enquiries continue to result in material changes to 4% of financial reports reviewed. As a result of our surveillances, 12 entities recognised asset impairments totalling \$1.7 billion following ASIC inquiries. Other changes relating to accounting treatments – such as addressing premature recognition of revenue – totalled \$151.0 million.

2.2 Fair and efficient markets continued

In response to our inquiries Slater and Gordon Limited (S+G) reduced asset values in its financial report for the half year ended 31 December 2015 and re-classified a portion of its work in progress (WIP) and disbursement assets as non-current in its financial report for the year ended 30 June 2015. We made inquiries of S+G in relation to its financial report for the year ended 30 June 2014 and subsequently raised questions in relation to the financial report for the year ended 30 June 2015. Our inquiries mainly concerned the recoverable amount of goodwill attributable to the company's Australian and UK businesses, the recognition of fee revenue and related WIP, provisioning against debtors and disbursement assets, and the basis for classifying WIP and disbursement assets as being current.

Audit inspection program

Auditors play a vital role underpinning investor trust and confidence in the market. We work with directors, audit committees and auditors to improve audit quality.

On 15 December 2015, we released a report of the results of our audit firm risk-based inspections for the 18 months to 30 June 2015. ASIC reviewed a total of 463 key audit areas across 111 audit files at firms of different sizes. We found that in 19% of audit areas, auditors did not obtain reasonable assurance the financial report as a whole was free of material misstatement. This compares with 20% for ASIC's report covering the previous 18 months ending in December 2013. Our findings are similar to those in other countries.

In our view, our inspections show that audit firms must continue to improve the sufficiency and appropriateness of audit evidence obtained by the auditor, the level of auditors' professional scepticism, and appropriate use of the work of experts and other auditors.

Enforcement

Protective outcomes

We take action to cancel, suspend or impose conditions on the registration of an auditor where breaches of the Corporations Act and Australian auditing or accounting standards are identified. In 2015–16, for example:

- ♦ We imposed conditions on the registration of company auditor, George Georgiou. In response to ASIC concerns about his audits of two ASX listed entities, Mr Georgiou voluntarily agreed to conditions on his auditor registration. Those conditions include successfully completing at least 30 hours of professional audit-related training at his own expense within 12 months, and engaging a registered company auditor to review three of his company audits for the year ended 30 June 2016.
- ♦ We disqualified four SMSF auditors following referrals from the ATO for breaches including signing audit reports despite not being a registered company auditor, providing misleading statements, deficient audit work, and breach of independence requirements.

Policy advice

International engagement

We work with firms internationally through the International Forum of Independent Audit Regulators (IFIAR) to improve audit quality. We also work with other IFIAR members on initiatives, such as improved information sharing, auditing standards and enforcement. In 2015–16, IFIAR approved a Multilateral Memorandum of Understanding Concerning Co-Operation in the Exchange of Information for Audit Oversight (MMoU) and 22 members are expected to sign the MMoU in December 2016. ASIC is leading this MMoU work.

We also work with other securities regulators through IOSCO to improve financial reporting and audit quality. Activities include input on accounting, auditing and ethical standards, interactions with standard setters, accounting firms and other stakeholders, and guidance and policy development. We lead IOSCO initiatives on information sharing about the interpretation and regulation of accounting standards.



2.2.4 Financial market infrastructure

ASIC's work in this sector is focused on poor gatekeeper conduct in markets. Culture and incentives that drive poor conduct can undermine investor trust and confidence in the market. This can lead to compromised outcomes for firms and markets, with flow-through impacts for investors including retail investors.

Our work also focused on cyber resilience. The increasing incidence, complexity and reach of cyber attacks can undermine businesses and destabilise our markets, eroding investor and consumer trust in the financial system and the wider economy.

Stakeholder engagement

In 2015–16, we held 310 meetings with a range of financial market infrastructure stakeholders including infrastructure operators, such as Chicago Mercantile Exchange Inc and the Depository Trust and Clearing Corporation. We also engaged with key industry associations, such as the Australian Financial Markets Association and the International Swaps and Derivatives Association.

We engaged with industry and overseas regulators to better understand trends and developments. We hold central roles in international bodies and working groups that shape international regulation in financial market infrastructure and financial markets generally.

The bank bill swap rate (BBSW) is a critical short-term interest rate benchmark for borrowers and investors. We worked with members of the Council of Financial Regulators (CFR) and industry stakeholders on options to reform the methodology for calculation of the BBSW. CFR released a discussion paper and proposal on the evolution of the BBSW methodology in February 2016. In March 2016, ASIC consulted with RBA and APRA on proposed regulatory reforms for financial benchmarks in Australia. The regulators have also worked with the Australian Financial Markets Association on proposed changes to the BBSW methodology.

Cyber resilience

We undertook a number of educational initiatives with stakeholders to promote good cyber practices. ASIC Commissioners and senior executives delivered messages on cyber resilience at events, such as the Australian Institute of Company Directors conference. We also authored a number of articles which were published in *Stockbrokers Monthly* magazine.

Guidance

ASX/Chi-X cyber resilience report

We published a report with a point-in-time assessment of the cyber resilience of ASX Group and Chi-X Australia Pty Ltd. The report also contained a number of 'good practices' used by financial services entities operating in Australia identified through in-depth information sharing discussions. These 'good practices' enabled ASIC to make relative comparisons between peer entities and against ASX Group and Chi-X Australia resilience profiles to inform the assessment process. Our report also provides a list of key questions directors or board members should ask about their cyber resilience. Since its release in March 2016, the report has been downloaded almost 500 times and widely cited in online publications, and continues to influence industry practices.

Delegation of ministerial powers to ASIC

On 10 April 2016, the Government delegated to ASIC specified powers relating to market and clearing and settlement facilities, including powers to issue, suspend or cancel a licence, as well as powers relating to operating rule arrangements and compensation arrangements. The delegation means that ASIC Commissioners and senior executives can exercise those powers in accordance with guidelines issued by the responsible Minister. The objective of this delegation is to reduce red tape and better facilitate innovation and competition by enabling industry to bring services and products to market quickly.

2.2 Fair and efficient markets *continued*

Ten matters have been determined under delegation in 2015–16, including two market licence exemption variations and eight operating rule changes. The median timeframe for delegate decisions has been 3.5 days from formal lodgement of the application. Details of matters determined under delegation are published quarterly on our website.

Surveillance

ASIC's surveillance of financial market infrastructure focuses on thematic reviews targeted at strategic risks, rather than specific surveillances in response to suspected breaches.

Dark liquidity and high-frequency trading

In 2015–16, ASIC conducted a review of high-frequency trading and dark liquidity in our equities and futures markets. Our review report included a number of findings which led to actions designed to improve market practices. For instance, we found that there was a trend in Australia and overseas toward exchange and crossing system operators seeking to preference some market users over others for dark trading, which undermines fair and non-discriminatory trading. We confirmed that these arrangements may be inconsistent with operators' existing obligations. We have not seen any proposals of this nature since.

ASX assessment report

We published an assessment report of ASX's listing standards and administration. We concluded that up to the time of publication, ASX had met its statutory obligations in relation to its listing standards. In reaching this conclusion, we were informed by our own surveillance of ASX's equities market and our ongoing oversight of ASX and its surveillance practices. We also engaged extensively with ASX and regulators in the United Kingdom, United States, Canada, Singapore, Hong Kong and New Zealand.

The report noted that administration by ASX of its listing standards had largely served Australian businesses and investors well. The report also highlighted important changes in financial markets driven by globalisation developments, competition, technology and information management, and shifting business cycles. ASX has implemented wide-ranging changes to governance, administration and resourcing of

ASX listing standards. ASX has also consulted on changes to its listing rules designed to maintain the quality of the ASX market and to ensure it remains internationally competitive.

This report also sets clear standards and expectations of the listing function in Australia's financial markets to ensure that they are fair and efficient, thereby underpinning investor trust and confidence.

Financial benchmarks

In July 2015, we released a report on financial benchmarks. The report highlights the importance of financial benchmarks in the Australian economy and outlines the consequences if benchmarks are not robust and reliable. It refers to the investigations ASIC is undertaking into benchmark-related conduct, and makes a number of forward-looking recommendations that dealers, wealth managers and other clients of dealers and administrators of benchmarks should adopt to avoid conduct issues.

Policy advice

Post-trade market structure reforms

In 2015–16, we worked closely with the CFR and the ACCC to advise the Government on competition in the clearing of Australian cash equities. As a result, in March 2016, the Government endorsed the CFR's recommendations to implement a flexible legislative framework comprising rule-making and arbitration powers to facilitate safe and effective competition in clearing, and to deal with the continued monopoly provision of cash equity clearing and settlement services until competition emerges.

Global OTC reforms

Delivering on its G20 commitments in response to the 2008 financial crisis, Australia has implemented rules that commenced in April 2016 requiring mandatory central clearing of interest rate derivatives denominated in US dollars, Euros, Pound sterling, Japanese Yen (G4 currencies) and Australian dollars.

The final stage of implementing the ASIC OTC derivative transaction reporting – reporting by smaller financial entities on OTC derivatives transactions – commenced in 2015–16.



2.2.5 Market and participant supervision

ASIC's work in this sector is focused on real-time surveillance and monitoring of Australia's financial markets, and the conduct of market participants. Culture and incentives that drive poor conduct (including in wholesale markets) can undermine investor trust and confidence in the market. This may lead to compromised outcomes for firms and markets, with flow-through impacts on retail markets.

Stakeholder engagement

In 2015–16, we held 218 meetings with market participants. As part of our early engagement process, we regularly meet with market participants to raise our concerns. We maintain a dialogue with industry as part of our risk assessment and compliance liaison.

We also engaged with market participants to achieve positive behavioural change where we detect market misconduct, including unusual trading patterns. In 2015–16, we gave 15 presentations to industry on ASIC's Market Analytics and Intelligence (MAI) surveillance system which we use to analyse trade data for patterns and relationships.

Market Entity Compliance System

In July 2015, ASIC rolled out its Market Entity Compliance System (MECS) to market entities (market participants, market operators, clearing and settlement facility operators and derivative trade repositories). MECS is an online regulatory compliance portal that helps market entities comply with their regulatory obligations. Reports from these entities indicate that the new system has made the process for lodging, reviewing and tracking ASIC forms and notices simpler and more efficient. MECS is an example of ASIC using technology to assist market entities in complying with the law. Currently, around 400 individual users from 150 market entities are registered to use MECS and over 1,000 applications and notifications have been submitted through the system.

Surveillance

In 2015–16, ASIC produced 44,224 trading alerts on ASIC's MAI system and conducted inquiries into 206 matters.

In 2015–16, we also conducted a range of surveillances (276 of which were high-intensity). This includes enquiries undertaken by the Market and Participant Supervision compliance and surveillance teams.

In 121 surveillances, we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures identified and our response to those failures (such as, by working with individual market participants to improve their practices) are set out below.

Morgans Financial Limited

Following breach notifications and surveillance alerts, we initiated a compliance review on Morgans Financial Limited (Morgans), which detected concerns about its supervisory and risk management framework. In response to our review, we agreed to voluntary licence conditions for an independent expert to conduct a review of the supervisory and risk management framework, with a particular focus on the adequacy of Morgans' compliance framework. Morgans is now implementing the expert's recommendations, which affect a broad range of their supervisory arrangements, including their monitoring systems, financial advice and corporate advisory processes.

ASX 24 quarterly roll markets

In 2015–16, ASIC identified ongoing order activity issues in the ASX 24 quarterly roll markets for some contracts. We were concerned that a small number of market participants and clients may be seeking to 'crowd out' other participants and clients. This conduct was leading to higher costs for other participants and their clients. In response, we contacted the market participants involved to discuss our concerns and saw a significant improvement in overall activity in the ASX 24 quarterly roll markets.

2.2 Fair and efficient markets *continued*

Australian Real Estate Investment Trust (A-REIT) index futures contracts

Following movement of equity sector futures contracts from the ASX exchange to the ASX 24 in November 2014, we identified that some participants were facilitating large off-market block transactions in A-REIT index futures contracts that were not allowed within the ASX 24 market integrity rules.

In response to our review, we contacted the market participants involved to discuss our concerns and requested that the ASX issue a notice to the market to clarify the rules around block trading of these futures contracts. We also adopted a limited no action position which allowed the ASX 24 to consult with the market and introduce changes to the contracts as well as procedures around pre-negotiation of the A-REIT equity sector futures contracts in the quarterly roll market. We subsequently saw a significant improvement in compliance with the market integrity rules.

Enforcement

Punitive outcomes

ASIC has continued to strengthen our approach to responding to market misconduct. Among other outcomes, we have secured the longest insider trading sentence ever handed down in Australia, being eight years and three months. We have also secured a number of imprisonment terms for people found guilty of engaging in market misconduct, issued infringement notices for breaches of the market integrity rules, and accepted enforceable undertakings to address concerns about misuse of confidential client information.

Insider trading

Insider trading is a crime which is increasingly likely to be detected. ASIC continues to investigate and successfully prosecute those engaging in this form of market misconduct. For example:

- ♦ Former Hanlong Mining managing director, Hui Xiao, was sentenced to a total of eight years and three months imprisonment on insider trading charges, with a non-parole period of five years and six months. Mr Xiao pleaded guilty to two charges of insider trading, and formally admitted to a third charge, involving a total of 102 illegal trades in financial products related to Sundance Resources Limited and Bannerman Resources Limited in July 2011.

Mr Xiao received Australia's highest sentence for insider trading following his failure to return to Australia in November 2011, in contravention of a court order, and subsequent extradition to Australia from Hong Kong in October 2014. ASIC and the Australian Federal Police also took action against Mr Xiao under the *Proceeds of Crime Act 2002* (Cth) to recoup the profits made by Mr Xiao from the illegal trades.

- ♦ Michael Hull was sentenced to 17 months imprisonment after pleading guilty to insider trading charges. Mr Hull is to be released after serving seven months, upon giving security by way of recognisance to be of good behaviour for 18 months from his release. Mr Hull had previously pleaded guilty to trading in the shares of Mac Services Limited, Giralia Resources NL and Jabiru Metals Limited while in possession of inside information between 8 September 2010 and 9 February 2011. Mr Hull admitted that he received the inside information from a close friend who was employed in the investment banking department of a global financial services company which worked on major corporate transactions involving those companies.

- ♦ Oliver Curtis, former investment banker, was sentenced to two years imprisonment after being found guilty of conspiring to commit insider trading. Mr Curtis is currently appealing his conviction.

Market manipulation

Market manipulation undermines investor trust and confidence in the market. We take this conduct seriously and will vigorously pursue those parties suspected of engaging in this misconduct. For example:

- ♦ Nigel Heath was convicted and sentenced to 18 months imprisonment after pleading guilty to two market manipulation charges. Mr Heath carried out a number of transactions involving financial products relating to Petsec Energy Limited and other shares and CFDs that had the effect of artificially increasing the price for trading in these on the ASX between February 2012 and October 2013.
- ♦ Robert Dulhunty was sentenced to 18 months imprisonment for conspiring to manipulate the share price of Healthzone Limited, of which he was a former director.
- ♦ In March, April and June 2016, we commenced civil penalty proceedings against the Australian and New Zealand Banking Group Limited (ANZ), Westpac Ltd and National Australia Bank (NAB) respectively for unconscionable conduct and for market manipulation in setting the BBSW in periods between March 2010 and December 2012. On 27 September 2013, the Australian Financial Markets Association changed the method by which the BBSW is calculated. The conduct that the proceedings relate to occurred before the change in methodology. ASIC alleges that ANZ, Westpac and NAB each traded in a manner that was unconscionable in the bank bill market with the intention of creating an artificial price for bank bills and consequently of moving the BBSW higher or lower. ASIC alleges that ANZ, Westpac and NAB were seeking to maximise their profits or minimise their losses to the detriment of those holding opposite positions to the banks.

Markets Disciplinary Panel infringement notices

The Markets Disciplinary Panel (MDP) is a peer review body that exercises ASIC's power to issue infringement notices or accept enforceable undertakings for alleged breaches of the market integrity rules.

In 2015–16, the MDP issued nine infringement notices¹, which imposed a total of \$984,000 in these matters (see pages 181–182).

These included:

- ♦ Australian Investment Exchange Limited, for allegedly failing to have in place automated filters or Market Vetting Filters as appropriate for all Authorised Persons, and processes to detect Authorised Persons trading without appropriate automated filters. This interfered with the efficiency of the market and resulted in the market not being fair and orderly. Australian Investment Exchange Limited paid a \$130,000 penalty.
- ♦ Macquarie Securities (Australia) Limited (MSAL), for allegedly approving two employees who were not designated trading representatives (DTR) for access to the Automated Order Processing (AOP) system while also giving these employees access to the manual trading application, which resulted in a non-DTR submitting trading messages into the trading platform which did not comply with the AOP requirements. MSAL paid a \$110,000 penalty.

1. Compliance with an infringement notice is not an admission of guilt or liability. The recipient is not taken to have contravened s798H(1) of the Corporations Act.

2.2 Fair and efficient markets *continued*

Protective outcomes

Market manipulation

We continue to pursue those involved in perpetrating market misconduct to protect our financial markets. For example, in December 2015, we banned Tony Davidof, a former financial adviser, from providing financial services for three years. Our investigation found that Mr Davidof had engaged in manipulation of the price of MINI warrants issued by Credit Suisse, which are a type of derivative product traded on the ASX. We found that, in 2013, Mr Davidof took part in back-to-back buy and sell trades of MINI warrants on the ASX with a former employee of Credit Suisse after the pair had pre-arranged the price, volume and approximate timing of the trade. This behaviour was likely to have the effect of creating an artificial price for trading in the affected products on the ASX.

Remedial outcomes

In 2015–16, we accepted enforceable undertakings from market participants in relation to concerns about misuse of confidential client information. For example:

- ♦ ASIC accepted enforceable undertakings from Philip King and Regal Funds Management (Regal). Mr King is a director of Regal. Regal short-sold a large number of Ten Network Holdings Ltd (TEN) shares after receiving an email from Angus Aitken, a Sydney institutional stockbroker, resulting in a profit of approximately \$80,000. Mr King and Regal agreed to implement various training and compliance measures, and Mr King further agreed to make a voluntary contribution of \$80,000 to Financial Literacy Australia Limited.
- ♦ In December 2015, we accepted enforceable undertakings from Angus Aitken and his then employer Bell Potter Securities over concerns about the way Mr Aitken handled and disclosed information about an institutional client's possible selling intentions in securities of TEN. ASIC was concerned that Mr Aitken knew, or ought to have known, that this information was, or was likely to be, confidential client information. Under the enforceable undertakings, Mr Aitken agreed to undertake various training and compliance measures, and Bell Potter agreed to implement various compliance measures. Mr Aitken further agreed to make a voluntary contribution of \$80,000 to Financial Literacy Australia Limited.



Market Integrity Group

In 2015–16 ASIC's Market Integrity Group teams – Market and Participant Supervision, Financial Market Infrastructure, Investment Banks and Market Integrity Enforcement – undertook a number of joint projects to promote fair and efficient markets.

Cyber resilience

Our cyber risk taskforce (financial markets) proactively collaborates with industry, regulators and Government to identify practices to deal with cyber threats and technological advances. We also engage in real-time market monitoring to identify potential cyber attacks, for example, by detecting anomalous trading patterns that may be the result of a cyber attack. As an example of our work in this area, in 2015–16 we took action to retain proceeds of crime in relation to suspected hacking of clients' accounts at multiple broking firms. We have also issued questionnaires to investment banks and market participants to obtain an understanding of the industry's resilience to cyber risks and to raise awareness.

Culture and conduct in markets

In 2015–16 our Market Integrity Group contributed to our focus on culture and conduct in markets. We engaged with domestic and international stakeholders, including around 3,000 bankers from 14 investment banks and another 500 staff at industry forums, to raise awareness and standards on conduct in the industry. Our Market Integrity Group's teams undertook proactive surveillances on 26 investment banks and market participants, which has resulted in a number of positive behavioural changes by stakeholders. We also issued a supplementary questionnaire to gauge the level of implementation in Australia of internationally endorsed regulatory remuneration practices (see further detail on page 55).

Managing confidential information and conflicts of interest

During 2015–16, our Market Integrity Group teams undertook a surveillance on the management of confidential information and conflicts of interest by the research and corporate advisory functions within investment banks and other market participants. This surveillance focused on the handling of confidential information and management of conflicts of interest, in particular the independence of research, staff trading and share allocations. The project involved a thematic review of policies, procedures and practices, as well as meetings with overseas regulators, a number of investment banks, independent corporate advisors and independent research houses. Our surveillance reviewed a significant IPO for which most investment banks active in this market 'pitched', a small IPO, a placement and a block trade. Through this surveillance and other recent work, we have identified a number of areas of concern which have been addressed in a public report and are subject to further regulatory action in 2016–17. We intend to consult on new guidance in 2016–17.

2.2 Fair and efficient markets *continued*

In October 2015, ASIC released a report on high-frequency trading and dark liquidity. The report summarised industry practice and set out ASIC's expectations regarding the structure and conduct of principal trading and facilitation activities. Market participants have subsequently made changes to the structure of their principal trading and facilitation activities to ensure that confidential information is adequately protected, such as:

- ♦ moving the seating locations of principal traders away from agency traders and others with access to client order flow
- ♦ principal traders ceasing to undertake agency business (i.e. removing dual roles)
- ♦ changes to technological systems
- ♦ non-attendance by principal traders at meetings where client orders are discussed.

We consolidated these messages about the importance of protecting confidential information through articles in publications such as ASIC's *Market Integrity Update* and the AFMA Newsletter.

Market cleanliness

During 2015–16, ASIC undertook a study measuring Australian equity market cleanliness with a focus on possible insider trading and information leakage ahead of material, price-sensitive announcements (MPSA). The report, released in August 2016, found a general improvement in investor trust and confidence in the market. This was demonstrated by the decrease in anomalous trading ahead of MPSAs in the five years before and after the transfer of market supervision to ASIC (i.e. between 1 November 2005 and 31 October 2015).



Greg Yanco, Senior Executive Leader, Market and Participant Supervision, addressing the Australia FIX Conference in September 2015.



2.2.6 Investment banks

ASIC's work in this sector is focused on the conduct of investment banks and other market intermediaries (e.g. retail OTC derivative providers). Culture and incentives that drive poor conduct (including in wholesale markets) can undermine investor trust and confidence in the market. This can lead to compromised outcomes for firms and markets, with flow-through impacts on retail markets.

Stakeholder engagement

In 2015–16, we held 103 meetings with stakeholders on issues, such as the structure and resourcing of their compliance function, the importance of prompt and full reporting of breaches of financial services laws, and commercial developments across their corporate advisory, capital markets and fixed income, currency and commodity businesses.

Asia-Pacific Regional Supervisory College

ASIC jointly led, along with the Hong Kong Securities and Futures Commission, a new initiative to establish an Asia-Pacific Regional Supervisory College Forum (RSC). The RSC is aimed at enhancing supervisory cooperation and facilitating information-sharing efforts in the Asia-Pacific region in relation to investment banks with a significant presence across regional markets. The RSC's first session was held in February 2016.

Guidance

Retail OTC derivatives

We published a report in June 2016 highlighting serious compliance failures in the retail OTC derivatives industry. We expect industry to take note of our findings and proactively remediate any areas requiring improvement. This will ensure the industry has adequate and enduring compliance measures to fulfil its regulatory obligations.

Binary options

Binary options are a high-risk, unpredictable investment option. In January 2016, we published guidance on MoneySmart to help investors understand the risks involved when deciding to invest in binary options.

Surveillance

In 2015–16, ASIC completed 114 high intensity surveillances to monitor how investment banks (seven surveillances), retail OTC derivative providers (100 surveillances) and credit rating agencies (seven surveillances) complied with their obligations. In relation to the seven high intensity surveillances of investment banks, in six of these surveillances we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures identified and our response to these failures, are set out below.

Managing confidential information

We achieved a number of regulatory outcomes following our surveillance of the management of confidential information and conflicts of interest by the research and corporate advisory functions within investment banks and other market participants. For example, in December 2015, UBS agreed voluntarily to change various internal research analyst policies and processes. This followed an ASIC investigation into the handling of confidential information received by a UBS research analyst from Newcrest Mining Ltd in mid-2013 and concerns with the management of conflicts of interest related to research on the privatisation of NSW electricity infrastructure from 17 March 2015.

2.2 Fair and efficient markets *continued*

Retail OTC derivatives – licensed providers

Retail OTC derivatives are generally considered high-risk financial products for retail investors because of the highly leveraged and principal-to-principal nature of the trading (which contributes to counterparty risk). There has been a material increase in aggressive marketing by issuers of retail OTC derivatives – particularly through cold calling and unsolicited emails – increasing the exposure of these types of products to segments of the Australian population that may not understand the associated risks.

We undertook a risk-based review of 55 of the approximately 65 non-market participant AFS licensees that issue OTC derivatives to retail investors in Australia. Our thematic review focused on seven key compliance risks, including the licensees' financial resources, handling of client money, changes of corporate control, poor disclosure, supervision of authorised representatives, and financial reporting obligations. Over 70% of AFS licensees we reviewed were found to have issues associated with three or more of the seven key compliance risks.

In response to our review, ASIC obtained over 150 regulatory outcomes across 55 AFS licensees (and other associated parties, such as authorised representatives), including AFS licence cancellations and suspensions, rectification of non-compliant behaviour, updating and correction of information, referrals to other Australian and international regulators, and the issue of infringement notices for misleading conduct.

Retail OTC derivatives – unlicensed providers

During 2015–16, we reviewed 45 entities, primarily binary option providers, who we believed were marketing their services in such a way that misled investors into believing they are operating lawfully under Australian regulation. In response to our review, over 75% of these entities made changes to their website or advertisements, or took steps to block or inform potential Australian investors. In addition, we issued public warning notices in relation to 10 entities that ignored numerous attempts at contact, and appeared to continue the representation that they were able to offer their financial services in Australia.

Enforcement

Protective outcomes

Retail OTC derivatives

As a result of our surveillance of issuers of retail OTC derivatives, we achieved a number of enforcement outcomes. For example:

- ♦ In 2015–16, we cancelled the AFS licence of LSG Group Pty Ltd (formerly known as NZ Global Financial Trading Pty Ltd, Easy Capital Global Pty Ltd and AIFA Global Pty Ltd) and suspended the AFS licence of Australian Capital Markets Advisory Services Pty Ltd.
- ♦ In 2015–16, we also issued public warning notices in relation to a number of issuers of retail OTC derivatives, including GOptions, Porterfinance, Boss Capital, MaxOptions, Bloombex Options, Citrades, RBOptions, and OptionsXO, Top Ten Binary Brokers, Market City International, and Brokers500.

Remedial outcomes

Foreign financial service providers

We take action against foreign financial service providers (FFSPs) where they fail to comply with the disclosure and reporting requirements set out under class order licensing relief. For example, in November 2015, three J.P. Morgan entities entered into an enforceable undertaking with ASIC in relation to breaches of disclosure requirements set out in the class order licensing relief. As part of the enforceable undertaking, J.P. Morgan has agreed to implement a remediation program, including appointing an independent expert to review its compliance framework relevant to the disclosure requirements.

Following the announcement of the J.P. Morgan enforceable undertaking, we have observed a shift in industry awareness of the regulatory obligations that apply to FFSPs, particularly the disclosure and reporting requirements set out under class order licensing relief. The lift in compliance awareness and standards also appears to be linked in part to ASIC's messaging on the need to comply with the FFSP disclosure and reporting obligations.



Policy advice

IBOR review/benchmarks

ASIC co-led a follow-up review of the implementation of the IOSCO Principles for Financial Benchmarks. This provides a set of good practices for the sector by the administrators of the key global interest rate benchmarks Euribor, Libor and Tibor. This review found that the administrators had made significant progress in implementing the principles, but that some gaps remained. The review made clear recommendations to the administrators to improve their implementation of the principles and is an example of IOSCO – and members like ASIC – working with industry leaders to improve practices.

Shadow banking

We participated in work led by RBA on implementing the recommendations of the Financial Stability Board in relation to securities financing, securities lending and repurchase agreements. This work has involved developing an understanding of prevailing market practices and consideration of reform options.

Innovation Hub

ASIC established its Innovation Hub in March 2015 to help fintech start-up businesses navigate the regulatory framework that we administer. Our Innovation Hub contributes to our strategic goals of promoting investor and consumer trust and confidence and fair and efficient markets. ASIC views the work of its Innovation Hub as essential to understanding the implications of developments in the financial sector as well as facilitating the provision of more consumer-focused and more efficient financial services. The Innovation Hub comprises of five elements:

- ♦ stakeholder engagement
- ♦ informal assistance and guidance from ASIC to eligible businesses
- ♦ a dedicated Innovation Hub website
- ♦ coordination of all ASIC's innovation-related work
- ♦ an external advisory body (i.e. the Digital Finance Advisory Committee).

Stakeholder engagement

We have held over 120 meetings with industry and other stakeholders, and we presented at seven events targeted at the financial services start-up community. In total, we have worked with 93 new, innovative businesses.

Informal assistance and guidance to eligible businesses

Individual guidance and assistance with licence or relief applications

ASIC senior staff have provided informal guidance to 67 entities that have requested assistance from ASIC and met our basic eligibility criteria. This guidance helps businesses consider the important regulatory issues early, and may assist recipients to prepare their licence or relief applications. The most common business models we have seen are digital advice, marketplace lending and payments/remittance. Many of these businesses have now progressed to obtaining licences from us.

We have granted 21 AFS and credit licences to potentially innovative operations.

Industry-wide guidance and policy proposals

In addition to providing individual assistance, we have also prepared industry-wide guidance for more common business models. We released an information sheet on marketplace lending in March 2016, as well as guidance on digital advice in August 2016.

We have reflected on the particular challenges facing new financial services businesses, and identified three proposals that could help to facilitate innovation in financial services. We published a consultation paper in June 2016 on our proposals to:

- ♦ provide examples of how ASIC assesses the organisational competence of a potential licensee
- ♦ modify ASIC's policy on organisational competence to allow some limited-in-scale, heavily automated businesses to rely, in part, on compliance sign-off from a professional third party to meet their competence requirements
- ♦ implement a limited industry-wide licensing exemption to allow start-ups to test certain financial services for six months (the 'regulatory sandbox' exemption).

Innovation Hub website

ASIC has established a dedicated Innovation Hub website which provides tailored information and access to informal assistance intended to streamline the licensing process for innovative fintech startups. In 2015–16, there were 9,445 visits to the Innovation Hub webpages.

Coordination and cooperation

ASIC has established an Innovation Hub co-ordination team comprised of subject-matter experts from various teams to carry out its work in this space. Internal working groups have also been established on digital advice, marketplace lending, equity crowdfunding and blockchain. We have

established a network with Treasury and other domestic regulators including the RBA, APRA, AUSTRAC and ACCC.

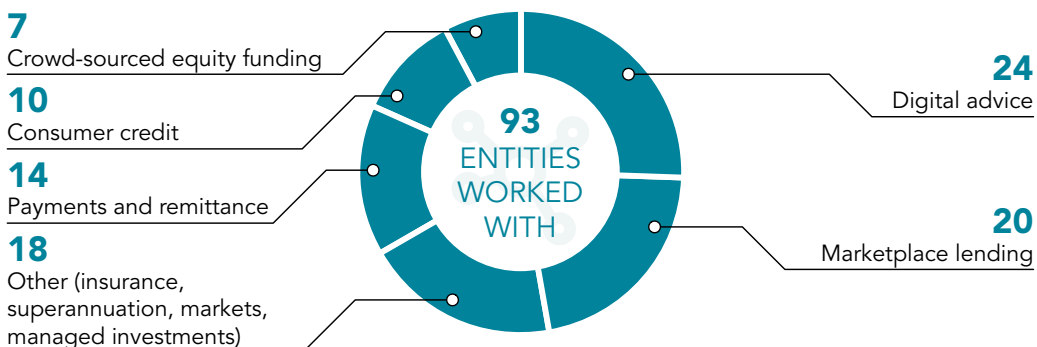
We also met regularly with overseas regulators to discuss developments in their jurisdictions and how they are approaching innovation. Following on from these meetings, we have signed cooperation agreements with the United Kingdom's Financial Conduct Authority and the Monetary Authority of Singapore, under which each regulator will refer to one another those innovative businesses seeking to enter the other's market. The regulators provide support to innovative businesses

before, during and after authorisation to help reduce regulatory uncertainty and time to market.

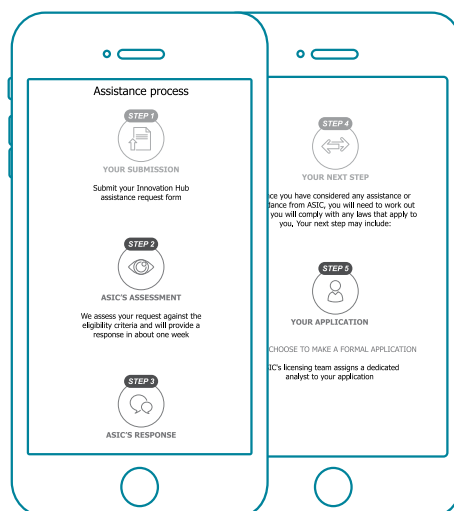
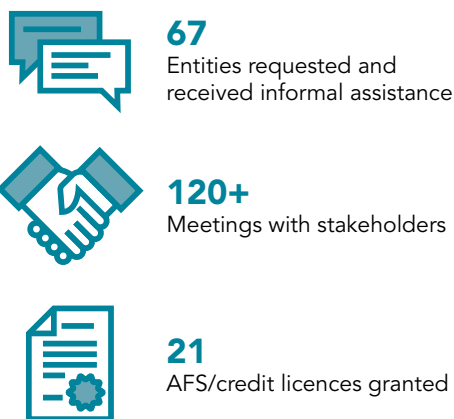
Digital Finance Advisory Committee

The Digital Finance Advisory Committee was established in 2015 to assist ASIC to support innovation in financial services and markets. In 2015–16, we met with our Digital Finance Advisory Committee four times. They have provided feedback to improve how we engage with the sector and have suggested enhancements to our Innovation Hub webpage (see page 183).

ASIC's Innovation Hub – outcomes¹



ASIC's Innovation Hub online



1. Innovation Hub outcomes since its establishment in March 2015 to June 2016.

2.3 Efficient registration services



ASIC oversees company registration and notifications, the AFS licensing and credit licensing regimes, business names registration, and the registration of company auditors, SMSF auditors, liquidators and financial advisers.

One of ASIC's objectives is to provide efficient registration services. An efficient registration system fosters commercial dealings by enabling parties to verify the existence and status of entities with which they do business.

Our activities in relation to this objective are designed to:

- ♦ provide stakeholders with modern, efficient, accurate and cost effective corporate registers
- ♦ improve public access to information about registered and licensed entities
- ♦ reduce costs and red tape for business by making it easier to transact with ASIC
- ♦ administer the law to enhance commercial certainty and reduce business costs.

Our success in achieving this objective is measured by the extent to which:

- ♦ registration is efficient, accurate and cost effective for business
- ♦ business complies with ongoing registration obligations
- ♦ the public has easy access to information in ASIC registers
- ♦ misconduct is detected, responded to and deterred.¹

The following section of this annual performance statement sets out our performance in providing efficient registration services.

1. Portfolio Budget Statement 2015–16, Program 1.1.



Key outcomes 2015–16

Efficient registration services

Outcome	2015–16	2014–15	2013–14	2012–13
Total companies registered	2.37 million	2.25 million	2.12 million	2.01 million
New companies registered	246,051 ¹	235,182 ¹	212,573	192,211
Total business names registered	2.07 million	2.15 million	1.99 million	1.74 million
New business names registered	337,413	327,687	299,988	274,349
Estimated savings in fees to register or renew business names	\$41.7 million	\$41.4 million	\$40.2 million	\$38 million
Calls and online inquiries responded to by our Customer Contact Centre	861,767	888,843	1,080,690 ²	881,064
Registry lodgements	2.8 million	2.7 million	2.4 million	2.4 million
Percentage of registry lodgements online	90%	87%	86.1%	84%
Number of searches of ASIC registers	90.7 million	86.2 million	76.2 million	68.0 million

1. Successful and completed registrations.

2. Includes new online business name inquiry channels.

2.3 Efficient registration services *continued*

2.3.1 Registry business

ASIC's registry business – the companies register, Business Names Register and other corporate and professional registers – forms a critical part of Australia's economic infrastructure and is essential to the efficient operation of Australia's economy.

The ASIC Registry is a quality certified organisation under *ISO 9001 Quality Standard in Information Management*. We were the first government organisation internationally to achieve certification under this standard. Maintaining certification is part of our commitment to continually improve our services to meet customer needs, cut red tape and deliver benefits to our customers.

2.3.2 Overall registry activity

Doing business online is easier and cheaper

Our vision is to provide simple online customer-centric services that add value to the Australian economy.

Many of our registers – including the Business Names Register, the register of SMSF auditors, and the Financial Advisers Register – are fully online. Customers can choose to lodge online for most notifications to the other ASIC registers including the companies register. More of our customers are choosing to lodge online (90% of all lodgements were online in 2015–16) and making use of the convenience of doing business with the ASIC registry outside standard business hours.

To enable efficient registration services we are linking more services provided by government organisations for our customers. Information services available to customers now include all of our free registry datasets available for downloading in bulk online at www.data.gov.au. Our increased use of this whole of government service this year, which is based on open data principles, demonstrates our commitment to supporting innovation and responding to current trends in data consumption. ASIC registry datasets are in high demand and rank in the top ten on data.gov.au. The companies register is frequently one of the top five viewed datasets.

Registry lodgement

More businesses than ever before are transacting with us online.

In 2015–16, 90% of all 2.8 million registry lodgements with ASIC were submitted online, up from 87% in 2014–15 (a 3% increase).

In 2015–16, we continued our work with companies and their agents to increase online lodgement to the companies register. Online lodgement of common 'changes to company details' has increased significantly to 99% of lodgements now online. Online lodgement of other company notifications – including changes of company name, changes of registered agent, and applications for voluntary de-registration – has also increased.

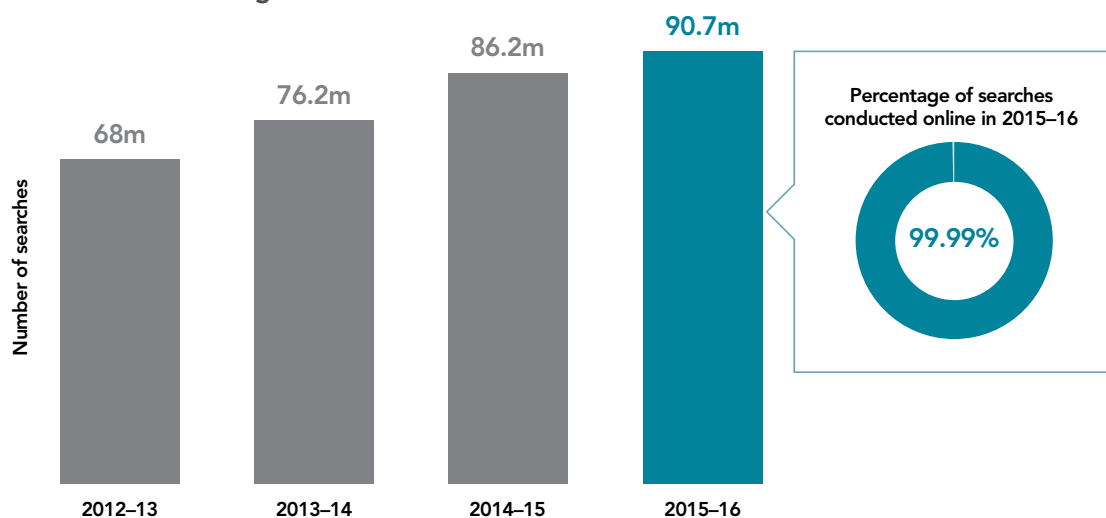
In total, 87.6% of lodgements to our companies register were submitted online, up from 84.7% in 2014–15 (a 2.9% increase).

Searching online

In 2015–16, there were 90.7 million searches of ASIC registers – an increase of 4.5 million searches from 2014–15 – with 99.99% of searches requested online.

The two registers most searched were the companies register (52.3 million searches, down 5% from 2014–15), and the Business Names Register (33.5 million Business Names Register searches, an increase of 21% from 2014–15).

Searches of ASIC registers



There were 4.9 million searches of ASIC's professional registers, a 57% increase from 2014-15. The Financial Advisers Register, established on 31 March 2015, contributed to the increase, with over 790,000 searches in 2015-16. This year we also saw an increase in 'professional role' searches.

Most searches of the ASIC registers are provided free of charge. In 2015-16, a fee was paid for 4.7 million or 5% of all searches. ASIC collected \$59.8 million in search fees for the Commonwealth.

Our *NZAUConnect* app allows consumers in Australia and New Zealand to quickly and easily find details on almost 5 million registered organisations using their smartphones. In 2015-16, more than 164,000 searches of the Australian registers were accessed using *NZAUConnect*.

Social media and online help

ASIC uses Facebook, Twitter and YouTube social media channels to engage with customers online. In 2015-16, our ASIC Connect Facebook followers increased to 6,436 (an increase of 33% from 2014-15) and our ASIC Connect Twitter followers increased to 13,167 (a 25% increase from 2014-15).

In 2015-16 we improved the look and feel of our online profiles with a new contemporary design, resulting in increased engagement from our

followers. We have also developed a web chat capability, to be progressively introduced to our various customer groups in the coming year.

Efficient customer contact

The ASIC website is the primary source of information for ASIC's registry customers. Our website makes it easier for customers to access commonly used transactions and information about our registers. In 2015-16 there were over 16 million visits to www.asic.gov.au

Our Customer Contact Centre also provides a valuable service to Australians as we respond to their inquiries. In 2015-16, we responded to 861,767 calls and online inquiries. Over half (51%) of all inquiries to the Customer Contact Centre related to companies and a third (33%) were about business names.

In 2015-16 we enhanced our support for new registry customers interacting online, particularly for customers who need additional support to register or lodge online. We have also strengthened the link between our social media and Customer Contact Centre officers to enhance consistency in the experience our customers receive across the service channels we offer.

2.3 Efficient registration services continued

Inquiries to Customer Contact Centre, by type

Topic	Number of inquiries	Percentage of inquiries handled by the Customer Contact Centre
Companies ¹	437,986	51%
Business names	284,597	33%
Other ²	95,613	11%
AFS licences	13,063	2%
Consumer or investor matters	8,818	1%
Online complaints	9,625	1%
Credit licences	6,342	< 1%
SMSF auditors	2,300	< 1%
Auditors	2,054	< 1%
Liquidators	672	< 1%
Managed investment schemes	697	< 1%
Total	861,767	100%

1. All company-related inquiries, including registration, annual reviews, lodgements, fee payments and changes to company details.
2. Includes all other call types not specified in the table, including calls about unclaimed money, matters that do not relate to ASIC and inquiries not allocated by type.

2.3.3 Specific register activity

Companies register

A record 2.37 million companies are now registered with ASIC (a 5.7% increase from 2014–15).

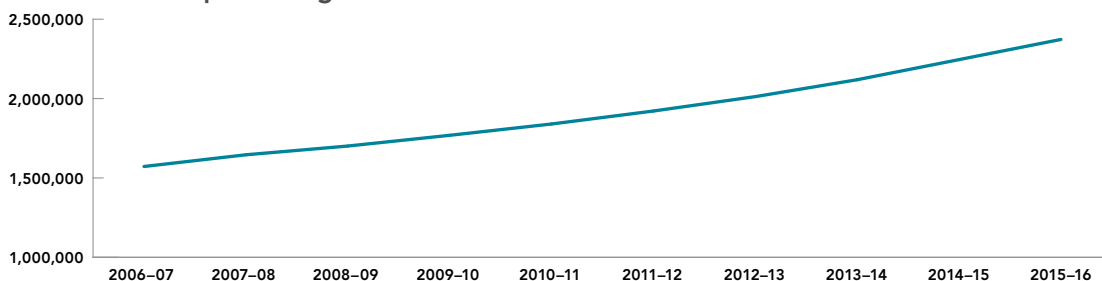
This continues the trend of increasing numbers of companies over the past decade, from 1.48 million companies in 2005–06.

In 2015–16, we registered 246,051 new companies. This reflects an increase of 4.6% from 2014–15, and steady increases over the last five years.

Company deregistration continues to increase, with 123,050 companies deregistered in 2015–16, either voluntarily or by ASIC. This is an increase of 9.2% from 2014–15.

During 2015–16, the number of companies that entered external administration decreased by around 7.3%. A total of 9,848 companies entered external administration during 2015–16, compared to 9,177 in 2014–15.

Number of companies registered with ASIC



Business names register

There are 2.07 million business names on the ASIC register (a decrease of 3.9% from 2014–15).

In 2015–16, we registered 337,413 new business names (an increase of 3% from 2014–15).

In 2015–16, we cancelled 394,075 business names (a significant increase of 193% from 2014–15). The increase has resulted from our introduction of the routine cancellation of business names for failure to pay the renewal fee. The benefits of this activity include a more accurate and current register of business names, and the availability of more names for registration by business start-ups.

Reforms commencing on 1 July 2016 introduced a new requirement for a business to have an ABN to be eligible to register a business name on Norfolk Island.

SMSF auditor register

SMSF auditor registration has been mandatory since July 2013 following a transition period in the first half of that year. At 30 June 2016, there were 6,671 registered SMSF auditors, although one registered auditor has been suspended. During 2015–16, we also registered 196 SMSF auditors and deregistered 197 SMSF auditors.

Limited AFS licence available to accountants

The three-year transitional period available to recognise accountants who provide SMSF advice expired on 30 June 2016.

We issued public warnings in August 2015, and again in June 2016, about the consequences of not applying for and obtaining a limited AFS licence by 1 July 2016. We warned that applications not received by 1 March 2016 ran the risk of not being approved by the 30 June deadline and that applicants would not be able to provide SMSF advice after that date until they were granted a licence or they became an authorised representative of a licensee.

Between the commencement of the transitional period, on 1 July 2013, and 30 June 2016, ASIC received 1,146 applications for a limited AFS licence, with 38% of these received in the last month of the transitional period. As at 1 July 2016, 612 of these applications remained to be assessed.

ASIC's published notices website

ASIC's published notices website continues to provide easy access to almost all notices on external administration and company deregistration, reducing costs for business.

In 2015–16, 14,192 registered users published 31,053 notices on the website.

ASIC published 128,272 notices of intention to deregister a company on the website.

Stakeholder visits to the website reached 1,096,490 in 2015–16, up from about 902,667 in 2014–15.

2.4 Unclaimed money and managing property vested in ASIC

As set out in Program 1.2 of the Portfolio Budget Statement 2015–16, ASIC is responsible for the administration of unclaimed money from banking and deposit taking institutions and life insurance institutions.

Our success in providing an accurate register of unclaimed money and special accounts administered by ASIC is measured by the extent to which we ensure that:

- ♦ refunds of unclaimed money are paid to successful claimants promptly
- ♦ payments of money from special accounts are paid out promptly in accordance with the specified purposes or appropriate legislation.

2.4.1 Unclaimed money

ASIC reunites people with their unclaimed money. We maintain a register of unclaimed money from banks, credit unions, building societies, life insurance companies and friendly societies, as well as shares that have not been collected from companies. The public can search our register and make claims to our Unclaimed Money team.

In 2015–16, ASIC received \$46.4 million in unclaimed money, considerably less than the \$209.6 million we received in 2014–15. This was due to the changes in the Banking Act and Life Insurance Act which returned the period of account inactivity for money to be deemed unclaimed back to seven years, formerly three years.

We paid out a total of \$124.4 million in claims in 2015–16, compared with \$158.4 million in the previous year. We paid claimants interest – \$3.9 million of the \$124.4 million – on unclaimed money for periods from 1 July 2013 onwards, at a rate of 2.5% for 2013–14, 2.93% for 2014–15 and 1.33% for 2015–16.¹

We process claims within 28 days of receiving all necessary claim documentation. In 2015–16, ASIC processed banking and life insurance unclaimed money claims in an average of 11 days and company unclaimed money in an average of 17 days.²

Amount paid to owners of unclaimed money, 2015–16

Claims by type	2015–16 (\$)			2014–15 (\$) ¹
	Principal	Interest	Total	
Company	31,219,035	1,234,500	32,453,535	30,966,536
Banking	79,366,239	2,409,676	81,775,915	117,093,768
Life insurance	9,738,078	285,725	10,023,803	10,341,148
Deregistered company trust money	145,729	Not applicable	145,729	41,108
Total	120,469,081	3,929,901	124,398,982	158,442,560

1. Includes principal and interest.

1. Rates as advised on ASIC's MoneySmart website www.moneysmart.gov.au/tools-and-resources/-/find-unclaimed-money/interest-paid-on-unclaimed-money.

2. For company unclaimed money, an owner makes a claim to ASIC directly and we assess whether the claimant is the owner of the money.

2.4.2 Managing property vested in ASIC

ASIC administers the property of deregistered companies. This property remains vested in ASIC – or in ASIC on behalf of the Commonwealth in relation to trust property – until it is lawfully dealt with or evidence is provided that the property no longer vests in ASIC for some other reason.

ASIC accounts for any proceeds on realisation of the property by transferring such proceeds, less the expenses incurred in dealing with

the property, into the Official Public Account in accordance with our statutory duties. The proceeds will be treated like any other unclaimed money for which ASIC is responsible.

The number of new matters received in 2015–16 increased to 1,382. The number of matters finalised increased to 1,377. The following table shows vested properties of deregistered companies by number of cases.

Vested properties of deregistered companies (by number of cases), 2015–16

	2015–16	2014–15
Total new matters	1,382	1,237
Total finalised matters	1,377	1,242
Property disposals		
Transferred	195	141
Sold	28	5
No longer vested ¹	866	658
Other ²	68	84
Total property disposals	1,157	888

1. Property is removed from ASIC's records when the company is reinstated, a third party lawfully deals with the asset or evidence is provided that the property no longer vests in ASIC.
2. Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

Assets of deregistered companies vesting in ASIC

Section 601AD of the Corporations Act provides that, on deregistration of a company, all of the company's property vests in ASIC. We account for any proceeds on realisation of those assets in accordance with our statutory duties.

ASIC generally only deals with vested property once an application is made by a third party for ASIC to exercise its powers under s601AE or s601AF of the Corporations Act. ASIC does not consider it practical to value any identified vested property and consequently such property is not recorded or disclosed in these financial statements.

2.5 Assessing misconduct and other reports

2.5.1 Misconduct reports from the public

ASIC encourages members of the public to report concerns about corporate and financial services to us. We use this information to detect, understand and respond to misconduct.

We record and assess every report of alleged misconduct that we receive and aim to acknowledge receipt of every report within three business days. We make a range of preliminary inquiries and conduct an initial assessment to see if the misconduct alleged suggests a breach of a law that we administer.

Where we do not have enough evidence to commence a formal investigation, or surveillance of the matter may not be a priority for the use of ASIC’s resources, we contact the person who reported the matter to us and explain why we have come to that decision. We keep the information on our databases, and review this information if further reports are made, or more evidence becomes available.

We have been working to improve public understanding of our jurisdiction and the matters that ASIC can deal with, to simplify reporting processes, and to ensure we can respond promptly and consistently to those who lodge reports with us.

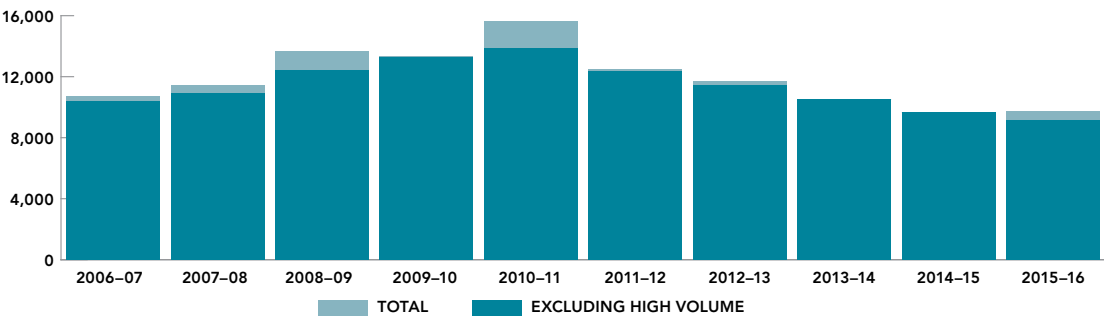
We continue to publish information sheets to explain our role in response to concerns that are frequently reported to us. We now have 23 information sheets which were read online more than 40,000 times in 2015–16. We also released a further four YouTube video clips, bringing the number of clips to 16, which more than 11,000 stakeholders watched in 2015–16.

The figure below shows the total number of reports finalised each year, together with the underlying trend after high-volume matters have been removed. High-volume matters are those where ASIC has received 100 or more reports of misconduct about the same entity and the same issue.

In 2015–16, ASIC dealt with 9,751 reports of alleged misconduct, 1% more than in 2014–15. Excluding high-volume matters shows the continuing decline in the number of reports which has been evident since a peak in 2010–11.

In 2015–16 we received more misconduct reports in the corporate governance area and slightly fewer reports about market integrity and registry integrity. There was little change from the previous year in the relative proportions of matters relating to financial services. Within this area, however, there was a reduction in the number of reports about credit issues, with an increase in the number of reports raising the general obligations of licensees.

Misconduct reports – by trend



Misconduct reports – by category

Category	2015–16	2014–15
Corporations and corporate governance		
Failure to provide books and records or a report as to affairs to an insolvency practitioner	13%	12%
Insolvency matters	7%	7%
Contractual issues (includes concerns about non-provision of goods and services, quality of goods and services)	3%	3%
Insolvency practitioner misconduct	3%	3%
Other (e.g. directors' duties, internal disputes)	17%	16%
Subtotal	43%	41%
Financial services and retail investors		
Credit	11%	14%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	5%	6%
Managed investment schemes	2%	2%
Superannuation	2%	3%
Potential scam	1%	2%
Other (e.g. insurance, advice, breach of licence conditions, misleading or deceptive conduct, unconscionable conduct)	22%	16%
Subtotal	43%	43%
Market integrity – including insider trading, continuous disclosure, misleading statements, or market manipulation	6%	7%
Registry integrity – including incorrect address recorded on ASIC's register, lodging false documents with ASIC and issues with business names	6%	7%
Other issues	2%	2%
Total	100%	100%

2.5 Assessing misconduct and other reports continued

Misconduct reports – by outcome¹

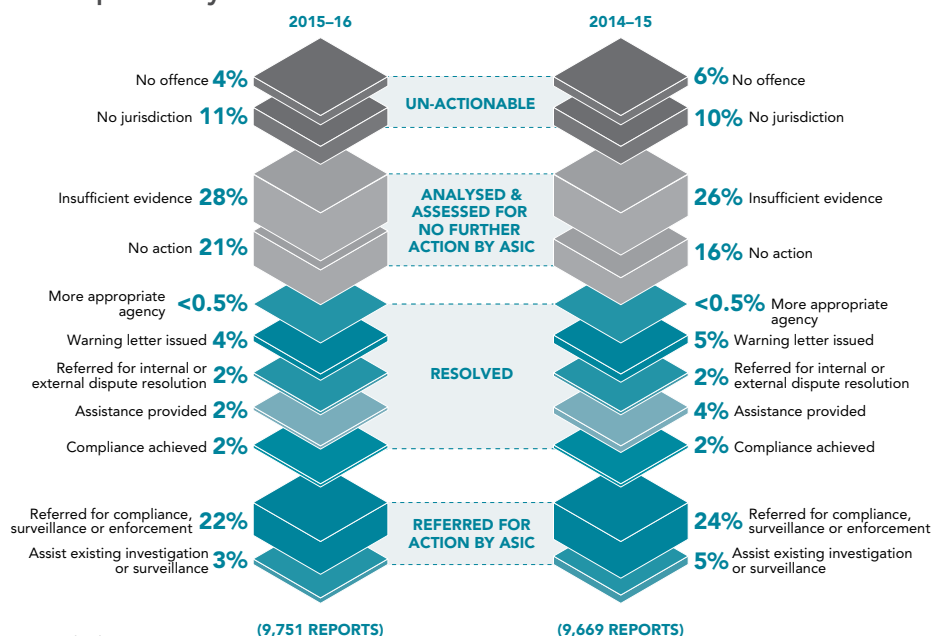
Category	2015–16	2014–15
Total misconduct reports finalised	9,751	9,669
Outcome		
Referred for compliance, surveillance or investigation ²	25%	29%
Resolved ³	11%	13%
Analysed and assessed for no further action ⁴	49%	42%
No jurisdiction ⁵	11%	10%
No breach or offences	4%	6%
Total	100%	100%

Note: Data rounded.

- Where ASIC receives reports about the same entity and issue, we merge these matters.
- The matters ASIC takes into account in deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.
- This can involve referral to an external dispute resolution scheme, ASIC issuing a warning letter to the party that may be in breach of the Corporations Act, ASIC providing assistance to the reporter in the form of guidance and information about how best to resolve the matter themselves or ASIC taking action to achieve compliance.
- Preliminary inquiries made and information provided analysed and assessed for no further action by ASIC, due to insufficient evidence or other reason, such as another agency or law enforcement body or third party (e.g. a liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.
- Where relevant, ASIC directs reporters to the appropriate agency or solution.

The figure below provides a more detailed view of how we handle reports of misconduct.

Misconduct reports – by outcome



Note: Data rounded.

2.5.2 Breach reports from licensees and auditors

We use breach reports from licensees and auditors to detect and respond to misconduct.

The Corporations Act requires AFS licensees to tell ASIC in writing within 10 business days about any significant breach (or likely breach) of their obligations. Failure to report a significant breach (or likely breach) in itself can be a significant breach.

As part of their breach report, we expect licensees to advise us about how they identified the breach, how long it lasted, what steps they have taken to rectify the breach and what steps they have taken or will take to ensure compliance in the future.

When we assess the breach report, we consider the steps the licensee has taken and may decide that no action is required.

ASIC also receives breach reports from auditors, where they have reasonable grounds to suspect a breach of the Corporations Act by the company they are appointed to audit.¹

In 2015–16 we dealt with 482 auditor breach reports and 1,172 breach reports about managed investment schemes and AFS licensees. This is in line with the numbers in 2014–15.

Breach reports – by type and outcome

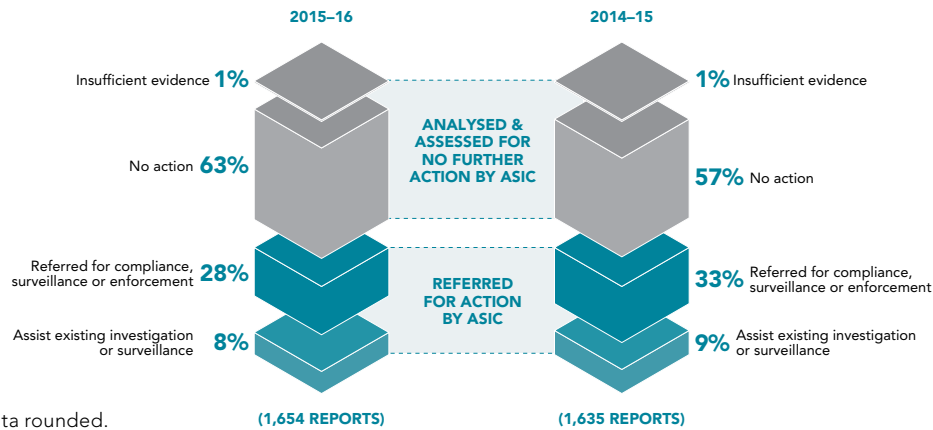
	2015–16	2014–15
Type		
Auditor breach reports	482	498
Breach reports about AFS licensees and managed investment schemes	1,172	1,137
Total breach reports finalised	1,654	1,635
Outcome		
Referred for compliance, investigation or surveillance	36%	42%
Analysed and assessed for no further action	64%	58%
Total	100%	100%

Note: Data rounded.

1. For more information about the matters that require an auditor to report a breach of the law to ASIC, see s311 of the Corporations Act.

2.5 Assessing misconduct and other reports continued

Breach reports – by type and outcome



Note: Data rounded.

2.5.3 Statutory reports from liquidators, administrators and receivers

Liquidators, administrators and receivers (external administrators) need to report to ASIC if they suspect that company officers have been guilty of an offence or, in the case of liquidators, if the return to unsecured creditors may be less than 50 cents in the dollar.

External administrators generally lodge an initial report electronically.

We determine whether to request a supplementary report based on the assessment of the initial report. In many cases, the initial report does not report misconduct and does not require further assessment. Where a supplementary report is requested it will typically set out the results of the external administrator's inquiries and the evidence to support the alleged offences. In most cases, we can determine whether to commence a formal investigation on the basis of a supplementary report.

The number of reports we received from external administrators increased in 2015-16, although we received fewer supplementary reports. In 2015-16, a total of 19% of these reports were referred for compliance, investigation or surveillance, compared with 17% in 2014-15.

As per previous years, half of the cases identified as 'analysed and assessed for no further action' were due to insufficient evidence to warrant commencing a formal investigation. ASIC requested a further report from the external administrator in nearly one fifth of such cases.

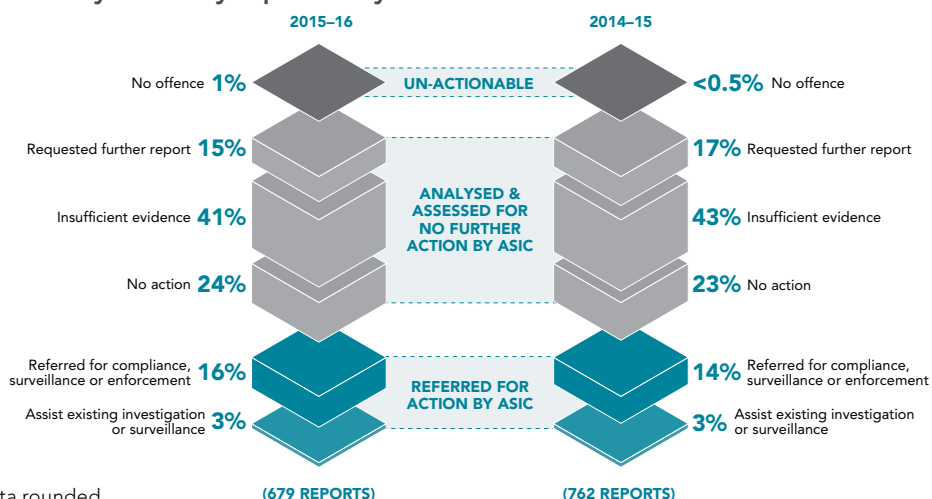
Statutory reports – by type and outcome

	2015–16	2014–15
Initial reports from liquidators, administrators and receivers		
Reports alleging misconduct	8,258 ¹	6,892
Reports not alleging misconduct	1,693	1,796
Initial reports – outcomes		
Supplementary reports requested	11%	10%
Analysed and assessed for no further action	89%	90%
Total	100%	100%
Supplementary reports requested and received by ASIC		
Supplementary reports alleging misconduct	679	762
Supplementary reports – outcomes		
Referred for compliance, investigation or surveillance	19%	17%
Analysed and assessed for no further action	80%	83%
Identified no offences	1%	<0.5%
Total	100%	100%
Total statutory reports finalised (initial + supplementary)	10,630	9,450

Note: Data rounded.

- The increase in the number of reports lodged in 2015-16 is primarily driven by the increase in the underlying number of insolvency appointments over the period. We also note that the percentage of reports lodged alleging misconduct continued its upward trend over the last few years. ASIC reports annually on the detail contained in external administrators reports and trends in the underlying data. For further detail, see ASIC Report 456 *Insolvency statistics: External administrators reports (July 2014–2015)*.

Supplementary statutory reports – by outcome



Note: Data rounded.

2.5 Assessing misconduct and other reports *continued*

2.5.4 Whistleblower matters

ASIC receives, assesses and where appropriate, investigates disclosures from employee whistleblowers. ASIC values the information we receive from whistleblowers whose often unique placement within companies means that they have witnessed, and can provide evidence of, misconduct. We assess all reports and information that we receive, though not every matter brought to our attention requires regulatory action. Any inquiries we make will primarily focus on breaches that have been disclosed as opposed to what statutory protections are available to the whistleblower.

ASIC has established the Office of the Whistleblower (led by Warren Day, Senior Executive Leader, Assessment & Intelligence and Regional Commissioner for Victoria) to ensure that ASIC records and actions whistleblower matters appropriately. The Office is made up of ASIC staff across each of our operational teams.

We have published guidance for whistleblowers which sets out how we deal with information from whistleblowers, as well as provides guidance on the lawful protection available to them. We also released two YouTube videos on 17 May 2016 called 'ASIC and whistleblowers' and 'The Corporations Act and whistleblowers'.

In 2015–16, ASIC dealt with 146 disclosures by whistleblowers. Around 70% of these matters related to corporations and corporate governance. We also dealt with matters related to credit and financial services (20%), markets (9%) and other issues (1%).

Following preliminary inquiries, approximately 80% of disclosures by whistleblowers were assessed as requiring no further action by ASIC. This was often due to insufficient evidence. In some cases, another agency, law enforcement body or third party (e.g. a liquidator) was better placed to appropriately deal with the underlying issues or was already taking action. Around 10% of matters were referred for compliance, surveillance or investigation.

2.5.5 Serious Financial Crime Taskforce

ASIC is a member of the Serious Financial Crime Taskforce, along with the ATO, ACC, AFP, Attorney-General's Department, AUSTRAC, CDPP and Australian Customs and Border Protection Services.

Through modest funding, ASIC contributed to the taskforce's understanding of high-impact financial crime methodologies in both Australia and overseas by recruiting three specialist staff to look for linkages between ASIC's regulated population and the broader financial crime environment.

2.6 Performance against ASIC's service and operational standards

2.6.1 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for each. ASIC is generally meeting its service standards. The following table sets out our performance against the key measures outlined in the Service Charter.

ASIC Service Charter performance

Service	Service Charter target	2015–16
When you contact us		
General phone queries	We aim to answer telephone queries on the spot (<i>target: 80%</i>)	91.1% of calls answered on the spot
General email queries	We aim to reply to email queries ¹ within three business days (<i>target: 90%</i>)	99.8% replied to in three business days
When you access our registers		
Searching company, business name or other data online	We aim to ensure our online search service is available in standard business hours (<i>target: 99.5%</i>)	99.9% available in standard business hours
Lodging company, business name or other data online	We aim to ensure you can lodge registration forms and other information online in standard business hours (<i>target: 99.5%</i>)	99.9% lodged in standard business hours
When you do business with us		
Registering a company or business name online	We aim to register the company or business name within one business day of receiving a complete application (<i>target: 90%</i>) ²	97.8% registered within one business day
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application (<i>target: 90%</i>)	98.4% registered within two business days
Registering a business name via paper application	We aim to register the business name within seven business days of receiving a complete application (<i>target: 90%</i>)	100.0% registered within seven business days
Updating company, business name or other ASIC register information online	We aim to enter critical information and status changes to the company and business name registers within one business day (<i>target: 90%</i>)	99.5% updated within one business day
Updating company, business name or other ASIC register information via paper application	We aim to enter critical information and status changes to company and business name registers within five business days (<i>target: 90%</i>)	95.8% updated within five business days
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application (<i>target: 80%</i>) ⁴	56% registered within 28 days ³

1. Email queries lodged via the 'Ask us a question' webmail facility on ASIC's website.

2. Includes all applications received, regardless of whether applications are approved or a company registered.

3. Performance against this measure was impacted by the transition period for registration of SMSF auditors.

4. Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review.

2.6 Performance against ASIC's service and operational standards *continued*

Service	Service Charter target	2015–16
Registering as a liquidator	We aim to decide whether to register a liquidator or official liquidator within 28 days (target: 80%) ⁴	93% of liquidator applications decided within 28 days. 100% of official liquidator applications decided within 28 days
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances (target: 100%)	100% registered within 14 days
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 60 days (target: 70%) and within 120 days (target: 90%) ⁵	52% of licences granted within 60 days. 62% of licence variations decided in 60 days. ⁶ 82% of licences granted within 120 days. 79% of licence variations decided in 120 days. ⁶
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 60 days (target: 70%) and within 120 days (target: 90%) ⁵	80% of licences granted within 60 days. 90% of licence variations decided in 60 days. 89% of licences granted within 120 days. 93% of licence variations decided in 120 days
Applying for relief	If you lodge an application for relief from the Corporations Act that does not raise new policy issues, we aim to give an in-principle decision within 28 days of receiving all necessary information and fees (target: 70%) and within 90 days (target: 90%) ⁷	78% of in-principle decisions made within 28 days. 94% of in-principle decisions made within 90 days
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information (target: 70%)	68% finalised within 28 days
When you have complaints about us		
About ASIC officers, services or actions	We aim to acknowledge receipt of complaints within three working days of receipt. We aim to resolve a complaint within 28 days (target 70%)	92% resolved within 28 days

- Applications beyond the 60-day target are generally complex ones, requiring considerable additional work although a greater regulatory focus on problematic applications has affected this.
- Performance against this measure was impacted by ASIC's resourcing and a greater focus on regulatory concerns in applications and the increase in licence applications as a result of the expiry in June 2016 of the transition period for accountants' limited licences. These licence applications will continue to impact these measures in 2016–17. We are reviewing our service charter in terms of sustainable target levels with current resources.
- This result includes applications, including those where we did not initially receive all the information we needed to make a decision.

2.6.2 ASIC Complaint Management Framework results

In September 2015, ASIC implemented a new Complaint Management Framework which allows us to effectively manage complaints about our services, actions, decisions or staff. We value the public's right to complain and are committed to treating complaints seriously, promptly, fairly and genuinely.

Our Complaint Management Policy is published on the ASIC website, along with instructions on how to submit a complaint to ASIC online and what to expect when you lodge a complaint. A dedicated 1300 Complaint line has also been established to assist stakeholders.

Our Service Charter measure is to resolve 70% of all complaints within 28 days. In 2015–16, we resolved 92% of complaints in 28 days (see section 2.6.1 above).

Of the 557 complaints received in 2015–16, 404 complaints (73%) related to our registry function. These complaints were about topics, such as fees, register maintenance, online services and access to information. The remaining 153 complaints (27%) related to ASIC's regulatory function and focused on our decisions and actions. These complaints related to matters including dissatisfaction with our decision in response to a report of misconduct, the outcome of an enforcement action, or timeliness of ASIC's regulatory processes.

We finalised 537 complaints in 2015–16:

- ◆ In 192 cases (36% of complaints finalised), we resolved the complaint by, for example,

amending incorrect information on our website, waiving an incorrectly charged fee, updating information on our registers and providing further information to the complainant. We also changed our previous decision, including, for example, decisions relating to fee waivers and refunds, business name registration and cancellation decisions and applications for unclaimed monies. Where we identified instances of poor or inappropriate service by ASIC staff, we have provided feedback and training, including reinforcing adherence to ASIC's policies and procedures, to the staff member.

- ◆ In 248 cases (46% of complaints finalised), the complaint was unsubstantiated or our decision was confirmed. These related to matters, for example, where allegations of ASIC officer misconduct or of poor service or long wait times were found after further investigation to be not proven, an alleged breach of privacy about information, such as name and date of birth which ASIC is required by law to disclose in relevant circumstances, or where we found that we had followed the relevant legislation or ASIC policy in making our decision.
- ◆ In 97 cases (18% of complaints finalised), we were unable to take further action. This may have been for a number of reasons, including where the complaint was withdrawn by the complainant, the complainant did not respond to a request for further information, the matter did not involve a complaint about ASIC or the matter was outside ASIC's jurisdiction.

ASIC Complaint Management Framework performance

Complaints Scorecard	1 Sept 2015– 30 June 2016
Complaints received	557
Complaints finalised	537
– <i>Complaints substantiated</i>	192
– <i>Complaints unsubstantiated</i>	248
– <i>No further action required</i>	97
Complaints on hand (1 July 2016)	20
Complaints resolved within 28 days (<i>target 70%</i>)	92%

Note: Data rounded

2.6 Performance against ASIC's service and operational standards continued

2.6.3 ASIC's licensing and professional registration activities

ASIC assesses applications for AFS licensees and credit licences as part of our role as regulator of the financial services industry. We also maintain a number of professional registers, including registers of liquidators, company auditors and SMSF auditors.

ASIC's licensing and professional registration activities

Application	Applications Received	Applications Finalised	Applications On Hand	Applications Issued / Approved
Australian Financial Services (AFS) licence (excluding limited licences)	504	468	178	287
Limited AFS licence	995	398	612	228
Variation of AFS licence	638	630	213	416
Cancellation of AFS licence	184	215	43	204
Australian credit licence	456	388	155	248
Variation of Australian credit licence	197	168	57	135
Cancellation of Australian credit licence	379	348	58	310
Liquidators	22	35	4	28
Official Liquidators	25	40	3	36
Registered Company Auditors	118	189	9	124
Authorised Audit Company	19	32	3	22
SMSF Auditors	174	315	10	196
Total 2015–16	3,711	3,226	1,345	2,234
Total 2014–15	3,832	3,692	961	2,706

2.7 Regional activities

Regional commissioners



Christian Mikula¹
Australian
Capital
Territory



Michael Saadat²
New South
Wales



Duncan Poulson
Northern
Territory



John Weaver³
Queensland



Melissa Smith
South
Australia



Chris Green
Tasmania



Warren Day
Victoria



Natalie Durr⁴
Western
Australia

Our regional commissioners act as ASIC's local ambassadors, engaging with business and local communities through regular stakeholder liaison meetings and promoting ASIC initiatives.

In 2015–16, our regional commissioners led a range of initiatives in each state and territory. They supported financial literacy initiatives by attending Field Days and holding MoneySmart workshops, held industry and local stakeholder liaison meetings, and supported events to raise funds for local charities.

Some examples of this work are detailed below.

Australian Capital Territory

- ♦ Provided student workshops at the University of Canberra, the Australian Catholic University and the Canberra Institute of Technology and worked with numerous ACT schools to build teacher capability and support financial literacy education in the classroom.

New South Wales

- ♦ Hosted a number of regional liaison meetings across the investment banks, retail derivatives, market participants, corporate finance and liquidators stakeholder populations.

Northern Territory

- ♦ Ran a number of workshops and presentations during the year, including a 'How can I start my own business?' forum for Adult Migrant Education Program students, involving ten Territory and Australian Government agencies, and a MoneySmart community information session on superannuation.

1. Peter Cuzner was the Regional Commissioner for the Australian Capital Territory until February 2016.
2. Chris Van-Homrigh was the Regional Commissioner for New South Wales in 2015–16.
3. Brett Bassett was the Regional Commissioner for Queensland until May 2016.
4. Jane Gouvernet was the Regional Commissioner for Western Australia in 2015–16.

2.7 Regional activities continued



ASIC engaged NT Indigenous creative agency Sea Eagle Productions to produce videos of Financial Capability Workers sharing their 'top money tips'.

Queensland

- ♦ Attended the annual Business Professionals Week in Townsville, and held several events in conjunction with the Australian Small Business Commissioner, Mark Brennan. Topics covered included ASIC's work to combat illegal phoenix activity and ongoing assistance provided to small businesses.
- ♦ Attended events with the Governance Institute of Australia to promote the importance of an effective governance framework.

South Australia

- ♦ Shared tips about safer investing, money and small business at Field Days in three regions of South Australia – Lucindale, Paskeville and Riverland.
- ♦ Hosted (October 2015) 100 members of the South Australian business community at our biennial stakeholder function. ASIC Chairman Greg Medcraft addressed the audience about technological innovation in financial markets.

Tasmania

- ♦ Hosted Tasmanian insolvency practitioners and lawyers at a national bi-monthly insolvency discussion.
- ♦ Hosted liaison meetings in North and North West Tasmania to discuss local issues, strengthen local networks and provide an update on ASIC's strategic objectives.
- ♦ Promoted ASIC's MoneySmart financial literacy work at the 2015 'Living Well in Retirement Expo' in Hobart, and gave a presentation on money management at a COTA Australia 'Taking Control' information session.

Victoria

- ♦ Supported ASIC licensing, insolvency, business advisory and corporate finance liaison meetings in Victoria throughout the year, and consulted with debenture offeror groups in Victoria regarding the challenges facing their market.

Western Australia

- ♦ Held regular regional liaison meetings, and two 'special' meetings, focusing on conduct risk, and culture, and ASIC's approach to licensing, including key market and policy issues.