



# 6

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## 6.1 The role of the Commission

The Commission is responsible for ASIC's strategic direction and priorities. The Commission meets monthly (except January) to:

1. decide on matters within ASIC's regulatory functions and powers that have strategic significance
2. oversee ASIC's management and operations as an Australian Government agency.

The Commission appoints and evaluates the performance of our senior executive leaders, and approves budgets and business plans for each team. Individual commissioners also have executive responsibility for particular stakeholder and enforcement teams. See pages 17–18 for ASIC's corporate structure.

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

Commissioners are appointed on fixed terms that may be terminated only for the reasons set out in section 111 of the ASIC Act. The Remuneration Tribunal sets commissioners' remuneration, which is not linked to their performance.

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

Chris Savundra, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission held 13 meetings in 2016–17.

### Commission meetings, 2016–17

Commissioner	Eligible to attend	Attended
Greg Medcraft	11 scheduled meetings	11
	2 unscheduled meetings	2
Peter Kell	11 scheduled meetings	11
	2 unscheduled meeting	2
Cathie Armour	11 scheduled meetings	11
	2 unscheduled meetings	2
John Price	11 scheduled meetings	11
	2 unscheduled meetings	2
Greg Tanzer	5 scheduled meetings	5
	2 unscheduled meetings	2

Unscheduled Commission meetings are held to decide on specific issues, where required, outside of the meeting timetable.

The Commission also meets each week to:

1. discuss rapidly evolving matters or those that require early input or an update on approach or strategy
2. coordinate commissioners' activities
3. decide on urgent matters.

The Commission delegates various powers and functions to senior executive leaders, regional commissioners, and staff reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

Additional information on ASIC's internal governance is published on our website at [www.asic.gov.au/internal-governance](http://www.asic.gov.au/internal-governance).

## 6.2 Audit Committee and audit services

The Audit Committee operates independently of ASIC management and plays a key role in assisting the Chairman to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. The Committee does this by providing independent oversight of, and reporting to the Chairman on, ASIC's governance and internal control frameworks, financial reporting, and compliance with relevant legislation.

The Committee reviewed ASIC's 2016–17 financial statements and provided advice to the Chairman and Commissioners on these financial statements before the Chairman signed them. The Committee met four times during the year, supplemented by one special meeting to review ASIC's draft financial statements.

### Audit Committee meetings, 2016–17

Member	Eligible to attend	Attended
<b>Geoffrey Applebee</b> First appointed as an independent member on 1 February 2010 Reappointed as an independent member and Chairman on 1 September 2015	4 main meetings 1 special meeting	4 1
<b>David Prothero</b> First appointed as an independent member on 1 March 2011 Promoted to Deputy Chairman on 1 September 2015	4 main meetings 1 special meeting	4 1
<b>John Price</b> ASIC Commissioner First appointed as a committee member in May 2013	4 main meetings 1 special meeting	4 1

The two independent members of the Committee are chartered accountants and company directors with significant financial, business and community experience. The internal appointee is Commissioner John Price.

Internal audit services are provided by staff from ASIC's Internal Audit and Operational Risk team, supported by specialist private sector internal audit providers as needed. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend Audit Committee meetings.

#### Geoffrey Applebee Chairman

Audit Committee  
July 2017

## 6.3 External committees and panels

### 6.3.1 Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board was established in 2005. The Board is a non-statutory body that provides independent and strategic guidance to Government and ASIC on financial literacy issues.

At 30 June 2017, Board members were:

- ♦ Paul Clitheroe AM (Chair) (ipac securities)
- ♦ Air Commodore Robert Brown AM (Australian Defence Force Financial Services Consumer Centre)
- ♦ Fiona Guthrie AM (Financial Counselling Australia)
- ♦ Elaine Henry OAM
- ♦ Dr Phil Lambert PSM (Phil Lambert Consulting)
- ♦ Martin McDonald (Herbert Smith Freehills)
- ♦ Theresa Mills (Guild Superannuation Trustee Services)
- ♦ Professor Roslyn Russell (RMIT University, School of Economics, Finance and Marketing).

The ASIC Chairman and Deputy Chairman are ex-officio members of the Board.

During 2016–17, the Board met three times, providing feedback on a range of tools and resources developed for ASIC's financial capability program. Members also reviewed

progress under the National Financial Literacy Strategy, and contributed to discussions about future priorities under a new National Financial Literacy Strategy from 2018.

### 6.3.2 Consumer Advisory Panel

The Consumer Advisory Panel (CAP) was established in 1999 and advises ASIC on current issues faced by consumers and retail investors in the financial services and credit industries. The CAP also informs ASIC's surveillance, enforcement, policy and financial education initiatives. The CAP meets three times per year.

At 30 June 2017, the CAP members were:

- ♦ Clare Petre (Chair)
- ♦ Dana Beiglari (Legal Aid NSW)
- ♦ Air Commodore Robert Brown AM (ADF Financial Services Consumer Council)
- ♦ Karen Cox (Financial Rights Legal Centre)
- ♦ Viv Elliston (Melbourne SMSF Group)
- ♦ Duncan Fairweather (SMSF Owners' Alliance Limited)
- ♦ Jon O'Mally (Indigenous Consumer Assistance Network)
- ♦ Professor Gail Pearson (Consumers' Federation of Australia)
- ♦ Katharine Temple (Consumer Action Law Centre)



Members of the Australian Government Financial Literacy Board at ASIC's Parliamentary Breakfast Briefing, February 2017.

- ◆ Erin Turner (CHOICE)
- ◆ Richard Wilkins (Australian Shareholders' Association)
- ◆ Rosalyn Williams (Financial Counselling Australia)
- ◆ Ian Yates (COTA Australia).

We thank Gerard Brody and Nicola Howell for their valuable contribution to the CAP as representatives for the Consumer Action Law Centre and Consumers' Federation of Australia.

During 2016–17, the CAP continued its focus on life and general insurance (including add-on insurance products), responsible lending and mortgage broking.

The CAP actively engaged in the financial services reform agenda. This included reforms arising from the Financial Systems Inquiry relating to superannuation, product intervention powers, issuer and distributor obligations and the review of the financial system external dispute resolution and complaints framework.

### 6.3.3 Director Advisory Panel

The Director Advisory Panel was established in 2013 to channel senior level advice from directors of listed entities so that ASIC can gain a deeper understanding of developments and systemic risks in the corporate sector.

Members of the Director Advisory Panel are drawn from entities of various sizes, representing different sectors and locations in order to provide us with views from a broad spectrum of Australian listed entities.

Members serve for a term not exceeding four years, with approximately one-third retiring each year.

At 30 June 2017, Director Advisory Panel members were:

- ◆ John Price (Chair) (ASIC Commissioner)
- ◆ Graham Bradley AM (EnergyAustralia Holdings, GI Dynamics Inc., GrainCorp, HSBC Bank Australia, Infrastructure NSW, Po Valley Energy, Stockland Corporation, Tennis Australia and Virgin Australia International Holdings)
- ◆ Bruce Brook (CSL, Deep Exploration Technologies Cooperative Research Centre, Newmont Mining Corporation and Programmed Maintenance Services)
- ◆ Melinda Conrad (ASX, Caltex, Centre for Independent Studies, George Institute for Global Health, OFX and The Reject Shop)
- ◆ Ken Dean (BlueScope Steel, EnergyAustralia, Mission Australia and Virgin Australia Holdings)
- ◆ Jane Harvey (Colonial Foundation Trust, IOOF Holdings, DUET Finance, Bupa Australia and New Zealand and Orygen – The National Centre of Excellence in Youth Mental Health)
- ◆ Fiona Harris (Barrington Consulting Group, BWP Trust, Infigen Energy, Oil Search and Perron Group)
- ◆ Tracey Horton AO (Navitas Limited, Tourism Commission WA, Australian Government Takeovers Panel and Australian Institute of Company Directors)
- ◆ Charles Macek (Vicinity Centres, Earthwatch Australia, Sinefa and Vivid Technology)
- ◆ Christine McLoughlin (McGrath Foundation, NIB Holdings, Spark Infrastructure Group, Stadium Australia Group, Suncorp Group and Whitehaven Coal)
- ◆ Nancy Milne OAM (ALE Property Group, Pillar Administration, Securities Exchanges Guarantee Corporation and State Insurance Regulatory Authority NSW)
- ◆ Bronwyn Morris (CARE Australia, Collins Foods, RACQ and RACQ Insurance and Watpac)
- ◆ Grant Murdoch (ALS, OFX, QIC, Redbubble and UQ Holdings)
- ◆ Fiona Pak-Poy (Adelaide Research and Innovation, iSentia Group Ltd, Innovation and Science Biomedical Translation Fund Committee, MYOB Group and Securities Industry Research Centre of Asia Pacific)
- ◆ Dr Helen Nugent AO (Ausgrid, Australian Rail Track Corporation, Garvan Institute of Medical Research, IAG, National Disability Insurance Agency and National Portrait Gallery of Australia)

## 6.3 External committees and panels continued

- ◆ Elizabeth Proust AO (Australian Institute of Company Directors, Bank of Melbourne and Nestlé Australia)
- ◆ Kate Spargo (Adairs, CoINVEST, Fletcher Building, Sigma Pharmaceuticals, SMEC Holdings and Sonic Healthcare).

We thank the outgoing members, Dr Eileen Doyle, Jacqueline Hey, Susan Oliver and Gene Tilbrook, for their valuable contributions.

During 2016–17, the Director Advisory Panel met twice and discussed enhanced audit reporting, digital financial reporting, engagement with activist investors, and short selling. Members also provided valuable insight and input into ASIC-wide issues.

### 6.3.4 External Advisory Panel

The External Advisory Panel was established in 2009 to help ASIC gain a deeper understanding of developments and systemic risks within the financial services industry. This in turn assists us in achieving our vision.

Members are drawn from different sectors and hold, or have held, senior positions. Members sit in a personal capacity – they do not represent individual organisations.

Members serve for a term not exceeding four years, with approximately one-third retiring each year.

As at 30 June 2017, External Advisory Panel members were:

- ◆ Mark Johnson AO (Chair) (Alinta Energy, Dateline Resources, Westfield Group, Gresham Partners and Australian Bank of Tokyo Mitsubishi UFG)
- ◆ Elizabeth Bryan AM (Deputy Chair) (IAG, Virgin Australia and Australian Government Takeovers Panel)
- ◆ David Gonski AC (ANZ Banking Group, UNSW Foundation, University of New South Wales and Art Gallery of NSW Trust)

- ◆ Fiona Guthrie (Financial Counselling Australia, Australian Government Financial Literacy Board, Financial Literacy Australia and CHOICE)
- ◆ Professor Dimity Kingsford-Smith (University of New South Wales Law School and Centre for Law, Markets and Regulation at UNSW Law)
- ◆ Alan Kirkland (CHOICE)
- ◆ Dr John Laker AO (The Banking and Finance Oath, Cancer Council NSW, Council of the University of Technology Sydney, University of Sydney, IMF and former Chairman, APRA)
- ◆ Dr Simon Longstaff AO (The Ethics Centre)
- ◆ Andrew Love (Gateway Lifestyle Group, Champion Iron and Scottish Pacific Group and former Senior Partner, Ferrier Hodgson)
- ◆ Claire Mackay (Quantum Financial)
- ◆ Andrew Mohl (Commonwealth Bank and former Chairman, Export Finance and Insurance Corporation)
- ◆ David Neal (Future Fund Management Agency)
- ◆ Heather Ridout AO (AustralianSuper, Reserve Bank Board, ASX, Image Networks Holdings and Sims Metal Management)
- ◆ Tony Shepherd AO (Macquarie Specialised Management Limited, Sydney Cricket Ground Trust, ASTRA, Virgin Australia International Holdings, Lend Lease and Bank of Tokyo Mitsubishi UFJ and former President, Business Council of Australia).

We thank the outgoing members, Melinda Cilento, Catherine Livingstone AO and Dr Sally Pitkin, for their valuable contributions to the Panel.

During 2016–17, the Panel met four times and provided advice and feedback on a wide range of matters, including the impact of political events on the financial sector and challenges in the housing market. The Panel also discussed ASIC's work in the areas of superannuation and corporations, ASIC's strategic risks, reform proposals affecting ASIC and the ASIC Capability Review.

### 6.3.5 Financial Advisers Consultative Committee

The Financial Advisers Consultative Committee was established in 2017. The Committee supplements ASIC's engagement with the financial advice industry by improving our capacity to identify, assess and respond to emerging trends, and enhancing our relationships with our key stakeholders.

Members are practising financial advisers with a range of skills in insurance, superannuation, SMSFs and digital financial advice. They sit in a personal capacity – they do not represent individual organisations.

Members serve for a term not exceeding four years, with approximately half retiring every two years.

At 30 June 2017, Financial Advisers Consultative Committee members were:

- ◆ Joanna Bird (Co-Chair) (Senior Executive Leader, ASIC Financial Advisers)
- ◆ Louise Macaulay (Co-Chair) (Senior Executive Leader, ASIC Financial Advisers)
- ◆ Craig Banning (Navwealth)
- ◆ Jennifer Brown (JSB Financial Strategists)
- ◆ Chris Brycki (Stockspot)
- ◆ Steven Dobson (Mal Dobson & Associates)
- ◆ Mark Everingham (Personal Risk Professionals)
- ◆ Tony Gillett (Retirewell Financial Planning)
- ◆ Adam Goldstien (Skeggs Goldstien)
- ◆ Cathryn Gross (Twelve Wealth)
- ◆ Suzanne Haddan (BFG Financial Services)
- ◆ Kevin Smith (The Professional Super Advisers).

During 2016–17, the Committee met twice and provided advice and feedback on a number of matters, including SMSFs and access to advice on aged care and home care.

### 6.3.6 Markets Advisory Panel

The Markets Advisory Panel was established in 2010. The Panel advises us on our approach to our responsibilities for the day-to-day supervision of the Australian market, and on broader market developments.

Members are drawn from the financial services industry, with experience in retail and institutional markets.

At 30 June 2017, Markets Advisory Panel members were:

- ◆ Cathie Armour (Chair) (ASIC Commissioner)
- ◆ Stewart Adams (Morgan Stanley Smith Barney Australia)
- ◆ Keith Birch (Goldman Sachs Australia Pty Ltd)
- ◆ Simon Gray (Shaw and Partners)
- ◆ Julie Greenall-Ota (Treasury)
- ◆ Oliver Harvey (Senior Executive Leader, ASIC Market Infrastructure)
- ◆ John Lee (Susquehanna Pacific)
- ◆ Nghi Lee (Treasury)
- ◆ Will Psomadellis (Schroders Investment Management Australia Limited)
- ◆ Emma Quinn (Alliance Bernstein)
- ◆ Paul Rayson (Commonwealth Bank of Australia)
- ◆ Andrew Stewart (Macquarie Bank Limited)
- ◆ Dean Surkitt (Bell Financial Group)
- ◆ Greg Yanco (Senior Executive Leader, ASIC Market Supervision)
- ◆ Scott Webster (UBS AG Australia).

We thank the outgoing members, Anastasia Economou, Sean Lawrence and Vic Jokovic, for their valuable contributions.

During 2016–17, the Panel met seven times and provided advice on a wide range of topics, including:

- ◆ our report and proposed guidance on sell-side research
- ◆ potential recommendations following the ASX outage on 19 September 2016
- ◆ the impact of five years of equity market competition
- ◆ how Exchange Traded Funds might evolve in our market and the potential risks that we should focus on in this area.

## 6.3 External committees and panels continued

### 6.3.7 Markets Disciplinary Panel

The Markets Disciplinary Panel (MDP) was established in 2009. The MDP is the forum for disciplinary action against market participants for alleged breaches of the market integrity rules. ASIC decides which matters to refer to the MDP.

The MDP is a peer-review panel, consisting of part-time members with relevant market or professional experience. Members of the MDP have, or have had, senior roles in broking firms and investment banks.

At 30 June 2017, the MDP members were:

- ◆ Simon Gray (Chair) (Shaw and Partners)
- ◆ Cilla Boreham (Deputy Chair) (legal consultant)
- ◆ Richard Brasher (Northcape Capital)
- ◆ Anne Brown (consultant)
- ◆ Anthony Brittain (Euroz Limited)
- ◆ Ian Chambers (Morgan Stanley Australia)
- ◆ Leigh Conder (Commonwealth Securities Limited)
- ◆ Jane Lamming (Ausbil Investment Management Limited)
- ◆ Geoffrey Louw (Bell Potter Securities)
- ◆ Michael Manford (Patersons Securities)
- ◆ Mark Pugsley (Morgans Financial Limited)
- ◆ Russell McKimm (Patersons Securities)
- ◆ Sadie Powers (consultant)
- ◆ Peter Robson (ITG Australia)
- ◆ John Steinthal (consultant financial adviser)
- ◆ Andrew Tanner (J.P. Morgan)
- ◆ Victoria Weekes (ANZ Share Investing Limited).

We thank the former MDP Chair, Lisa Gay, for her valuable contributions.

During 2016–17, the MDP made determinations on alleged breaches of the market integrity rules. It also issued 12 infringement notices, specifying a total of \$2,288,750 in penalties in these matters. The infringement notices for finalised matters are published in the MDP Infringement Notices Register on the ASIC website.

### 6.3.8 Registry and Licensing Business Advisory Committee

The Registry and Licensing Business Advisory Committee was established in 2004. The Committee consults directly with the business community. Committee members provide input and opinion on the impact of current and proposed registry and licensing services, with particular emphasis on small business.

The Committee's scope includes advising on strategic directions and performance feedback, and reporting on the trends and needs of business. It advises on proposed legislative change and the appropriateness of corporate registry objectives and initiatives, with a focus on the impact on business and ASIC's operations.

Members are drawn from a wide range of business, community, industry and professional organisations, and each contributes their knowledge, experience and expertise to the advisory process.

At 30 June 2017, members of the Registry and Licensing Business Advisory Committee were:

- ◆ John Price (Chair) (ASIC Commissioner)
- ◆ Sarah Davidson (Institute of Chartered Accountants Australia)
- ◆ David Francis (Reckon Group)
- ◆ David Giffard (CPA Australia)
- ◆ Greg Griffith (Family Business Australia)
- ◆ Deborah Hambleton (Law Council of Australia)
- ◆ Kerry Hicks (Australian Institute of Company Directors)
- ◆ Daryl Koch (Institute of Public Accountants)
- ◆ Claire Wivell Plater (The Fold Legal Pty Ltd)
- ◆ Justin Pierce (Dun & Bradstreet)
- ◆ Colin Porter (CreditorWatch)
- ◆ Warren Renden (BGL Corporate Solutions)
- ◆ Peter Strong (Council of Small Business Organisations of Australia)
- ◆ John Wilson (Equifax).



We thank the outgoing members, Hugh Elvy, Adam Siddique, Judith Fox, Anna Tantau and Committee Chairman Commissioner Greg Tanzer, for their valuable contributions.

During 2016–17, the Committee met twice and discussed registry reforms and improvements to our registry services, including our continued efforts to move registry customers to online services.

### 6.3.9 Digital Finance Advisory Committee

The Digital Finance Advisory Committee was established in 2015. The Committee assists ASIC in supporting innovation in financial services and markets. It provides advice and feedback on the opportunities, developments and emerging risks for start-up fintech businesses and our engagement with those businesses through our Innovation Hub.

Members are drawn from the fintech, venture capital, consumer and academic sectors, and serve in their personal capacity – they do not represent individual organisations. Treasury, APRA, the RBA and AUSTRAC attend committee meetings as observers. Other agencies are also invited to attend as observers.

Members serve for a term not exceeding two years, with approximately half rotating each year.

At 30 June 2017, members of the Digital Finance Advisory Committee were:

- ◆ Professor Deborah Ralston (Chair) (Monash University)
- ◆ Chris Brycki (Stockspot)
- ◆ Andrew Corbett-Jones (Tyro Fintech Hub)
- ◆ Kim Heras (25Fifteen)
- ◆ Andrew Lai (Fintech Melbourne)
- ◆ Alex Scandurra (Stone & Chalk)
- ◆ Danielle Szetho (Fintech Australia)
- ◆ Erin Turner (CHOICE).

We thank the outgoing members, Toby Heap, Murray Hurps, Jenni Mack and Matt Symons, for their valuable contributions.

During 2016–17, the Committee met four times and provided advice on a number of matters, including our international engagement, our regulatory sandbox licensing exemption, regtech and crowd-sourced funding. The Committee also heard presentations from the ACCC, the RBA and the Digital Transformation Agency.

## 6.4 Portfolio Budget Statement outcomes

### Outcome 1: To allow markets to fund the real economy by promoting investor and consumer trust and confidence, facilitating fair and efficient markets and delivering efficient registration.

ASIC's outcomes for 2016–17 are reported below against the Government's Portfolio Budget Statement. Please refer to the annual performance statement at pages 28–44 for an overview of our non-financial performance.

#### 6.4.1 Agency resource statement 2016–17

		Actual available appropriation for 2016–17 \$'000s	Cash payments made <sup>1</sup> 2016–17 \$'000s	Balance remaining 2016–17 \$'000s
<b>Ordinary annual services<sup>2</sup></b>				
<b>Departmental</b>				
Departmental appropriation <sup>3</sup>		506,665	358,148	142,517
<b>Administered expenses</b>				
Outcome 1 – ordinary annual services				
Administration Fund		5,863	5,730	N/A
<b>Total ordinary annual services</b>	A	506,528	363,878	N/A
<b>Other services</b>				
<b>Departmental non-operating</b>				
Equity injections <sup>4</sup>		29,449	15,867	13,582
<b>Total other services</b>	B	29,449	15,867	13,582
<b>Total available annual appropriations (A+B)</b>		535,977	379,745	N/A
<b>Special appropriations limited by criteria/amount</b>				
<i>Banking Act 1959</i>		N/A	42,866	N/A
<i>Life Insurance Act 1995</i>		N/A	6,418	N/A
<b>Total special appropriations</b>	C	N/A	49,284	N/A
<b>Total appropriations excluding Special Accounts (A+B+C)</b>		535,977	429,029	N/A
<b>Special Account<sup>5</sup></b>				
Opening balance		44,195	N/A	N/A
Appropriation receipts		26,815	N/A	N/A
Costs recovered		819	N/A	N/A
Payments made		N/A	38,765	N/A

		Actual available appropriation for 2016–17 \$'000s	Cash payments made <sup>1</sup> 2016–17 \$'000s	Balance remaining 2016–17 \$'000s
Total Special Account	D	71,829	38,765	N/A
Total resourcing (A+B+C+D)		607,806	467,794	N/A
Less appropriations drawn from annual appropriations above and credited to Special Accounts		(26,815)	–	N/A
<b>Total net resourcing for ASIC</b>		<b>580,991</b>	<b>467,794</b>	<b>N/A</b>

1. Does not include GST.

2. Appropriation Bill (No. 1) 2016–17, Supply Bill (Act 1) 2016–17, prior year departmental appropriation and s74 of the PGPA Act relevant agency receipts.

3. Includes \$24.095 million for the Departmental Capital Budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

4. Appropriation Bill (No. 2) 2016–17, Supply Bill (No. 2) 2016–17.

5. Does not include Special Public Money.

## 6.4.2 Expenses by outcome

	Budget <sup>1</sup> 2016–17 (1) \$'000s	Actual expenses 2016–17 (2) \$'000s	Variance column (1) minus column (2) \$'000s
<b>Outcome 1:</b> To allow markets to fund the real economy by promoting investor and consumer trust and confidence, facilitating fair and efficient markets and delivering efficient registration.			
A Administered expenses funded by administered appropriations	5,863	3,702	2,161
B Departmental expenses funded by departmental appropriations and own-source revenue	379,886	392,460	(12,574)
<b>Total for Outcome 1 (A+B)</b>	<b>385,749</b>	<b>396,162</b>	<b>(10,413)</b>
Average FTE <sup>2</sup>	1,658	1,640	18

1. Based on the 2016–17 forecast as set out in ASIC's 2016–17 Portfolio Budget Statement.

2. ASIC's 2016–17 Portfolio Budget Statement quoted the 'average staffing level', which is different from the FTE. The average staffing level includes employees working on capital projects, while the FTE excludes working on capital projects.

## 6.5 Six-year summary of key stakeholder data

### 6.5.1 Summary of key stakeholder data, 2011–17

Business data	2016–17	2015–16	2014–15	2013–14	2012–13	2011–12
Companies (total)	2,500,401	2,372,429	2,245,364	2,118,666	2,012,241	1,921,545
New companies registered	249,394	246,051	235,182	212,573	192,211	176,062
AFS licensees	6,058 <sup>1</sup>	5,511	5,198	5,101	5,043	4,955
Authorised market infrastructure providers <sup>2</sup>	672	52	50	50	45	42
Registered company auditors	4,365	4,483	4,596	4,729	4,852	4,985
Registered liquidators	713	707	711	696	685	680
Registered managed investment schemes	3,632	3,619	3,642	3,673	4,152	4,289
Credit licensees	5,576	5,726	5,779	5,837	5,856	6,004
Fundraising documents lodged	1,017	891	1,078	1,095	821	799
Products the subject of product disclosure 'in-use' notices	4,464 <sup>3</sup>	4,607 <sup>3</sup>	4,679 <sup>3</sup>	5,461	4,988	4,758
Takeover bids monitored	41	40	43	59	45	55
Fundraising where ASIC required additional disclosure	\$7.2bn	\$6.4bn	\$9.4bn	\$6.7bn	\$3.5bn	\$7bn
Recoveries, costs, compensation, fines or assets frozen	\$849.7m <sup>4</sup>	\$217.4m <sup>4</sup>	\$61.1m	\$214.6m	\$222.4m	\$19.8m
% successful criminal and civil litigations <sup>5</sup>	90%	96%	85%	90%	95%	92%
Criminal and civil litigation and administrative actions concluded <sup>6</sup>	220	181	167	149	144	179
Criminals imprisoned	13	13	12	14	9	20
Reports of crime or misconduct finalised	9,011	9,751	9,669	10,530	11,682	12,516
Total searches of ASIC databases	90.6m	90.7m	86.2m	76.2m	68.0m	71.2m
Business names (total)	2,191,638	2,070,028	2,153,959	1,994,001	1,740,780	1,488,898
New business names registered	348,266	337,413	327,687	299,988	274,349	19,131
Registered SMSF auditors	6,339	6,671	6,669	7,073	5,935	N/A <sup>7</sup>

Business data	2016-17	2015-16	2014-15	2013-14	2012-13	2011-12
% company data lodged on time	94.6%	95%	96%	96%	95%	95%
Fees and charges collected for the Commonwealth	\$920m	\$876m	\$824m	\$763m	\$717m	\$664m
Staff (average FTEs) <sup>8</sup>	1,640	1,627	1,609	1,773	1,832	1,716

1. The number of AFS licenses increased in 2016-17 because of the higher number of AFS licences granted after the Government's decision to repeal the limited licence exemption for accountants giving financial advice to SMSFs from 1 July 2016.
2. We have changed the methodology for reporting the number of authorised market infrastructure providers in 2016-17. This figure now includes exempt financial markets, licensed clearing and settlement (CS) facilities, exempt CS facilities, licensed trade repositories and credit rating agencies, in addition to domestic and overseas financial markets.
3. In 2016-17, we have changed the methodology for how we report the number of products that are the subject of PDS in-use notices and as a result the data previously reported for 2014-15 and 2015-16 has been amended. The data includes all products the subject of current in-use notices as at the end of the relevant financial year and lodged up to six years prior.
4. In 2016-17, an amount of \$617.2 million was awarded against MFS Investment Management Ltd by the Supreme Court (Qld). In 2015-16, there were six compensation and remediation matters that comprised \$165.5 million of the total figure.
5. Excludes administrative actions and summary prosecutions for strict liability offences.
6. Excludes summary prosecutions for strict liability offences.
7. N/A means not applicable because legislative requirements had not commenced.
8. Data rounded. This data excludes contractors and secondees from other agencies.

## 6.6 Reports required under statute and other reporting requirements

### 6.6.1 ASIC Act

As required by section 136(1)(a), we report that, in 2016–17, we issued two legislative instruments under Part 29 of the SIS Act relating to the requirement in section 29QB that superannuation websites must be kept up-to-date at all times. We did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997*.

As required under section 136(1)(c), we report that during 2016–17, we conducted two joint inspections with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations. We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de Surveillance du Secteur Financier or share any information with them under the relevant provisions of the ASIC Act.

### 6.6.2 Commonwealth fraud control guidelines

During 2016–17, we reviewed our fraud exposures and we have an approved fraud control policy and plan in place. We have appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes in place to minimise the effects of fraud and to comply with the Commonwealth Fraud Control Framework. We have taken all reasonable measures to deal appropriately with fraud.

### 6.6.3 External scrutiny of agency

#### Judicial decisions and decisions of administrative tribunals

There were no judicial decisions, administrative tribunal decisions or decisions by the Australian Information Commissioner in 2016–17 that have had, or may have, a significant impact on ASIC's operations.

#### Reports by Parliamentary Joint Committee on Corporations and Financial Services

There was one ASIC oversight report during 2016–17.

The report on the 2015–16 annual report of bodies established under the ASIC Act was tabled on 13 June 2017.

ASIC has appeared and provided written submissions to the PJC on Corporations and Financial Services as required.

#### Senate Standing Committees

During 2016–17, ASIC testified before the Senate Economics Committees numerous times and provided answers to Questions on Notice.

The Senate Economics Legislation Committee examined ASIC's 2015–16 Annual Report and considers that ASIC met its reporting requirements.

Other reports finalised by the Senate Economics Committees that involved ASIC included:

- ♦ Superannuation Guarantee non-payment
- ♦ carbon risk disclosure
- ♦ criminal, civil and administrative penalties for white-collar crime.

## Reports by Auditor-General

The Auditor-General issued Audit Report No. 33 2016–17, *Audits of the financial statements of Australian Government entities for the period ended 30 June 2016*, on 23 January 2017.

The Australian National Audit Office (ANAO) audited the financial statements of Australian Government entities, including ASIC, and the Consolidated Financial Statements of the Australian Government, as at 9 December 2016.

The ANAO's 2015–16 audit identified two audit focus areas for ASIC that had the potential to impact the financial statements:

1. the valuation of the provisions for future claims of unclaimed money, including the actuarial model used to calculate the provisions
2. the completeness and accuracy of revenue, including revenue from corporate fees and fines.

We have taken these issues into account in preparing the financial statements for 2016–17.

### 6.6.4 Freedom of Information Act 1982

Members of the public have the right to apply to ASIC for access to documents in ASIC's possession under the *Freedom of Information Act 1982* (FOI Act).

Applications must be in writing, state that they are made under the FOI Act, provide information to identify the documents requested and provide details of where notices under the FOI Act can be sent to the applicant.

Requests by email should be sent to:  
**foirequest@asic.gov.au**

or you may lodge a mail request to:

The Senior Manager  
Administrative Law Team  
GPO Box 9827  
Melbourne VIC 3001

For further information on how to apply, visit **www.asic.gov.au**.

Categories of documents in ASIC's possession include:

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

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, legislative instruments and other regulatory publications on the ASIC website, **www.asic.gov.au**.

*ASIC Digest*, which includes ASIC regulatory documents and additional information, is published by Thomson Reuters under the terms of an agreement with ASIC.

## 6.6 Reports required under statute and other reporting requirements continued

*ASIC Digest* is available by subscription from Thomson Reuters, phone 1300 304 197.

Information from ASIC's registers and databases that is available to the public for the payment of a fee cannot be obtained under the FOI Act.

Agencies subject to the FOI Act are required to publish information for the public as part of the Information Publication Scheme (IPS). This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

ASIC's Information Publication Scheme Plan, showing what information is published in accordance with the IPS requirements, is available on the ASIC website, [www.asic.gov.au](http://www.asic.gov.au).

### 6.6.5 Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Government and administered by ASIC. The scheme may fund liquidators for:

1. preliminary investigations and reports into the failure of companies that have few or no assets, where it appears that enforcement action may result from the investigations and reports
2. winding up companies under Part 5.4C of the Corporations Act
3. actions to recover assets where fraudulent or unlawful phoenix activity is suspected.

The funding allocation for 2016–17 was \$3.59 million. We paid and committed just over \$3.43 million to liquidators in 2016–17.

In 2016–17, under the grant scheme, we received:

- ◆ 562 banning (EX02) applications
- ◆ 178 'Matters other than section 206F – Director banning' (EX03) applications, 15% more than in 2015–16
- ◆ six winding-up activities
- ◆ one action for a liquidator to recover assets.

In total, we received 740 applications for funding in 2016–17, the highest number ever received.

Reports funded by the AA Fund assisted in approximately 94% of director bannings (34 out of 36). This is an 18% increase on last year.

Information on grants awarded by ASIC under the AA Fund is available on the ASIC website at [www.asic.gov.au/aafund](http://www.asic.gov.au/aafund).



## 6.7 Consultancies and expenditure on advertising

### 6.7.1 Commonwealth Electoral Act 1918

Section 311A of the *Commonwealth Electoral Act 1918* requires agencies to report expenditure on services provided by advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising organisations.

Sums less than \$13,000 are not required to be reported. All sums are GST inclusive, and are actual expenditures for 2016–17.

ASIC's expenditure on advertising during 2016–17 is set out in the table below. Further information on ASIC's advertising campaigns is available at [www.asic.gov.au](http://www.asic.gov.au) and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website at [www.finance.gov.au/advertising/index.html](http://www.finance.gov.au/advertising/index.html).

#### Expenditure on advertising agency services in 2016–17

Agency	Expenditure	Purpose
Dentsu Mitchell Media	\$38,111	LinkedIn package for 2016–17
Dentsu Mitchell Media	\$37,302	Advertising on Seek recruitment website
Australian Public Service Commission	\$32,135	Yearly subscription of advertising of jobs in the APS Gazette
<b>Total</b>	<b>\$107,548</b>	

#### Expenditure on services by market research, polling, direct mail and media advertising organisations in 2016–17

Agency	Expenditure	Purpose
Pollinate	\$118,580	Market research – SMSF project
Dentsu Mitchell Media	\$93,983	Google AdWords – MoneySmart website
Where to Research Based Consulting	\$88,000	Market research – Initial public offers
Pollinate	\$77,440	User testing – Life insurance and financial advice calculators
Knect	\$40,920	Search engine optimisation – MoneySmart website
Doctor Fadil Pedic & Associates	\$39,985	Market research – 'Seniors' project
Research Forum Consulting	\$30,993	Market research – '50+ Seniors' quantitative research
Communication Research Institute	\$24,983	Research and design services – ASIC's creditor information
Galaxy Research	\$20,790	Consumer survey – ASIC's mortgage broker remuneration review
Ernst & Young	\$20,253	Brand tracking and usage – MoneySmart website
Trivium Research	\$20,130	Market research – 'Seniors supporters' qualitative research
Media Brands	\$16,500	Search engine optimisation – MoneySmart website
People Scout	\$15,000	Market research – External market mapping
<b>Total</b>	<b>\$607,557</b>	

## 6.7 Consultancies and expenditure on advertising

continued

### 6.7.2 Managing procurement

ASIC's use of Commonwealth resources and expenditure of public money is primarily governed by the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule). Responsibility for compliance with the Commonwealth Procurement Rules (CPRs) lies with the appropriate financial delegates.

The delegates are supported by a central procurement team of qualified procurement officers who:

- ◆ develop and maintain our procurement processes and systems to promote compliance with the PGPA Act, the PGPA Rule and the CPRs for all levels of procurement
- ◆ manage complex and high-risk procurement activities, including procurements that are subject to the Mandatory Procurement Procedures of the CPRs.

Our procurement framework aims to facilitate compliance with the core principles and policies of the CPRs, including 'value for money', 'encouraging competition', 'efficient, effective, ethical and economical use of resources' and 'accountability and transparency'.

We undertake regular audits of procurement and any instances of non-compliance are reported through the Compliance Report and addressed as required through process improvement initiatives.

All major contracts entered into in 2016–17 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

### 6.7.3 Using AusTender

ASIC advertises all open tender opportunities through the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

During 2016–17, we implemented two standing offer arrangements (procurement panels) and awarded 632 procurement activities (each valued at \$10,000 or more was reported on AusTender) for a total value of \$85.6 million. Of these procurements, 192 were valued in excess of \$80,000 for a total value of \$70.4 million.

Contracts of \$100,000 or more were reported on AusTender, in accordance with the Senate order on departmental and agency contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2017 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

### 6.7.4 Consultancy contracts

During 2016–17, ASIC entered into 64 new consultancy contracts, involving total expenditure of around \$4.2 million. In addition, 23 ongoing consultancy contracts were active during the year, involving total expenditure of \$1.9 million.

#### Consultancy trend data

Business data	2016–17	2015–16	2014–15	2013–14
Number of new consultancies	64	58	63	65
Expenditure on new consultancies (millions)	\$4.173	\$4.017	\$2.354	\$2.209
Number of ongoing consultancies	23	27	23	30
Expenditure on ongoing consultancies (millions)	\$1.920	\$2.382	\$1.313	\$2.364

Note: The above figures are GST inclusive and include all consultancies valued over \$10,000 as indicated on AusTender. The figures differ from the consultancy expenditure shown in the financial statements, which are the value of all consulting costs exclusive of GST. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

## 6.7.5 Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally and business units wishing to engage consultants are required to prepare a business case seeking funding.

Requests to engage consultants must be linked to outcomes in business plans and contribute to ASIC's objectives. When engagement with a consultant is approved, the procurement method used is in accordance with the CPRs and our procurement policies.

Of the 64 consultants ASIC engaged during 2016–17:

- ◆ 45 were for specialised or professional skills
- ◆ 13 were for skills not currently available within ASIC
- ◆ six were for independent research or assessment.

The method of procurement used was open tender for 35 engagements (including engagements from panels) and limited tender for 29 engagements. There were no pre-qualified tender engagements.

The consultants were engaged for the following main service categories:

- ◆ business intelligence consulting services
- ◆ information technology consulting services
- ◆ market research
- ◆ education and training services
- ◆ strategic planning consultation services.

## 6.7.6 Procurement initiatives to support small business

ASIC supports small business participation in the Australian Government procurement market. Small and medium enterprises and small enterprise participation statistics are available on the Department of Finance's website, [www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/](http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/).

ASIC recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on Treasury's website, [www.treasury.gov.au](http://www.treasury.gov.au).

ASIC's procurement practices support small businesses by:

- ◆ encouraging the use of the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000, where applicable
- ◆ presenting information in an accessible format.

## 6.8 ASIC's use of significant compulsory information-gathering powers

Since 2010–11, we have reported the use of our significant compulsory information-gathering powers under statute. This appendix discloses data by number of instances in 2016–17, with comparative data for 2015–16.

Use of significant compulsory information-gathering powers		Number of notices 2016–17	Number of notices 2015–16
<b>Appear for examination</b>			
s19 ASIC Act <sup>1</sup>	Requirement to appear for examination	722	739
s58 ASIC Act	Power to summons a witness and take evidence	0	0
s253 National Credit Act <sup>1</sup>	Requirement to provide reasonable assistance	38	28
<b>Give reasonable assistance</b>			
s1317R Corporations Act	Power to require assistance in prosecutions	452 <sup>2</sup>	13
s49(3) ASIC Act	Power to require reasonable assistance in prosecutions	17	9
s51 National Credit Act	Requirement to provide reasonable assistance	0	1
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	0	0
s274(4) National Credit Act	Requirement to provide reasonable assistance	0	0
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	352	390
<b>Produce documents</b>			
s266 National Credit Act	Requirement to produce books (credit activities)	74 <sup>3</sup>	172
s267 National Credit Act	Requirement to produce books	67	94
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	1,261 <sup>3</sup>	1,141
s31 ASIC Act	Notice to produce books about financial products	87	133
s32A ASIC Act	Notice to produce books about financial services	0	3
s33 ASIC Act	Notice to produce books in person's possession	1,684 <sup>3</sup>	1,314
<b>Provide access</b>			
s29 ASIC Act	Power to inspect books	0	2
s821D Corporations Act	Power to require access to a CS facility	0	0

1. These notices may also include directions to provide reasonable assistance or produce documents.

2. The number of s1317R notices issued in 2016–17 under the Corporations Act increased because of some specific ASIC surveillance projects, such as the Bank Bill Swap Rate investigation.

3. The decrease in s266 notices issued in 2016–17 under the National Credit Act was due to a greater focus on ASIC's insurance work where alternative powers were used, including s30 and s33 of the ASIC Act and s912C of the Corporations Act.

<b>Use of significant compulsory information-gathering powers</b>		<b>Number of notices 2016–17</b>	<b>Number of notices 2015–16</b>
<b>Provide information</b>			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	0	1
s37(9)(a) ASIC Act	Power requiring explanation of books	1	2
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	0	0
s49(1) National Credit Act	Requirement to provide information (statement)	75	61
s912C Corporations Act	Power to require information from an AFS licensee	652 <sup>3</sup>	707
Item 17 Sch 2 National Credit Act	Power to require information (obtain statement or audit report)	0	0
s672A Corporations Act	Power to require disclosure of relevant interests	17	19
s672B Corporations Act	Power to require disclosure of relevant interests	0	0
s37(4) National Credit Act	Power to request information or audit report from licence applicant	0	1
s792D Corporations Act	Power to require reasonable assistance from a market licensee	41	31
<b>Provide information and produce books</b>			
s30A ASIC Act	Notice to auditors requiring information or books	53	47
<b>Search warrants</b>			
s3E Crimes Act 1914	Warrants to search premises/conveyance or person	51 <sup>4</sup>	30
s36 ASIC Act	Warrant to search premises	1	0
<b>Obligations of carriers and carriage service providers</b>			
s313 <i>Telecommunications Act 1997</i>	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	0	0
<b>Provide documents, information or evidence</b>			
s10(2) <i>Mutual Assistance in Business Regulation Act 1992</i>	Requirement to produce documents, to give information or to appear to give evidence and produce documents	33 <sup>5</sup>	16

4. Of the 51 warrants issued (for 13 individual investigations) in 2016–17, 37 were executed.

5. While a similar number of requests were received and dealt with under the *Mutual Assistance in Business Regulation Act 1992* in 2016–17, there was an increase in the number of multiple notices issued for individual matters compared with 2015–16.