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## ASIC's annual performance statement

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# Chair's statement

I, James Shipton, as the accountable authority of ASIC, present the 2017–18 annual performance statement of ASIC, 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.

## Our purpose

Our vision – a fair, strong and efficient financial system for all Australians – reflects our purpose as Australia's conduct regulator for corporations, markets, financial services and consumer credit and highlights the important role we play on behalf of all Australians.

We do this by:

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

## 3.1 Performance objectives

ASIC's performance reporting in 2017–18 was guided by *ASIC's Corporate Plan 2017–18 to 2020–21* (at pages 38–39) and our Portfolio Budget Statement (at pages 147–148), which set out our objectives and targets related to investor and consumer trust and confidence and fair and efficient markets.

In particular, we aim to achieve our **key performance outcome**, as stated in the 2017–18 Portfolio Budget Statement (at page 153), of *'improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems'*.

We aim to achieve this outcome by conducting surveillances; pursuing enforcement outcomes; engaging with consumers and industry stakeholders; and providing guidance, policy advice and financial capability education. These regulatory tools are used to achieve our vision of ensuring a fair, strong and efficient financial system for all Australians. ***For more information on how we achieve this key performance outcome, see Sections 3.2, 3.3, 3.4 and 4.***

## 3.2 Key results – investor, consumer and markets performance objectives



The number of surveillances and enforcement actions we undertake, and the value of the fines imposed or people convicted and the length of their sentences, as a result of these actions, varies from year to year. This variation depends on factors such as the severity of breaches of the law, the number of laws that have been breached and the complexity of the investigations we complete.

Table 3.2.1 Key results

Outcome	Total 2017–18	Total 2016–17
<b>Surveillance</b>		
Surveillances completed <sup>1</sup>	Over 1,200	Over 1,400
Instances of potentially misleading or deceptive promotional material withdrawn or amended	51	66
<b>Enforcement<sup>2</sup></b>		
<b>Investigations<sup>3</sup></b>		
Investigations commenced	126	163
Investigations completed	124	157
<b>Criminal actions</b>		
Criminal litigation completed	16	23
Criminal litigation completed successfully (as a percentage)	100%	91%
New criminal litigation commenced	30	11
Number of people convicted	22	20
Custodial sentences (including fully suspended)	13	13
Non-custodial sentences/fines	13	7
Total dollar value of fines	\$15,100	\$40,500
Average time to complete an investigation in months	24	22
Average time to a criminal court decision in months	30	44
Average total time to complete an investigation and reach a court decision in months	54	66

1 ASIC is moving to a new regulatory processes platform. As a result, we are making adjustments to the way matters are characterised and changing our recording systems. In 2017–18 as well as 2018–19, these changes are in progress and information is sourced from old and new platforms using different characteristics. These results are necessarily approximate.

2 For more information on the types of civil penalties, people or companies removed, restricted or banned from providing credit services, or types and value of the fines for infringement notices, see Section 4.1.

3 Investigations for these purposes meet the definition in section 13 of the ASIC Act.

Outcome	Total 2017–18	Total 2016–17
<b>Civil actions</b>		
Civil litigation completed	111	78
Civil litigation completed successfully (as a percentage)	99%	91%
New civil litigation commenced	77	112
Total dollar value of civil penalties	\$42.2m	\$5.2m
Average time to complete an investigation in months	24	24
Average time to a civil court decision in months	8	27
Average total time to complete an investigation and reach a court decision in months	32	51
<b>Administrative actions</b>		
Administrative actions completed	91	119
New administrative actions commenced	56	73
People disqualified or removed from directing companies	50	51
Action taken against auditors and liquidators	62	29
People/Companies removed, restricted or banned from providing financial services	92	100
People/Companies removed, restricted or banned from providing credit services	41	108 <sup>4</sup>
Average time to complete an investigation in months	21	24
Average time to an administrative decision in months	5	27
Average total time to complete an investigation and reach a court decision in months	25	51
<b>Court enforceable undertakings</b>		
Court enforceable undertakings accepted	27	16
<b>Infringement notices<sup>5</sup></b>		
Total number of infringement notices issued	55	74
Total dollar value of infringement notices	\$2.02m	\$4.3m

4 The 2016–17 figure of 108 people and companies removed, restricted or banned from providing credit was disproportionately high due to a body of work undertaken by our Small Business Compliance and Deterrence team. This included the 'Annual Compliance Certificate Surveillance Campaign' and work in relation to the External Dispute Resolution Scheme memberships referred from the Credit and Investments Ombudsman.

5 These notices were issued for infringements related to the market integrity rules; ASIC derivative transaction rules; continuous disclosure rules; ASIC Act; National Credit Act; and Australian Consumer Law. Compliance with the infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

<b>Outcome</b>	<b>Total 2017–18</b>	<b>Total 2016–17</b>
<b>Summary prosecutions</b>		
Summary prosecutions for strict liability offences	398	438
Total value of fines	\$1.5m	\$1.4m
<b>Agreed compensation</b>		
Compensation or remediation	\$351.6m	\$837.7m
Community benefit payments	\$48.1m	\$18.8m
<b>Stakeholder engagement</b>		
Meetings with industry groups and other stakeholders	2,160	1,928
Consultation papers published	11	31
Industry reports published	45	60
<b>Guidance</b>		
New or revised regulatory guides published	36	27
New or revised information sheets	32	22
Legislative instruments made, amended and repealed	93	124
Relief applications received	1,872	1,818
Relief applications approved	1,061	1,129
Relief applications refused or withdrawn	457	460
Relief applications in progress	354	229
<b>Education</b>		
Unique visits to ASIC's MoneySmart website	7.4m	7m
Users who reported taking action on their finances after visiting MoneySmart <sup>6</sup>	90%	89%
Number of financial literacy resources and tools produced <sup>7</sup>	80	92

6 This data is collected in the 13th wave of our 'Awareness and Usage of ASIC's MoneySmart Website' tracking program.

7 '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.

### 3.3 Analysis – implementing our investor, consumer and markets performance objectives

In 2017–18, ASIC delivered its outcome under the Portfolio Budget Statement by employing our range of regulatory tools to identify and respond to threats and harms to investor and consumer trust and confidence and fair and efficient markets. The regulatory tools we used to deliver our objective were supervision and surveillance, enforcement, engagement, guidance, education and policy advice.

#### Supervision and surveillance



In 2017–18, we completed:

- › Over 500 surveillances in the deposit-taking and credit, financial advice, investment management and superannuation sectors to ensure that financial services providers complied with their conduct obligations

These surveillances focused on areas such as compliance with responsible lending obligations by lenders and lessors under consumer leases (authorised deposit-taking institutions (ADIs) and non-ADIs); compliance by credit licensees with content obligations for credit advertising; deficiencies in financial services and product disclosure documentation; misleading or deceptive advertising and representations; preventing inappropriate conduct by responsible entities, superannuation trustees, fund managers and wholesale trustees and custodians; and compliance by financial advisers and their licensees with the financial advice obligations, including the best interests duty and the ban on conflicted remuneration.

- › Over 700 surveillances in the corporations, market infrastructure and intermediaries sectors

These surveillances focused on areas such as fundraising; the conduct of annual general meetings; independent experts; handling confidential information; issuing retail over-the-counter derivatives; and managing conflicts of interest.

Through our surveillance, we identified and addressed 938 cases of failures, or potential failures, to comply with regulatory obligations.

We published several reports in response to findings of our surveillances. For example:

- › In January 2018, we published Report (REP) 562 *Financial advice: Vertically integrated institutions and conflicts of interest*. This contains findings on how well Australia's largest banking and financial services institutions manage conflicts of interest that arise when providing personal advice to retail clients as well as manufacturing financial products, under a vertically integrated business model.
- › In March 2018, we published REP 565 *Unfair contract terms and small business loans*, detailing the changes made by the big four banks to bring their small business loan contracts into compliance with the unfair contract terms laws and providing guidance to bank and non-bank lenders.
- › In June 2018, we published REP 575 *SMSFs: Improving the quality of advice and member experiences*. This report outlines our findings from a large research project that examined member experiences in setting up and running a self-managed superannuation fund (SMSF) and whether financial advisers are complying with the law when providing personal advice to retail clients to set up an SMSF.

- › In January 2018, we published REP 564 *Annual general meeting season 2017*. This report highlights emerging corporate governance issues and trends arising during the annual general meeting (AGM) season for S&P/Australian Securities Exchange (ASX) 200 listed companies in 2017.
- › In August 2017, we published REP 540 *Investors in initial public offerings*. Based on the findings from this project, we believe that our regulation of initial public offerings (IPOs) is largely sound; however, we will continue to enhance our regulation of IPOs.

Our surveillance of financial reports in 2017–18 led to material changes to 4% of the 320 reports of listed entities and other public interest entities reviewed. As a result of our surveillances, 14 entities recognised changes to reported net assets and profits totalling \$1.6 billion. **For more information on our financial reporting surveillances, see Section 4.6.**

### Audit inspection program

An example of one of the types of surveillance work we do is reviewing and assessing audit quality. Auditors play a vital role underpinning investor trust and confidence in the quality of financial reports. In 2017–18, in order to improve and maintain audit quality, we reviewed a total of 65 audit files, in 243 key audit areas. We also reviewed the approaches of the six largest audit firm networks to analyse the underlying root causes of internal and external review findings where audit work was deficient, as well as the project management of audits. We intend to release a report on the results of our audit firm risk-based inspections for the 18 months to 30 June 2018, in December 2018.

Our reviews ensure that audit firms continue to focus on the sufficiency and appropriateness of the audit evidence they obtain, their professional scepticism, and their appropriate use of the work of experts and other auditors.

## Enforcement



Enforcement action is one of the key regulatory tools available to us to help achieve a fair, strong and efficient financial system for all

Australians. We use a range of regulatory and enforcement sanctions and remedies, including punitive, protective, preservative, corrective or compensatory action. We also resolve matters through engagement with the relevant party or by issuing infringement notices. **For further information on our regulatory tools, see Section 1.**

Examples of the enforcement action we took and the significant outcomes delivered in 2017–18 include the following.

### Punitive actions:

- › In 2017–18, we completed 111 civil court cases, covering such issues as dishonest conduct, false or misleading statements, breach of licence obligations, failing to comply with continuous disclosure obligations and unconscionable conduct. 99% of these cases were successful. The total value of penalties for these civil court cases was \$42.2 million. This includes:
  - › \$7.15 million imposed on three Melbourne-based companies – Wealth and Risk Management Pty Ltd, Yes FP Pty Ltd, and Jeca Holdings Pty Ltd – for breaches of Australian Financial Service (AFS) licensee obligations and engaging in unconscionable conduct. These companies were formerly directed by Joshua Fuoco, who was ordered by the Federal Court to pay a penalty of \$650,000. **For further information on the civil proceedings against these companies, see Section 4.3.**
  - › \$5 million imposed on ANZ for failing to meet responsible lending obligations. **For further information on ANZ’s breach of responsible lending laws, see Section 4.1.**
  - › 22 people were convicted of financial crime, with 13 people receiving custodial sentences (including fully suspended).

- › In November 2017, following our investigations into Sherwin Financial Planners Pty Ltd and Wickham Securities Ltd, the former principal and chair of these companies (respectively), Bradley Sherwin, was sentenced by the Brisbane District Court to 10 years imprisonment. Mr Sherwin was charged with 24 counts of fraud by dishonestly causing detriment to a number of clients of Sherwin Financial Planners, to the value of nearly \$10 million, and 1 count of breaching his duties as director of Wickham Securities by falsely reporting that nearly \$4.5 million of loans made by the company had been repaid.
- › In November 2017, following dishonesty charges brought by ASIC, Lewis Fellowes, a former stockbroker from Perth, was sentenced by the Brisbane District Court to three years imprisonment.
- › In October 2017, following our investigations into a finance broking company trading as Myra Financial Services, Najam Shah was sentenced to five years imprisonment for conspiring to defraud financial institutions.
- › In May 2018, in civil proceedings brought by ASIC, the Federal Court found that Westpac engaged in unconscionable conduct by its involvement in setting the BBSW on multiple occasions. The court also found Westpac had inadequate procedures and training and had contravened its financial services licensee obligations. A further hearing of this proceeding on penalty and relief will be held at a later date.
- › In November 2017, we obtained declarations by consent that each of ANZ and NAB had attempted to engage in unconscionable conduct in connection with the supply of financial services by attempting to seek to change where the BBSW was set on multiple occasions. The Federal Court imposed pecuniary penalties of \$10 million on each of ANZ and NAB.
- › On 21 June 2018, we obtained declarations by consent in the Federal Court that CBA had attempted to seek to affect where the BBSW was set on multiple occasions. The Federal Court imposed a pecuniary penalty of \$5 million on CBA. As part of the resolution of these proceedings, CBA also agreed to

enter into a court enforceable undertaking on 9 July 2018, under which it will pay \$15 million, to be applied to the benefit of the community; and \$5 million towards our investigation and legal costs.

***For more information on convictions for financial crime, see Sections 4.3 and 4.6.***

### **Protective actions:**

- › We banned, removed or restricted 92 people or companies from providing financial services.
- › We banned, removed or restricted 41 people or companies from providing credit services for failing to comply with their responsible lending obligations or engaging in unlicensed credit activity.
- › We took action against auditors who were in breach of the SIS Act requirements, including Australian auditing standards. We removed 155 SMSF auditors from the register. This includes 117 cancelled for failing to lodge annual statements and 12 disqualified for failing to comply with auditing standards, breaches of independence requirements, or fitness and propriety matters. The remaining 26 auditors voluntarily requested cancellation after concerns were raised with them by ASIC. We imposed conditions on the registrations of 9 other SMSF auditors.
- › Further, in late 2017, we established the ASIC Financial Services and Credit Panel to add a strong element of peer review to our process for taking administrative action against participants in the financial services and credit industries.

***For more information on the Financial Services and Credit Panel, see Appendix 8.1.***

### **Corrective actions:**

- › We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. There were 51 instances of potentially misleading or deceptive promotional material withdrawn or amended in 2017–18.



## Compensatory actions:

- › Our actions in 2017–18 contributed to \$351.6 million of compensation and remediation paid, or ordered to be paid, to consumers. Taking enforcement action to ensure that consumers are appropriately compensated is a key ASIC priority.

## Settled outcomes:

- › In 2017–18, ASIC accepted 27 court enforceable undertakings. After accepting an enforceable undertaking, we work with companies and independent experts to improve culture and compliance practices. Our work with these companies has resulted in improved compliance with the law and positive, long-term behavioural change. On multiple occasions we took civil proceedings as well as accepting court enforceable undertakings.
- › We entered into court enforceable undertakings with each of ANZ and NAB in relation to their attempts to seek to change where the BBSW was set on multiple occasions. Each bank will pay \$20 million under these court enforceable undertakings, to be applied to the benefit of the community; and \$20 million towards our investigation and legal costs.
- › Foster Stockbroking Pty Ltd (FSB) entered into a court enforceable undertaking with ASIC to implement a number of changes to its systems and controls, including more stringent and effective conflicts of interest disclosure policies. FSB also agreed to make a community benefit payment of \$80,000 to The Ethics Centre.
- › In 2017–18, we issued 55 infringement notices and received a combined dollar value of \$2 million in payments pursuant to these infringement notices. Of these 55 notices, a significant proportion (20) were issued against Volkswagen Financial Services Australia for misleading advertising. **For more information on this case, see Section 4.1.** We also issued infringement notices against Sirtex Medical (\$100,000); Bellamy's Australia Ltd (\$66,000); and Adairs Limited (\$66,000).

- › The ACCC delegated its functions and powers under the *Competition and Consumer Act 2010* and the Australian Consumer Law to ASIC to regulate conduct in relation to credit repair and debt collection. We issued two infringement notices to Clear Credit Solutions Pty Ltd under the ACCC delegation.
- › The Markets Disciplinary Panel issued seven infringement notices, specifying a total of \$1,173,000 in penalties for alleged breaches of the market integrity rules.<sup>1</sup>

**For more examples of court enforceable undertakings we have accepted this year, see Sections 3.3, 4.1, 4.3 and 4.5, and ASIC's compliance reports available on the enforceable undertakings register on our website.**

## Delivering timely enforcement action

Each year we report on the average time taken to complete our investigations and achieve a criminal, civil or administrative decision. We do so in support of our commitment to transparency and in line with our aim to increase the deterrence of wrongdoings by delivering timely enforcement actions.

The time taken to achieve enforcement outcomes is influenced by a variety of factors. This should be kept in mind when comparing the number of outcomes produced each year. For example, the average time taken to receive a court decision for civil matters decreased in 2017–18, from 27 to eight months. This decrease was mainly due to the amount of time to achieve outcomes in civil court decisions where we sought orders to appoint liquidators and to wind up companies. These typically do not take as long as other civil actions.

We are exploring ways to improve the efficiency and timeliness of our enforcement processes, such as by using e-surveillance, e-investigation and e-discovery to expedite investigation and discovery.

As shown in Table 3.2.1 above, the average time taken to complete criminal, civil and administrative actions all decreased this year. **For more information on the timeliness of enforcement actions, see Table 3.2.1.**

<sup>1</sup> Please note that compliance with infringement notices is not an admission of guilt or liability, and these entities are not taken to have contravened the law.

## Engagement



Engaging with key stakeholders, including both industry and the public, through regular meetings helps us to achieve our vision. We

use engagement as a regulatory tool, alongside surveillance and enforcement, among others, to identify and resolve regulatory issues in the market. For example, by engaging with our advisory panels, we identify issues in the market and receive suggestions about how to address them. **For further information on our work with advisory panels, see Appendix 8.1.**

We have an extensive program of stakeholder engagement in place at both the staff and Commission levels.

At the Commission level, there is a Commission stakeholder engagement plan to ensure that we use Commission senior engagement to achieve our vision. This Commission-level engagement with industry leaders helps us understand market trends and emerging issues.

At the staff level, we hold frequent meetings with our diverse stakeholders. This is an important part of keeping our 'finger on the pulse' of the various sectors we regulate.

In 2017–18, we held 2,160 meetings with a number of key external stakeholders, including:

- › consumer and small business representatives, lenders, mortgage brokers, insurers, ADIs, payment product providers and industry bodies, as well as other regulators and government agencies, in relation to the deposit-taking and credit industry sector
- › companies, auditors, liquidators, market operators, market intermediaries and industry bodies in relation to the corporate and market infrastructure and intermediaries industry sectors
- › other government agencies, including the ACCC, the Australian Financial Security Authority (AFSA), APRA, the Council of Financial Regulators (CFR) and the Reserve Bank of Australia (RBA). **For further information on ASIC's work with the ACCC and the CFR, see Section 4.5.**

- › lawyers, corporate advisers and compliance professionals working in corporate finance and mergers and acquisitions
- › financial advisers and their licensees. For example, we maintained ASIC's Financial Advisers Consultative Committee. Committee members are practising advisers from a range of advice businesses across Australia. Issues discussed at these Committee meetings included SMSF advice, vertical integration across the financial advice industry and cyber security. We also engaged with industry associations such as the Association of Financial Advisers and the Financial Planning Association of Australia in relation to financial advice. Key issues discussed included the life insurance reforms and professional standards for financial advisers.

We also engage with stakeholders by releasing consultation papers seeking public comment on matters ASIC is considering, such as proposed relief and proposed regulatory guidance. In 2017–18, we released 11 consultation papers and finalised 14 consultations. Topics covered by these consultation papers included ASIC's review of relief for foreign financial services providers, options for reform to the sale of add-on insurance and warranties through caryard intermediaries, and implementing the financial benchmark regulatory regime.

We continue to improve our engagement with industry and other stakeholders in order to give all sectors the opportunity to provide input into our work.

## Guidance



We provide guidance to industry by publishing regulatory guides and information sheets. Guidance is an important tool that we use to respond and adapt to structural

changes and complexity in the financial services industry. It can also help firms understand our expectations and tailor their systems and controls to meet expected requirements and standards.

In 2017–18, we published 36 regulatory guides and 32 information sheets on topics such as supporting small public companies and start-up businesses, initial coin offerings (ICOs) and cryptocurrency, and admission guidelines for exchange traded products. **For more information on our regulatory guides and information sheets, see Sections 3.2, 4.4, 4.5, 4.6 and 5.7.**

We also released 45 reports on topics such as improving practices in the retail over-the-counter (OTC) derivatives sector, reviewing of proxy adviser engagement practices and improving the quality of advice and member experiences in SMSFs. For example, in the financial advice sector we provided practical guidance to accountants to help them understand their new AFS licensee obligations. **For more information on these reports, see Sections 3.2 and 4.**

### Guidance to benchmark administrators

In June 2018, ASIC published benchmarks rules, a significant benchmarks declaration and a regulatory guide, RG 268 *Licensing regime for financial benchmark administrators*, as part of a series of measures to establish a comprehensive regulatory regime for financial benchmarks. This is another significant step in ensuring continued market confidence in Australian financial benchmarks.

These rules and guidance followed legislation, passed in March 2018, that introduces a framework for licensing benchmark administrators and makes manipulation of any financial benchmark, or products used to determine financial benchmarks, a specific offence and subject to civil and criminal penalties.

### Other guidance

Examples of some of the publications we released this year to provide guidance to our stakeholders include:

- › RG 267 *Oversight of the Australian Financial Complaints Authority*, issued 20 June 2018
- › RG 266 *Guidance on ASIC market integrity rules for participants of futures markets*, issued 4 May 2018
- › RG 265 *Guidance on ASIC market integrity rules for participants of securities markets*, issued 4 May 2018
- › RG 264 *Sell-side research*, issued 21 December 2017
- › RG 263 *Financial Services and Credit Panel*, issued 16 November 2017
- › RG 262 *Crowd-sourced funding: Guide for intermediaries*, issued 21 September 2017
- › RG 261 *Crowd-sourced funding: Guide for public companies*, issued 21 September 2017
- › INFO 231 *Guidance on the duties of directors of mutual companies*, issued March 2018
- › INFO 230 *Exchange traded products: Admission guidelines*, issued December 2017
- › INFO 229 *Limited AFS licensees: Complying with your licensing obligations*, issued November 2017
- › REP 579 *Improving practices in the retail OTC derivatives sector*, released 28 June 2018
- › REP 578 *ASIC review of proxy adviser engagement practices*, released 27 June 2018.

To ensure our publications are aligned with recent changes, we also updated and reissued some of our publications – for example:

- › INFO 226 *Complying with the ASIC Client Money Reporting Rules 2017*, reissued on 4 April 2018
- › INFO 225 *Initial coin offerings and crypto-currency*, updated in May 2018.

## Education



ASIC is the lead agency for financial capability policy in Australia.

We manage a number of financial capability initiatives to empower Australian investors and consumers

to be in control of their financial lives.

Our financial capability program is informed by research, education and behavioural insights so that our materials reflect an understanding of how investors and consumers make decisions in practice.

Our education initiatives include the following:

- › ASIC's MoneySmart website and MoneySmart Teaching Program (**for more information on our MoneySmart achievements, see Sections 2.1 and 2.3**)
- › research conducted through the Australian Financial Attitudes and Behaviour Tracker, which is used to identify gaps in consumer knowledge so that we can design and implement effective solutions to improve the financial capability of all Australians (**for more information on the Behaviour Tracker, see Section 2.1**)
- › holding Community of Practice sessions to provide a platform for addressing vulnerable and financially disadvantaged audiences, including regional and remote communities, people with CALD backgrounds, and Indigenous Australians. Written and oral communication messages were also provided in different languages to support CALD communities (**for more information on these initiatives, see Sections 2.1, 2.3, 2.4 and 6.2**)
- › launching a new webpage to better educate the public on illegal phoenix activity and highlight the whole-of-government approach to combatting this illegal practice (**for more information on illegal phoenix activity, see Sections 4.6 and 5.6**).

Our financial capability program complements our surveillance and enforcement work by strengthening the capacity of Australians to make informed financial decisions and engage with financial services providers. This supports better financial outcomes.

This year, our financial capability efforts focused on informing consumers about:

- › government changes to superannuation contributions that commenced on 1 July 2017
- › ICOs
- › add-on insurance refunds
- › buy now, pay later services.

### Teachers' engagement with MoneySmart tools

Teachers' engagement with the professional development and resources on the MoneySmart website continues to grow. Teachers view more than double the number of pages and spend more than double the amount of time of a typical website user.<sup>1</sup> Teachers are also twice as likely to return to the website.

'I think for me it's about confidence ... If you don't know or you're not sure, it [MoneySmart] gives you suggestions, it gives you resources, it gives you worksheets.'

**Teacher**

'At least we know, with MoneySmart, it's a concrete resource that we can count on being there year after year, and also adapting as well.'

**Teacher**

1 Source: EY Sweeney, *Independent evaluation of ASIC's MoneySmart Teaching Program, Volume 2: Case studies* (EY Sweeney Ref No. 24488), 10 November 2017: <http://download.asic.gov.au/media/4563530/ey-sweeney-case-studies.pdf>.

'[F]or us the Program has enabled us to do something that we didn't expect three or four years on. It's something we're absolutely committed to – we get too many benefits from it, the community side of things, the kids and their learning ... and just the event at the end of year. Everyone enjoys that.'

**MoneySmart Coordinator**

## Policy advice



ASIC takes an active role in policy advice and implementation directed to promoting investor and consumer trust and confidence in the financial system. In 2017–18, we engaged in discussions with the Treasury and provided policy advice, guidance and input into key law reforms proposed by the Government. **For more information on policy advice, see Section 1.5.**

Areas we provided input into include:

- › comprehensive credit reporting, credit card reforms, consumer leases and small amount credit contracts, and reverse mortgages and equity release products targeted at older Australians in the deposit-taking and credit industry sector
- › reforms proposed by the Government in relation to cooperatives, mutuals and member-owned firms in the corporate sector

- › reforms to the client money provisions, the regulatory framework for financial benchmarks, competition in clearing, and benchmarks and financial market infrastructure resolution in the market infrastructure and intermediaries sector (**for more information on these areas of reform, see Section 4**)
- › the new design and distribution obligations which will require issuers and distributors of financial products to have appropriate product governance processes and controls in place (**for more information on design and distribution obligations, see Section 1.5**)
- › the new product intervention power which will enable ASIC to better regulate, or if necessary ban, financial and credit products that fall within the scope of the power, where there is a risk of significant consumer detriment (**for more information on the product intervention power, see Section 1.5**)
- › the Phoenix Taskforce agencies on recommendations to Government and the Government's subsequent consultation on law reform to address illegal phoenix activity (**for more information on our work on illegal phoenix activity, see Sections 4.6 and 5.6**).

We also actively participate in Council of Financial Regulators working groups.

We continued to engage with and provide policy advice to international regulators. **For more information on our engagement with international regulators, see Section 5.1.**

We are committed to participating fully in regulatory reform, on both a national and a global level, to ensure a fair and efficient financial system and to help benefit all Australians.

## Understanding public perceptions of financial services



We use the Australian Financial Attitudes and Behaviour Tracker research (Wave 6)<sup>1</sup> to build our understanding of consumer

experiences and perceptions of financial services and to highlight areas where perceptions of trust and confidence could be improved. This tracker measures a number of financial attitudes and behaviours among adult Australians.

By engaging the broader community through our survey, we found that approximately 18% of respondents stated that they had a negative experience with their financial services providers (including banks, mortgage brokers, insurance companies, financial advisers and superannuation providers) during this six-month period. This included instances of:

- › poor customer service
- › overcharged or unexpected fees
- › being told something incorrect or untrue by their financial services provider
- › financial services providers not taking the time to understand their needs.

Approximately 82% of respondents reported not having had a bad experience with financial services providers between September 2017 and February 2018.

ASIC uses this research to better understand investor and consumer trust and confidence in the sectors and markets that we regulate. This helps us to carry out our regulatory mission, change behaviours to drive good consumer and investor outcomes, act against misconduct to maintain trust and integrity in the financial system, promote strong and innovative development of the financial system, and help Australians to be in control of their financial lives.

## Licensing



ASIC assesses applications for AFS licences and credit licences. We also maintain a number of professional registers for registered companies, SMSFs, auditors and liquidators.<sup>2</sup>

Our licensing and registration function is an important element of our regulatory framework as it governs entry into the financial system. We use a risk-based approach to assessment, with the aim of devoting the most resources to assessing the most complex and high-risk applications. This is to ensure that only suitable persons and organisations are licensed or registered.

In 2017–18, we assessed over 3,000 applications for AFS licences and credit licences. We approved over 750 AFS licences, 23 limited AFS licences and 430 credit licences.

In addition, 316 AFS and credit licence applications were withdrawn. Applications were often withdrawn following a discussion in which we informed applicants that our assessment had indicated they are unlikely to meet the statutory requirements necessary to obtain a licence. In addition to the withdrawals, due to material deficiencies in the information provided, we also did not accept 268 applications.

We assessed over 694 applications for registration as auditors (including company auditors and SMSF auditors). Of these applications, we approved 195, and 95 were withdrawn. We also cancelled or suspended 632 registrations. **For more information on licensing and professional registration, see Appendix 8, Table 8.2.7.**

1 The Australian Financial Attitudes and Behaviour Tracker, Wave 6, was conducted in February 2018. The total sample size of 1,537 adult Australians has a maximum margin error of  $\pm 2.5\%$  at the 95% level of confidence. This means ASIC can be 95% confident that the survey estimates will reflect the real world to within  $\pm 2.5\%$ .

2 As a result of the *Insolvency Law Reform Act 2016*, from 1 March 2017 a committee, rather than ASIC, became responsible for assessing liquidator applications. ASIC continues to have responsibility for administering and maintaining the register of liquidators.

## Market licensing reform

Following amendments to the Australian market licence (AML) exemption regime in March 2017, ASIC revised its approach to administering the AML requirements. In May 2018, we published an updated version of RG 172 *Financial markets: Domestic and overseas operators* to reflect our revised approach.

ASIC now applies a risk-based assessment to designate market venues as Tier 1 or Tier 2, with Tier 1 venues subject to enhanced regulatory oversight. Tier 1 market venues

are, or are expected to become, significant to the Australian economy or the efficiency and integrity of, and investor confidence in, the financial system. Tier 2 market venues will be able to facilitate a range of market venues, including specialised and emerging market venues.

This new approach reflects best regulatory practice and represents the most significant change to the AML regime since 2001.

## 3.4 Registry services and outcomes

To realise our vision of a fair, strong and efficient financial system for all Australians, we aim to provide efficient and accessible business registers that make it easier to do business.



ASIC's registers are the official source of information for business names, companies and financial professionals registered to operate in Australia.

The ASIC registry is a critical part of Australia's economic infrastructure. The work we do ensures information on our registers is accurate, up to date and available to those using the information, enabling business and consumer stakeholders to make informed decisions.

ASIC is responsible for the administration of 31 registers and a range of professional and other registers.

In carrying out our registry activities, we aim to make it easier to engage with ASIC and comply with the law, and to enhance commercial certainty. We aim to provide services that are online and accessible to all Australians. We work to continuously improve our services to support efficient registration.

### Performance objectives

ASIC's performance reporting in 2017–18 was guided by ASIC's *Corporate Plan 2017–18 to 2020–21* (at page 37) and our Portfolio Budget Statement (at pages 147–148), which set out our objectives and targets related to providing efficient registry services, including the companies register, Business Names Register and professional registers.

**Table 3.4.1 Key results – efficient registration services**

Outcome	2017–18	2016–17
Total companies registered	2.6m	2.5m
New companies registered	244,510	249,394
Total business names registered	2.25m	2.19m
New business names registered	366,181	348,268
Calls and online inquiries responded to by our Customer Contact Centre	678,697	818,928
Registry lodgements	3.0m	2.9m
Percentage of registry lodgements online	93%	91%
Number of searches of ASIC registers	122.5m	90.6m

## Accessing registry information

In the last financial year, there were 122.5 million searches of ASIC’s registers, 99.9% of which were conducted online. Around 96% of searches of the ASIC registers are provided free of charge, consistent with the Government’s open data policy.

The companies and business names registers are our two largest registers. They contain details of more than 2.6 million companies and 2.25 million business names. These are also the two most searched registers.

In 2017–18, the cost of registering/renewing a business name was \$35 for one year and \$82 for three years.

## Analysis of key outcomes

Key outcomes achieved by ASIC’s registry in 2017–18 include:

- › *Modernisation of registers* – We upgraded our IT infrastructure to improve the stability and performance of our registry for customers and business partners. We have also been working on registry modernisation as part of the Government’s commitment to modernising its business registers in an evolving digital economy. **For more information on this initiative, see Section 1.5.**

- › *Quality recertification* – A commitment to quality underpins our registry activities. This year, we were re-certified under ISO 9001:2015 by Bureau Veritas, an external auditing agency. By meeting this external auditing objective, we demonstrated our strong customer focus, process improvement, and sound understanding of the value in documenting and standardising interactions.
- › *Increased online lodgements* – This year, we worked closely with our customers to increase their use of online lodgement of financial statements. Online lodgement assists customers in meeting their compliance obligations and ensures that the information contained in financial statements can be searched more quickly.
- › *International representation* – Rosanne Bell, Senior Executive Leader of ASIC Registry Services, was appointed President of the Corporate Registers Forum (CRF). The CRF is an association of corporate registries from more than 60 international jurisdictions. ASIC’s involvement with the CRF provides an opportunity to work collaboratively with international registries to strengthen cross-border ties and share expertise to improve corporate registries around the world.



- › *Liaison and information exchange* – ASIC held an annual liaison meeting with the New Zealand Companies Office, as well as exchanging information with and hosting various international regulators, benchmarking the efficiency and effectiveness of our registry.

The ASIC website is the most highly used inquiry channel for our registry. It provides comprehensive information on all registry activities. This year, we continued to simplify the most highly accessed webpages, expanded our web chat inquiry channel across more inquiry types, and increased our video content, publishing new videos, including guidance on ‘Closing your company’.

Almost 100% of all business name transactions were performed online through the various channels we provide. These channels include:

- › ASIC Connect – accessed directly through the ASIC website
- › ABR/ASIC joint registration service available from [abr.gov.au](http://abr.gov.au)
- › private service providers, which provide online registration services with ASIC
- › [business.gov.au](http://business.gov.au) – a government website administered by the Department of Industry. This provides access to a streamlined business registration service. This service was available in a ‘beta’ version from April 2017 and was formally released in June 2018.

**692,088**

TOTAL INQUIRIES ANSWERED IN 2017–18



**373,148**  
companies inquiries



**211,096**  
business names inquiries



**107,844**  
other inquiries



**122.5m**  
searches of ASIC registers



**2% (50,000)**  
increase in number of online lodgements

## Customer service through digital assistance

Our registry digital assistance team facilitated more than 12,000 calls across the year, assisting customers with transitioning from paper forms to online transactions and supporting existing customers in using online services – that is, helping to get customers online and keep them there.

2017–18 was the first full year of this team’s operation, and customers have provided positive feedback on their assistance efforts. Strategies such as this have contributed to an increase in online lodgement from 91% to 93%. The digital assistance team is a clear example of ASIC’s commitment to the delivery of efficient online registry services.

*‘The process was amazing. It was so helpful. I have never had such a helpful customer service officer.’*

*ASIC Registry customer*

In 2017–18, we worked on a range of fronts to combat these scams and raise awareness of the issue, including by:

- › posting alerts on the ASIC website and social media when a new scam is detected
- › publishing a media release advising customers to be wary of scammers targeting ASIC customers
- › preventing the spread of email scams by working with email providers and internet domain registrars
- › implementing a technical standard to help protect email senders and recipients from scam emails
- › providing guidance and support to customers through the Customer Contact Centre
- › collaborating with government agencies such as the ACCC, via its Scamwatch program, to multiply the reach of our messages related to scams, and the Australian Cyber Security Centre.

## Improving transparency

Economically significant proprietary companies must lodge financial reports with ASIC so that we can provide public access for users such as creditors and employees. This year, we obtained information from tax returns to assist us in identifying and contacting proprietary companies that appeared to meet the associated size criteria but had not lodged financial reports with ASIC.

We also established systems and processes to accept reports from the ATO related to significant global entities (SGEs) and make them accessible to the public. This is due to a new ATO requirement that SGEs (parts of groups with global revenue in excess of A\$1 billion) must lodge general purpose financial reports. The intention is to provide greater transparency that might assist in identifying tax minimisation by these entities.

## Deterring misconduct – scams affecting ASIC customers

During 2017–18, ASIC answered 21,000 inquiries about scams, and our dedicated webpage was visited more than 180,000 times.

Like many organisations, ASIC is working to manage the effects of scams targeting our customers. Scams pose a significant threat to the public, the business community and ASIC.

Typically scam emails, which look like genuine ASIC notifications, claim to be seeking the renewal of a business name or an annual review of a company. The emails ask customers to click a link or make a payment.

## 3.5 ASIC Service Charter results



The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. The table below sets out our performance against the key measures outlined in the Service Charter for the 2017–18 financial year.

**Table 3.5.1 ASIC Service Charter performance, 2017–18**

Service	Measure	Target	Result
<b>When you contact us</b>			
General telephone queries	We aim to answer telephone queries on the spot	80%	92.8%
General email queries	We aim to reply to email queries within 3 business days	90%	92.1%
<b>When you access our registers</b>			
Searching company, business name or other data online	We aim to ensure our online search service is available between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.6%
Lodging company, business name or other data online	We aim to ensure you can lodge registration forms and other information online between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.8%
<b>When you do business with us</b>			
Registering a company or business name online	We aim to register the company or business name within 1 business day of receiving a complete application	90%	99.2%
Registering a company via paper application	We aim to register the company within 2 business days of receiving a complete application	90%	98.6%
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within 7 business days	90%	100%
Updating company, business name or other ASIC register information online	For applications lodged online – enter critical information and status changes to company or business name registers within 1 business day	90%	99.2%
Updating company, business name or other ASIC register information via paper application	For paper applications lodged by mail – enter critical information and status changes to company or business name registers within 5 business days	90%	94.0%

Service	Measure	Target	Result
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	62% <sup>1</sup>
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	100%	100%
Applying for or varying an AFS licence <sup>2</sup>	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 74% Varied: 75%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: <sup>3</sup> 88% Varied: <sup>4</sup> 86%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 87% Varied: 90%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 93% Varied: 94%
Applying for relief	We aim to give an in-principle decision within 28 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues	70%	71%
	We aim to give an in-principle decision within 90 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues <sup>5</sup>	90%	87%
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	70%	72%
<b>When you have complaints about us</b>			
About ASIC officers, services or actions	We aim to acknowledge receipt of complaints within 3 working days of receipt. We aim to resolve a complaint within 28 days	70%	Resolved within 28 days: 96%

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

2 The Service Charter standards for AFS licences and credit licences was updated in November 2017 to reflect the fact that we are now targeting the making of decisions on applications within 150 days of receipt of a complete application in 70% of cases and 240 days in 90% of cases.

3 The decrease in applications finalised in 2017–18 is mainly a follow-on effect from the large number of limited AFS licence applications received at the end of 2015–16 which remained on hand at the start of 2016–17 and were finalised in that year. There was no similar pool of applications on hand at the start of 2017–18.

4 See footnote above.

5 This result includes applications where we did not initially receive all the information we needed to make a decision.

## 3.6 Banking Act, Life Insurance Act, unclaimed money and special accounts

ASIC reunites people with their unclaimed money, as we are responsible for the administration of unclaimed money from banking and deposit taking institutions and life insurance institutions. This is set out on Page 159 of ASIC's Portfolio Budget Statement 2017–18.

We fulfil this responsibility by maintaining 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. We process claims within 28 days of receiving all necessary claim documentation.

In 2017–18, ASIC received \$89.6 million in unclaimed money, this was more than the \$79 million we received in 2016–17. This was due to an unanticipated increase in lodgements from life insurance companies.

We paid out a total of \$68.3 million in claims in 2017–18, compared with \$ 82.3 million in the previous year. This considerable decrease was due to the fact that we did not conduct an unclaimed money media campaign in 2017–18. We paid claimants interest (\$3.4 million of the \$68.3 million) on unclaimed money from periods from 1 July 2013 onwards at a rate of 2.5% for 2013–14, 2.93% for 2014–15, 1.33% for 2015–16, 1.31% for 2016–17 and 2.13% for 2017–18.

**Table 3.6.1 Amount paid to owners of unclaimed money**

Claims by type	2017–18 (\$)			2016–17 (\$) <sup>1</sup>
	Principal	Interest	Total	
Company	35,039,506	1,309,134	36,348,640	32,675,335
Banking	26,182,348	1,926,589	28,108,937	42,865,801
Life insurance	3,380,284	228,802	3,609,086	6,418,460
Deregistered company trust money	224,983	n/a	244,983	325,024
<b>Total</b>	<b>64,827,121</b>	<b>3,464,525</b>	<b>68,311,645</b>	<b>82,284,619</b>

<sup>1</sup> Includes principal and interest.

