



1

ASIC's role

Chair's report	06
1.1 ASIC's role and responsibilities	08
1.2 ASIC's structure and management	11
1.3 Government priorities	19
1.4 Financial summary	29

Chair's report

On behalf of my fellow Commissioners, I am pleased to present this report outlining ASIC's work and achievements in 2019–20.

It has been an extraordinary year for global markets and for the financial system in Australia.

Australia faced significant challenges as a result of the COVID-19 pandemic and those challenges continue. As the nation's corporate, markets, financial services and consumer credit regulator, ASIC is committed to making a real difference in the way our economy and our community weather this difficult time.

In the period from March to June 2020, we responded rapidly and strategically to the challenges created by the COVID-19 pandemic, coordinating our responses with the Council of Financial Regulators Crisis Management Working Group.

We were focused on ensuring that the system, although under stress, continued to be strong and efficient. In March, we issued directions requiring large equity market participants to limit the number of trades they executed each day. In May, once we were satisfied that activity had stabilised, we revoked the directions. We provided relief to facilitate virtual shareholder meetings and extended the period for lodging financial reports.

We responded rapidly to the needs of companies to raise capital quickly by giving temporary relief to enable certain 'low doc' offers to be made to investors, even if they did not meet all the usual requirements. These initiatives assisted Australia's capital markets to remain

strong and efficient and resulted in listed companies raising over \$31 billion since the pandemic began.

We recalibrated our regulatory priorities to allow us and the entities we regulate to focus on the impact of the COVID-19 pandemic. The temporary changes we made to our priorities included the deferral of some activities and the redeployment of staff to address issues of immediate concern, including protecting vulnerable consumers, maintaining the integrity of markets, and supporting businesses.

Our work to address the impact of the COVID-19 pandemic was guided by five strategic priorities, published in June 2020. These priorities were:

- › protecting consumers from harm at a time of heightened vulnerability
- › maintaining financial system resilience and integrity
- › supporting Australian businesses to respond to the effects of the COVID-19 pandemic
- › continuing to identify, disrupt and deter the most harmful conduct, including through enforcement action
- › continuing to build our organisational capability in challenging times.

These priorities addressed what we saw as the greatest threats and harms in the pandemic environment, such as the vulnerability of consumers to unscrupulous conduct, the challenges to market integrity, and the pressures faced by businesses.

Importantly, the key functions of our normal day-to-day operations – including registry operations and services, receipt of whistleblower reports and breach and misconduct reports, and general contact points for industry – remained available to those who relied on them.

We postponed the ASIC Annual Forum, originally scheduled for March 2020, in order to ensure that we could deliver a high-quality event for domestic and international participants that includes some face to face interaction between attendees. We plan to hold the next ASIC Annual Forum in 2022.

From April to June 2020, we regularly published updated information about the timing of our key outputs over the coming months to help industry with planning and resource allocation, as part of the transition of the business community to a post-pandemic world.

To help Australian consumers and businesses make well-informed decisions in the COVID-19 pandemic environment, we continually updated our Moneysmart website to reflect the common financial decisions many consumers were navigating. Over a million consumers visited ASIC's Moneysmart website each month during the pandemic.

In addition to the impact of the COVID-19 pandemic, Australian businesses and consumers faced significant challenges as a result of the devastating bushfires that affected many parts of Australia in the summer of 2019–20. ASIC was one of many agencies that supported individuals and businesses affected by the bushfire crisis and its aftermath.

Importantly, across this year ASIC also continued the change program we began in 2018, including our ongoing work to

implement the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission).

This change program included:

- › continuing our accelerated enforcement strategy, led by the Office of Enforcement and underpinned by our 'Why not litigate?' operational discipline
- › continuing to implement our more intensive supervisory approaches, including close and continuous monitoring, and targeted reviews of corporate governance practices in large listed entities
- › strengthening supervision of the superannuation sector, as we work towards our expanded role as the primary conduct regulator in this sector
- › using the new regulatory powers and remedies given to us
- › supporting the Government's legislative reform agenda and implementing reforms as they are passed by Parliament.

We also continued to strengthen our capabilities to support our vision by enhancing our capability in data and technology, improving our strategic planning and communication, implementing systems to better record and report what we do, and making it easier for stakeholders to interact with us.



James Shipton
Chair

1.1 ASIC's role and responsibilities

ASIC is Australia's integrated corporate, markets, financial services and consumer credit regulator. ASIC is established under the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

Our vision

Our vision is for a fair, strong and efficient financial system for all Australians.

Our regulatory mission

To realise our vision, we will use all our regulatory tools to:

- › 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
- › help Australians to be in control of their financial lives.

Our registry mission

To realise our vision, we will provide efficient and accessible business registers that make it easier to do business.

Our legislative responsibilities

The ASIC Act states that ASIC has the function of monitoring and promoting market integrity and consumer protection in relation to the Australian financial system and the payments system.

It requires ASIC to strive to:

- › maintain, facilitate and improve the performance of the financial system and entities within it in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy
- › promote confident and informed participation by investors and consumers in the financial system
- › administer the law effectively and with minimal procedural requirements
- › receive, process and store – efficiently and quickly – the information given to us
- › make information about companies and other bodies available to the public as soon as practicable
- › take whatever action we can, and which is necessary, to enforce and give effect to the law.

We enforce the law and regulate companies, financial markets and financial services under the following key legislation:

- › ASIC Act
- › *Business Names Registration Act 2011*
- › *Corporations Act 2001* (Corporations Act)
- › *Insurance Contracts Act 1984*
- › *National Consumer Credit Protection Act 2009* (National Credit Act).

We also administer parts of the following legislation:

- › *Banking Act 1959*
- › *Life Insurance Act 1995*
- › *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- › *Retirement Savings Accounts Act 1997*
- › *Superannuation (Resolution of Complaints) Act 1993*
- › *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Our regulatory approach

In everything we do, we are guided by our vision of a fair, strong and efficient financial system for all Australians. To achieve our vision, we undertake a range of regulatory activities to:

- › 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
- › help Australians be in control of their financial lives.

Our regulatory toolkit includes supervision and surveillance, enforcement, financial capability work, industry engagement, guidance and input into law reform.

We use this toolkit across the industry sectors we regulate to identify and respond to threats and harms, and to achieve our vision.

For most of the issues in our remit, we use a combination of our regulatory tools to achieve outcomes for consumers and investors. This includes using new powers, such as the product intervention power, to address practices and products that may cause harm to consumers.

ASIC Corporate Plan

ASIC's Corporate Plan 2019–23 (Corporate Plan) explains how we use our strategic planning framework to achieve our vision and mission.

The framework guides the development of our priorities and actions. It is based on monitoring and analysis of our operating environment, identification of threats and behaviours that lead to harm (through our threats, harms and behaviours framework), and the prioritisation of those harms that need to be addressed.

Our strategic planning process supports how we plan our regulatory action.

Our Corporate Plan this year focused on addressing five key thematic drivers of harm to consumers and markets, through seven regulatory priorities.

The key drivers of harm were:

- › poor design and inappropriate sale of investment and protection products
- › inappropriate sale of credit products to consumers and limited access for small business
- › poor conduct in financial markets driven by lack of competition, structural challenges or conflicts of interest
- › poor governance (by boards, executives and investors), lack of professionalism, poor culture and lack of accountability
- › regulated entities are not deterred from misconduct by ASIC's regulatory action.

The seven regulatory priorities identified in our Corporate Plan were:

1. High deterrence enforcement action
2. Prioritising the recommendations and referrals from the Royal Commission
3. Delivering as conduct regulator for superannuation
4. Addressing harms in insurance
5. Improving governance and accountability
6. Protecting vulnerable consumers
7. Addressing poor financial advice outcomes.

In Chapters 2 and 3, we set out our achievements against the qualitative and quantitative measures identified in our Corporate Plan.

Interim Corporate Plan

In June 2020, we published the *ASIC Interim Corporate Plan 2020–21: Strategic priorities responding to the impact of the COVID-19 pandemic* (Interim Corporate Plan), with five priorities to tackle the challenges presented by the COVID-19 pandemic.

These short-term priorities were:

1. Protecting consumers from harm at a time of heightened vulnerability
2. Maintaining financial system resilience and stability
3. Supporting Australian businesses to respond to the effects of the COVID-19 pandemic
4. Continuing to identify, disrupt and deter the most harmful conduct, including through enforcement action
5. Continuing to build our organisational capacity in challenging times.

Key new activities that flowed from this plan included:

- › the establishment of dedicated cross-ASIC working groups on scams, false and misleading advertising, and unlicensed advice
- › expanding our markets supervision work to support the fair and orderly operation of markets and to ensure that investors are appropriately informed
- › providing relief in relation to capital raising, shareholder meetings, financial advice and the lodgement of financial reports
- › ensuring that there are measures in place to assist consumers who experience hardship, especially in relation to credit and insurance
- › facilitating access to effective advice when individuals are considering seeking early access to their superannuation.

Chapters 2 and 3 include more detail about the work we have done on the priorities identified in our Interim Corporate Plan.

1.2 ASIC's structure and management

ASIC governance

Strengthening governance and accountability measures is part of ASIC's strategic change program.

This year, ASIC implemented key reforms to our governance structure and decision-making processes in light of recommendations from the Royal Commission and the application of the executive accountability regime.

A new governance and accountability framework was established to ensure we act strategically, with integrity and effectively deliver on our statutory objectives through well-defined responsibilities, accountabilities and processes for the Commission, our Executive and various committees.

Under ASIC's Management Accountability Regime established in December 2019:

- › the Commission works collectively to make *strategic* and/or *significant* decisions for ASIC
- › Executive Directors report directly to ASIC's Chair and hold responsibility for the delivery of the strategy set by the Commission and day-to-day management of ASIC's work.

ASIC's governance and accountability structures are consistent with ASIC being an independent Commonwealth agency that is a statutory body corporate and reflect the legislative framework within which ASIC operates. ASIC's Chair, James Shipton, is the accountable authority under section 9A of the ASIC Act and held this position throughout the reporting period.

A key purpose of the governance framework is to enable the Commission to spend more time focusing on and setting ASIC's strategy.

To assist the Commission in discharging its functions and exercising its powers, it has established the Committee structure set out on pages 16–17.

Further information about ASIC's governance and the role of the Commission is set out in the Appendices.

ASIC organisational structure

Commission				
James Shipton Chair				
Cathie Armour Commissioner	Karen Chester Deputy Chair	Daniel Crennan QC Deputy Chair	Sean Hughes Commissioner	Danielle Press Commissioner

Office of Enforcement					
Supervision Group	Financial Services	Markets	Wealth Management	Financial Services Enforcement	Markets Enforcement
Governance Close & Continuous Monitoring	Credit, Retail Banking & Payments Insurers	Corporations Financial Reporting & Audit Insolvency Practitioners Market Infrastructure Market Supervision	Financial Advisers Investment Managers Superannuation	Financial Services Enforcement Wealth Management Enforcement – Major Financial Institutions Wealth Management Enforcement	Corporations & Corporate Governance Enforcement WA & Criminal Intelligence Unit Markets Enforcement

Assessment & Intelligence	Strategy	Chief Legal Office	Operations	Commission Specialist Teams
Licensing Misconduct & Breach Reporting Small Business Engagement & Compliance Office of the Whistleblower	Financial Capability International Strategic Intelligence Strategic Policy Behavioural Research & Policy Unit	Administrative Law Commission Counsel Delegates Panel Special Counsel	Corporate Services Finance Information Technology Chief Data & Analytics Officer Specialist Services	Corporate Affairs Internal Audit Risk People & Development

Registry			
Communication & Engagement Governance & Strategy	Legal Program Delivery	Service Delivery Service Delivery Support	Registry Development Workload, Insight & Reporting

ASIC Commissioners

James Shipton

Chair, BA, LLB (Hons)

James Shipton commenced as ASIC Chair on 1 February 2018.



Daniel Crennan QC

BA, LLB (Hons)

Daniel Crennan commenced as ASIC Deputy Chair on 16 July 2018.



Karen Chester

BEC (Hons)

Karen Chester commenced as ASIC Deputy Chair on 29 January 2019.



Cathie Armour

BEC, LLB (Hons), LLM

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013.



Danielle Press

BEC (Hons)

Danielle Press commenced as an ASIC Commissioner on 17 September 2018.



Sean Hughes

BA, LLB (Hons), LLM

Sean Hughes commenced as an ASIC Commissioner on 1 December 2018.



John Price

BA, LLB (Hons)

John Price ceased his role as an ASIC Commissioner on 20 June 2020.



He commenced as an ASIC Commissioner on 21 March 2012.

ASIC Executive Committee



Executive Director Registry

Rosanne Bell
BCom



Executive Director Strategy

Greg Kirk
BA, LLB (Hons)



Executive Director Wealth Management

Joanna Bird
BA, LLB (Hons), BCL (Hons)



Chief Supervisory Officer Supervision Group

Louise Macaulay
BA (Hons), LLB, LLM



Executive Director Markets Enforcement

Sharon Concisom
LLB (Hons)



Executive Director Financial Services Enforcement

Tim Mullaly
LLB, BBus



Executive Director Assessment and Intelligence

Warren Day
BBus (Acc), LLB (Hons),
MProfAcc, LLM, MBus
(InfoTech)



Executive Director Financial Services

Paul Newson
BA, LLB, MLS, LLM



**Chief Supervisory
Officer
Supervision Group**

Oliver Harvey
BA, LLB, MPhil



General Counsel

Chris Savundra
BCom, LLB (Hons), BCL
(Distinction)



**Executive Director
Operations (Acting)**

Emily Hodgson
BCom

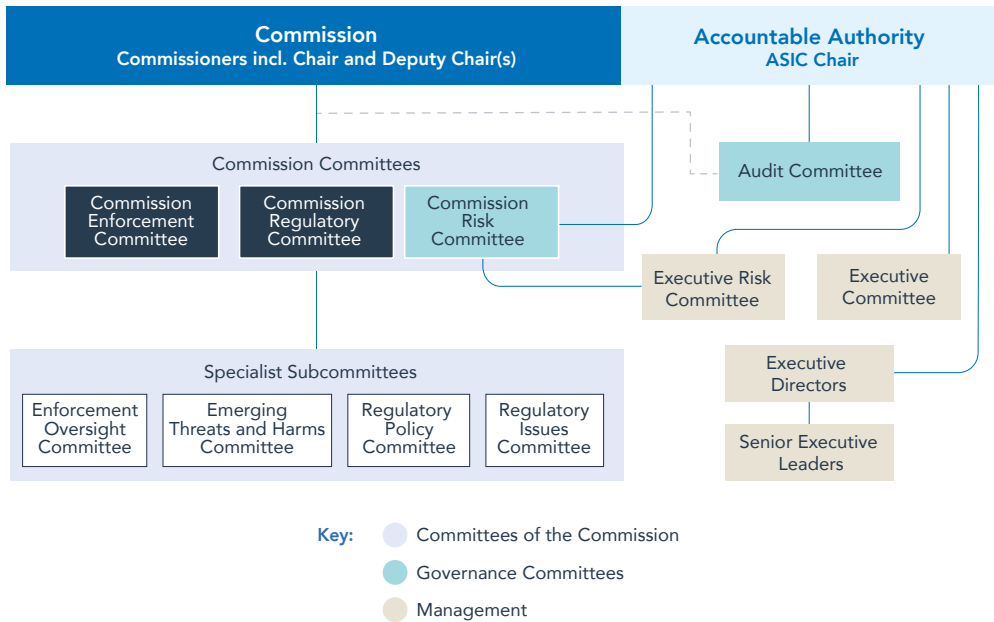


**Executive Director
Markets**

Greg Yanco
BBus (Acc), FCPA, MSAFAA

The Commission has established a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles.

ASIC governance structure



Commission meetings

Commission meetings are convened by ASIC’s Chair under section 103 of the ASIC Act. They take place twice a month and may be convened more regularly as required. The Commission also meets as a team on a weekly basis to provide early direction or guidance on issues, or to consider urgent matters.

Commission committees

These are core decision-making committees that include all Commissioners and relevant Executive Directors and senior executives.

There are three Commission committees:

- › **Commission Enforcement Committee:** Chaired by Deputy Chair Daniel Crennan QC, this committee makes strategic and/or significant enforcement decisions, including in relation to the conduct, strategy and focus of major matters and enforcement policies, and oversees ASIC’s enforcement and litigation work.
- › **Commission Regulatory Committee:** Chaired by Deputy Chair Karen Chester, this committee makes strategic and/or significant decisions relating to regulatory policy, law reform, applications for relief, policy frameworks and reports, and oversees ASIC’s regulatory activities and functions.

- › **Commission Risk Committee:** Chaired by Deputy Chair Karen Chester, this committee considers all types of risk of a strategic and/or significant nature that affect ASIC, its regulated population, Australia’s financial system and Australian consumers. It is responsible for setting and monitoring ASIC’s Risk Management Framework and ASIC’s risk appetite.

Specialist subcommittees

These subcommittees support the Commission committees and provide guidance to the executive group.

There are four subcommittees:

- › **Enforcement Oversight Committee:** Assists the Commission with oversight of the Office of Enforcement and the execution of ASIC’s enforcement strategy.
- › **Emerging Threats and Harms Committee:** Identifies and provides advice on the management of emerging and strategic risks in ASIC’s regulated population or areas that it regulates.
- › **Regulatory Policy Committee:** Considers submissions recommending new or revised regulatory policy, law reform and novel applications for relief from the laws administered by ASIC.
- › **Regulatory Issues Committee:** Considers matters generated by the surveillance and supervisory work undertaken by ASIC’s regulatory teams.

Governance committees

Governance committees assist the Commission and the accountable authority in undertaking their governance roles. There are two such committees:

- › **Commission Risk Committee:** As set out above.
- › **Audit Committee:** Operates independently of management and assists the Chair to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. It also provides independent assurance to the Chair and the Commission on ASIC’s financial and performance reporting, risk oversight and management, and systems of internal control.

Management committees

The management committees are executive-level committees responsible for undertaking and overseeing the day-to-day management of ASIC. There are two such committees:

- › **Executive Committee:** Responsible for the day-to-day operation and management of ASIC; implementing and delivering ASIC’s policies, plans and priorities; and leading the implementation of ASIC’s business plans.
- › **Executive Risk Committee:** Responsible for identifying and monitoring significant risks to ASIC, maintaining risk management frameworks and policies, and implementing and overseeing audit/assurance processes and risk mitigation strategies.

ASIC Regional Commissioners

ASIC's Regional Commissioners are our local ambassadors, promoting ASIC initiatives and engaging with regional communities through regular liaison.

Australian Capital Territory

Laura Higgins

BEd, BA (Hons)

- › Commenced as Acting Regional Commissioner in May 2019.

South Australia

Melissa Smith

LLB (Hons), BA (Juris), GDLP

- › Commenced as Regional Commissioner in June 2015.

New South Wales

Greg Yanco

BBus (Acc), CPA, MSAFAA

- › Commenced as Acting Regional Commissioner in December 2019.

Tasmania

Chris Green

LLB, GDipBA (Exec)

- › Commenced as Regional Commissioner in November 2013.

Northern Territory

Duncan Poulson

BA, LLB

- › Commenced as Regional Commissioner in February 2006.

Victoria

Warren Day

BBus (Acc), LLB (Hons), MProfAcc, LLM, MBus (InfoTech)

- › Commenced as Regional Commissioner in October 2008.

Queensland

Amanda Zeller

BCom, CPA

- › Commenced as Acting Regional Commissioner in May 2019.

Western Australia

Natalie Dürr

LLB

- › Commenced as Regional Commissioner in July 2017.

1.3 Government priorities

Response to the COVID-19 pandemic

ASIC recognised the extraordinary demands that the COVID-19 pandemic placed on the community and worked with the Government and the Council of Financial Regulators to support businesses and individuals through the challenges they were experiencing.

We acknowledged that participants in the Australian financial services sector were under enormous strain due to the effects of the COVID-19 pandemic and were taking special measures to support customers who are adversely affected.

We therefore limited the regulatory activity that entities were required to respond to as much as possible and worked with the financial services industry to identify areas where we could provide support.

On 23 March 2020, we announced a recalibration of our regulatory priorities to allow us and the entities we regulate to focus on the impact of the COVID-19 pandemic. These temporary changes included the deferral of some activities and the redeployment of staff to address issues of immediate concern, including protecting vulnerable consumers, maintaining the integrity of markets, and supporting businesses.

Our change in focus gave priority to matters where there was the risk of significant consumer harm, serious breaches of the law, and risks to market integrity, as well as time-critical matters.

Key business-as-usual functions were maintained, including registry operations and services; receipt of whistleblower, breach and misconduct reports; and general contact points for industry.

On 14 April 2020, we provided further details of how we had reprioritised our work due to the impact of the pandemic, including consultations, regulatory reports and reviews. While onsite supervisory work was not possible, we continued to monitor firms remotely, including through close working and information-sharing arrangements with the Australian Prudential Regulation Authority (APRA).

We also:

- › stepped up our markets supervision work to support the fair and orderly operation of markets, to ensure that investors were appropriately informed, and to protect against manipulation and abuse
- › heightened our support for consumers who may be vulnerable to scams, receive poor advice, or need assistance in finding information and support should they fall into hardship
- › took other action needed to support firms, such as facilitating the timely completion of capital raisings and other urgent transactions; providing regulatory relief, where appropriate; and identifying measures to support small business.

Despite the challenges posed by the COVID-19 pandemic, we made it clear that we expected entities to treat customers fairly, avoid adding further financial harm or burden to consumers, report material breaches of the law, maintain records of the services they provide, and ensure appropriate supervision of their activities, including where staff are working remotely.

On 11 June 2020, we published five short-term strategic priorities that guided our ongoing work to address the impact of the COVID-19 pandemic.

These priorities, and some of our key actions under each priority, were as follows.

Protecting consumers from harm at a time of heightened vulnerability

- › Acting against scams, including cyber-enabled ones, in a coordinated way.
- › Helping to ensure that firms offered appropriate support and services to consumers, hardship assistance was provided fairly, and insurance claims were processed efficiently and in good faith.
- › Proactively engaging with industry to ensure that fair business standards were maintained.
- › Providing consumers with information to help them manage their finances through this crisis and ensuring that information provided by other entities was accurate, particularly around accessing early release of superannuation.

Maintaining financial system resilience and stability

- › Responding promptly to market dislocation or disorder.
- › Supervising market infrastructure providers and participants to ensure the smooth and continuous operation of markets, including monitoring their cyber resilience.
- › Requiring companies to keep the market informed about the impacts of the COVID-19 pandemic on their business.
- › Supporting the efficient administration of companies in insolvency.
- › Enabling the sound and fair operation of managed investments, including liquidity management and winding up, where necessary.

Supporting Australian businesses to respond to the effects of the pandemic

- › Facilitating timely completion of recapitalisations and other urgent transactions.
- › Operating our business registers and associated services efficiently and without interruption to access.
- › Providing regulatory relief, where appropriate, to help Australian companies do business and continue to provide services to customers.
- › Suspending some activities that were not time-critical, including consultations, regulatory reports and reviews.
- › Participating as a key member agency of the wider Australian Government response to the pandemic.

Continuing to identify, disrupt and take enforcement action against the most harmful conduct

- › Continuing preparations for important future reforms and Government-supported reviews to address consumer harms.
- › Working with financial firms to further accelerate the payment of remediation to consumers.

Continuing to build our organisational capability in challenging times

- › Putting systems in place to continue to operate effectively while our staff were required to work remotely.
- › Effectively mobilising resources around our organisation as priorities changed and some of our work was suspended.
- › Coordinating quickly and effectively with domestic and international regulators to respond to crisis impacts as they developed.
- › Continuing to build longer term capacity for the future, including in data, communications and the responsiveness of our organisation.

We regularly published updated information about the timing of key outputs to assist industry with planning and resource allocation as part of the transition of the business community to a post-pandemic world.

This included details of changes to our work implementing the recommendations of the Royal Commission, in light of changes to the parliamentary timetable and Government decisions on those measures.

We also warned consumers to be alert to scammers who tried to take advantage of the COVID-19 pandemic environment. The number of investment scam reports from Australian consumers and investors rose during the COVID-19 pandemic, especially related to fake crypto-assets and offers to help people access superannuation or high-return investment opportunities. Reports of misconduct received by ASIC from March to May 2020 were up 20% compared to the same period last year. We directed consumers to tools and resources to help them stay safe online and protect themselves from misinformation.

Our responses to the impact of the pandemic are found on the [COVID-19 regulatory information](#) page on our website. We also published a weekly tracker of regulatory document updates, including links to new and updated regulatory guides, information sheets, consultation papers and legislative instruments.

To help Australian consumers and businesses make well-informed decisions in the COVID-19 pandemic environment, we continually updated our [Moneysmart COVID-19 hub](#) to reflect the common financial decisions many consumers were navigating. Over a million consumers visited ASIC's Moneysmart website each month during the pandemic.

Further information about some of our specific initiatives and responses to the impact of the pandemic is set out in Chapter 3.

Supporting Government legislative reform

Throughout the year, ASIC provided ongoing advice and input to support the Government's law reform agenda.

We are implementing reforms once they are passed by Parliament, including through regulatory guidance.

Implementation of Royal Commission recommendations

We have remained focused on a range of initiatives we began before or in response to the Royal Commission's recommendations and we are taking action on all Royal Commission recommendations directed at ASIC.

The Royal Commission made 76 recommendations. Over 40 of those require legislative reform to implement, either by amendment to primary legislation or by the making of regulations. The Government made a further 18 commitments in its response to the Royal Commission to address issues raised in the Royal Commission's final report, a majority of which also require legislation to implement.

Across the year, the Government released numerous exposure draft Bills that addressed the Government's responses to the Royal Commission final report.

Where recommendations were directed at ASIC or where ASIC could take the initiative, we have acted as a matter of priority. We are expediting the finalisation of our Royal Commission-related enforcement work and we continue to provide advice and input to support the program of law reform agreed by the Government in its response to the Royal Commission's recommendations.

This includes contributing to Government consultation with stakeholders, focusing on implementation arrangements for new laws as they commence, developing and consulting on supporting legislative instruments, and issuing regulatory guidance to meet industry demand.

We have released a number of consultation papers and guidance, including:

- › RG 273 – regulatory guidance about the new best interests duty for mortgage brokers, released 24 June 2020
- › CP 329 – consulting on draft legislative instruments implementing aspects of reforms relating to advice fee consents and independence disclosure, and seeking feedback on our proposed approach to guidance on ongoing fee arrangements, released 10 March 2020
- › CP 325 – consulting on draft guidance about the new design and distribution obligations, which require issuers and distributors to design, market and distribute products that meet consumer needs, released 19 December 2019

- › RG 272 – regulatory guidance about our administration of the product intervention power, including how we use the power and how we make a product intervention order, released 17 June 2020.

On 8 May 2020, the Government announced that, in light of the impact of the COVID-19 pandemic:

- › the measures that the Government had indicated would be introduced into Parliament by 30 June 2020 would be introduced by December 2020
- › the measures originally scheduled for introduction by December 2020 would be introduced by 30 June 2021
- › the commencement dates contained in all exposure draft legislation issued before the pandemic would be extended by an additional six months.

This deferral was intended to allow financial services entities to focus their attention and resources on their COVID-19 pandemic responses and plan for the post COVID-19 pandemic economic recovery.

Immediately after the Government's announcement, ASIC announced the deferral of commencement of the mortgage broker best interests duty and remuneration reforms to 1 January 2021, and the design and distribution obligations until 5 October 2021, six months after their original commencement dates.

On 11 June 2020, ASIC published information about the proposed timing of consultation and the release of regulatory guidance in relation to legislation implementing the recommendations of the Royal Commission. We will issue further legislative instruments and guidance once Bills implementing various recommendations have been introduced into Parliament. We will continue to communicate with industry in relation to the timing of guidance.

Table 1.3.1 sets out action taken by ASIC in relation to legislative reforms that have already been introduced or are scheduled to be introduced in late 2020.

Table 1.3.2 sets out action taken by ASIC in relation to a number of Royal Commission measures that do not require legislative reform.

Table 1.3.1 Measures requiring legislative reform

For those measures involving law reform, ASIC has issued regulatory guidance or consulted on draft legislative instruments relating to four recommendations, and has taken a number of interim actions ahead of the introduction of legislation as set out in the table below.

Title	Commencement	Action taken by ASIC
Measures already introduced		
ASIC enforcement review measures: search warrants, telecommunications intercept material, licensing and banning powers (<i>Additional commitment – Recommendation 7.2</i>)	Commenced 17 February 2020	On 9 April 2020, ASIC issued updates to INFO 240 to reflect additional information required by ASIC when assessing AFS licence applications, including in relation to the 'fit and proper person' test in section 913BA of the Corporations Act.
Removal of funeral expenses exemption (<i>Recommendation 4.2</i>)	Commenced 1 April 2020	On 31 March 2020, ASIC released INFO 243 <i>Licensing requirements for providers of funeral expenses facilities</i> .
Mortgage broker best interests duty and remuneration (<i>Recommendations 1.2 and 1.3</i>)	Commences 1 January 2021	On 24 June 2020, ASIC released RG 273 <i>Mortgage brokers: Best interests duty</i> . On 8 May 2020, we announced the deferral of this measure, following the Government announcement of deferral of Royal Commission measures due to the COVID-19 pandemic.
Ending grandfathered commissions for financial advice (<i>Recommendation 2.4</i>)	Commences 1 January 2021	ASIC communicated to product issuers that we expect them to turn off grandfathered commission arrangements as soon as possible and no later than 1 January 2021. All rebates and/or reductions in fees should be passed on to consumers as quickly as possible. As a result of the COVID-19 pandemic, we deferred collection of industry data about grandfathering (pursuant to the Treasurer's Direction of 22 February 2019) until further notice.

Title	Commencement	Action taken by ASIC
Unfair contract terms in insurance (<i>Recommendation 4.7</i>)	Commences 5 April 2021	On 29 May 2020, ASIC publicly emphasised its expectation that insurance firms should be preparing to extend unfair contract terms prohibitions to insurance contracts, in the context of the Federal Court declaring several terms in small business contracts used by Bendigo and Adelaide Bank Limited to be unfair.
Product design and distribution obligations (<i>non-Royal Commission measure</i>)	Commences 5 October 2021	On 19 December 2019, ASIC released draft guidance on the product design and distribution obligations for consultation. On 8 May 2020, we announced the deferral of this measure, following the Government announcement of deferral of Royal Commission measures due to the COVID-19 pandemic.

Measures scheduled for introduction in 2020

Deferred sales model for add-on insurance (<i>Recommendation 4.3</i>)	12 months after Royal Assent	On 1 October 2019, ASIC released Consultation Paper 324, setting out a proposal to use the product intervention power to introduce a deferred sales model for the sale of add-on insurance and warranties by car yards. On 5 August 2020, ASIC consulted on an updated version of the proposed order. The deferred sales model and additional obligations in the draft order are tailored to the unique risks consumers experience when offered these products and complement the proposed industry-wide deferred sales model for add-on insurance to be implemented as part of the Government's response to the Royal Commission.
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Title	Commencement	Action taken by ASIC
No hawking of superannuation or insurance products (<i>Recommendations 3.4 and 4.1</i>)	Later of 1 January 2021 or Royal Assent	On 13 January 2020, ASIC used its modification power to implement a ban on unsolicited 'cold call' telephone sales of direct life insurance and consumer credit insurance. The ban is consistent with recommendations made by the Royal Commission and provides protections to consumers that complement broader legislative reform by the Government.
Superannuation regulator roles: Adjustment of APRA's and ASIC's roles in regulating superannuation, general principles for co-regulation, ASIC as conduct regulator of superannuation, APRA to retain superannuation regulatory functions (<i>Recommendations 3.8, 6.3, 6.4 and 6.5</i>)	Later of 1 January 2021 or Royal Assent	On 14 February 2020, ASIC and APRA issued a joint letter to superannuation trustees about how regulatory oversight will operate under the proposed reforms.
Annual renewal and payment for financial advice (<i>Recommendation 2.1</i>)	Later of 1 January 2021 or Royal Assent	On 10 March 2020, ASIC consulted on our proposed approach to implementing aspects of Recommendations 2.1, 2.2 and 3.3 relating to advice fee consents and independence disclosure.
Disclosure of lack of independence of financial advisers (<i>Recommendation 2.2</i>)	Later of 1 January 2021 or Royal Assent	On 10 March 2020, ASIC consulted on our proposed approach to implementing aspects of Recommendations 2.1, 2.2 and 3.3 relating to advice fee consents and independence disclosure.
Limitations on deducting advice fees from choice accounts (<i>Recommendation 3.3</i>)	Later of 1 January 2021 or Royal Assent	On 10 March 2020, ASIC consulted on our proposed approach to implementing aspects of Recommendations 2.1, 2.2 and 3.3 relating to advice fee consents and independence disclosure.

Table 1.3.2 Non-legislative measures

ASIC has either completed or taken action in relation to the following recommendations of the Royal Commission that do not require legislative reform.

Title	Status	Action taken by ASIC
ASIC's approach to enforcement (<i>Recommendation 6.2</i>)	Completed	On 1 July 2019, ASIC established the Office of Enforcement to strengthen the governance and effectiveness of ASIC's enforcement work.
APRA–ASIC cooperation memorandum (<i>Recommendation 6.10</i>)	Completed	On 29 November 2019, APRA and ASIC published an updated memorandum of understanding.
Application of accountability regime to regulators (<i>Recommendation 6.12</i>)	Completed	On 19 December 2019, ASIC published its Management Accountability Regime.
Amendments to the Banking Code (<i>Recommendations 1.8, 1.10, 1.13 and 1.16</i>)	Ongoing	In December 2019, ASIC approved an updated version of the Banking Code, which commenced on 1 March 2020. On 25 June 2020, we approved a variation of the March 2020 Code, proposed by the Australian Banking Association due to the impact of the COVID-19 pandemic.
Life insurance commissions review (<i>Recommendation 2.5</i>)	Ongoing	Due to the COVID-19 pandemic, ASIC deferred collection of life insurance advice data from licensees until the second half of 2020. We also gave insurers more time to respond to earlier requests and deferred collection of first-half 2020 data to 2021.

APRA–ASIC cooperation

ASIC and APRA have a strong, open and collaborative relationship and regularly consult and engage on matters of shared interest.

The Royal Commission recommended that ASIC and APRA prepare and maintain a joint memorandum setting out how they intend to comply with the proposed statutory obligation to cooperate.

On 29 November 2019, APRA and ASIC released a revised **memorandum of understanding (MOU)**. The MOU facilitates more timely supervision, investigations and enforcement action and deeper cooperation on policy matters and internal capabilities.

It also supports additional measures to increase engagement between APRA and ASIC, including regular meetings of ASIC Commissioners and APRA Members, and working together on areas of common interest, including data, thematic reviews, governance and accountability.

Under the framework established by the revised MOU, APRA and ASIC are using dedicated cross-agency working groups to progress work in a number of areas of shared interest, including superannuation, enhanced supervision, corporate governance and culture, and policy considerations relating to the proposed Financial Accountability Regime.

The new structure has allowed ASIC and APRA to work together to consider the near and longer term impacts on jointly regulated industry sectors arising from the COVID-19 pandemic.

ASIC continues to work with APRA to ensure that arrangements are in place to give effect to the commitments in the MOU. This includes reviewing processes and documentation relating to cooperation and information sharing and providing guidance to staff.

ASIC and APRA are also working together to put in place systems and processes required to implement legislation creating a statutory obligation to cooperate and share information, due to be introduced into Parliament by the end of 2020.

1.4 Financial summary

Outcomes

Parliament funds ASIC to achieve the outcome 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.

Revenue for the Commonwealth

In 2019–20, ASIC raised \$1,358 million for the Commonwealth in fees, charges and supervisory cost recovery levies, an increase of 7% from the 2018–19 year.

Revenue, appropriations and expenditure

In 2019–20, ASIC received approximately \$403 million in appropriation revenue from the Government, including \$41 million for the Enforcement Special Account (ESA), representing a \$29 million or 8% increase compared with 2018–19.

ASIC received approximately \$18 million of own-source revenue,¹ which is \$7 million higher than the previous year. The increase in own-source revenue relates mainly to higher court costs recoveries relating to ESA matters.

The increase in total expenses is consistent with the increase in appropriation and own-source revenues, plus additional expenditure on ESA matters associated with accelerated ESA enforcement actions.

The increase in the 2019–20 deficit result is mainly attributable to the additional expenditure on ESA matters associated with accelerated enforcement actions, which was funded from available ESA accumulated cash reserves.

¹ Revenue generated and retained by ASIC, including court costs recovered, royalties and other sundry income.

Table 1.4.1 Revenue, appropriations and expenditure

	2019–20 (\$'000s)	2018–19 (\$'000s)	Change (\$'000s)	Percentage change
Revenues from Government (incl. ESA)	403,261	374,313	28,948	8%
Own-source revenue	18,060	11,443	6,617	58%
Total revenue	421,321	385,756	35,565	9%
Total expenses (incl. depreciation and amortisation, net of gains)	489,507	431,133	58,374	14%
Surplus/(Deficit)	(68,186)	(45,377)	(22,809)	50%

Table 1.4.2 ASIC's use of taxpayers' money for outcomes approved by Parliament

	2019–20	2018–19
Operating expenses (incl. depreciation and amortisation, net of gains)		
Total expenses (net of gains)	\$490m	\$431m
Annual change on previous year	+14%	+8%
Fees and charges (incl. industry funding) raised for the Commonwealth		
Total	\$1,358m	\$1,273m
Annual change on previous year	+7%	+5%