ASIC

Australian Securities & Investments Commission

ASIC

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2022–23

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Australian Securities and Investments Commission

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13 October 2023

The Hon. Jim Chalmers, MP
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Treasurer,

I am pleased to present the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2023.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001*, section 46 of the *Public Governance, Performance and Accountability Act 2013*, the Public Governance, Performance and Accountability Rule 2014 and Resource Management Guide No. 135 *Annual reports for non-corporate Commonwealth entities* and Resource Management Guide No. 128 *Regulator performance*, published by the Department of Finance.

Yours faithfully,

Joseph Longo
Chair

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1

Introduction

Chair's report

I am pleased to present ASIC's annual report for 2022–23.

In a year marked by continued economic and technological change and geo-political uncertainty, ASIC has maintained confidence and integrity in Australia's financial system.

We have done this by focusing sharply on improving outcomes for Australian consumers, businesses and investors, and proactively targeting misconduct.

We have made good progress to deliver on our strategic priorities. This includes launching our first enforcement action for alleged greenwashing and continuing to disrupt predatory conduct aimed at vulnerable small businesses and consumers, including First Nations people.

Enforcing the law and taking action against misconduct

Combined with our regulatory and surveillance work, our enforcement actions over the past year sent a strong message of deterrence to the market.

In the 12 months to June 2023, we actively litigated and sought significant penalties to address misconduct. We commenced more than 130 investigations, obtained 35 criminal convictions, and our actions have led to almost $190 million in civil penalties and fines imposed by the courts.

We announced our enforcement priorities in November last year to help industry and our stakeholders better understand where we direct our enforcement resources and expertise. While we cannot take every matter to court, we ensure our finite resources are used to maximum effect and take action in the public interest.

There are a significant number of ongoing investigations and surveillance projects that we will report on in the year ahead.

Key outcomes in 2022–23

Sustainable finance

Sustainable finance practices continue to rapidly evolve and transform markets worldwide, driving the biggest changes to financial reporting and disclosure standards in a generation.

The Australian Government is proposing to introduce climate-related financial disclosure requirements as part of its broader sustainable finance agenda, and ASIC is playing an active leading role in supporting this change.

We are working closely with regulators across jurisdictions to ensure our domestic approach reflects global best practice.

At the same time, we are thinking critically about ASIC's medium- to long-term approach to sustainable finance, to ensure we remain well-placed to respond to developments efficiently and effectively.

In October 2022, we launched our first action against alleged greenwashing conduct and took targeted enforcement action where entities were falsely promoting their sustainability credentials. To date, we have issued more than 20 infringement notices to a range of entities in response to concerns identified in their marketing and promotional content.

Product design and distribution

ASIC has been firmly focused on reducing the risk of harm to consumers of financial, investment, credit and credit-like products, caused by poor product design and distribution. We used our design and distribution obligations stop order powers for the first time in July 2022. The obligations require clear consideration of the objectives, financial situation and needs of consumers throughout the life cycle of products and are critical in urging firms to be proactive about positive consumer outcomes.

We issued close to 80 interim stop orders during the year.

Our design and distribution obligations stop order powers have evolved as a 'go-to regulatory tool' for ASIC to quickly disrupt instances of poor consumer outcomes across financial services sectors and the market.

Directors' duties and disclosure obligations

Taking action against directors and CEOs who fail to uphold their duties continues to be another priority for ASIC. For example, we commenced court action against 11 current and former directors and officers of Star Casino, as well as GetSwift Limited and its directors, for alleged breaches of their directors' duties.

These cases highlight the requirement for companies and directors to operate with the diligence and transparency the law requires and to meet the expectations of shareholders, regulators and the public.

Cyber resilience

Cyber-attacks can seriously impact the integrity and efficiency of global markets. ASIC's work to drive good cyber-risk and operational resilience practices included our Cyber Pulse Survey launched in June 2023. It is one of the largest conducted into Australia's cyber resilience. The survey helps firms measure and compare their current cyber security and controls, governance arrangements, and incident preparedness. Later this year, we will publish a report with key findings to help industry uplift cyber resilience.

Scam management practices

ASIC remains committed to addressing digitally enabled misconduct, including scams. We used a range of innovative, data-driven approaches to intervene, disrupt and deter fraudulent behaviour and minimise losses for consumers.

In April 2023, we released a landmark report examining the approaches taken by the major banks to prevent, detect and respond to scams. Our analysis found that scam losses for major bank customers exceeded $550 million in the past year and impacted more than 31,700 customers, highlighting the need for financial institutions to evolve their scam management practices.

We will continue to work closely with financial institutions to drive better outcomes for their customers and ensure transparent policies are in place relating to liability, and reimbursing and compensating customers.

ASX and CHESS replacement

Following the ASX's announcement that it would pause the CHESS Replacement Project in November 2022, we worked closely with the Reserve Bank of Australia to ensure the ASX's program and management framework is fit for purpose and shows a clear understanding of expectations that it will successfully deliver programs of change to Australia's market infrastructure.

There have been many developments in this space, including the establishment of a new advisory group for ASX Clear and ASX Settlement on strategic clearing and settlement issues, following a roundtable hosted by ASIC.

A key focus for ASIC is to ensure genuine collaboration between ASX, the advisory group and industry to achieve the best outcome for the market, listed companies and investors.

Looking ahead

One of my primary objectives as Chair is to transform ASIC into a leading digitally enabled and data-informed regulator and law enforcement agency.

Investment in advanced technology is critical for ASIC to process and assess the significant volumes of data we receive daily, and to drive more efficient, proportionate and targeted regulatory action.

In 2022–23, we planned and consulted internally on the best structure for ASIC to achieve its strategic and operational objectives.

Our new structure became operational on 3 July 2023. It is focused on efficient prioritisation of enforcement and regulatory issues and improving operational flexibility to respond to emerging risks and harms in the financial system and markets.

Commissioner appointments

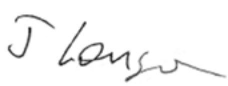
In August 2023, the Treasurer announced the appointment of three new Commissioners – Kate O'Rourke, Alan Kirkland and Simone Constant. Kate, Simone and Alan each have extensive experience in areas relevant to ASIC's strategic priorities, and I look forward to the contributions they will make.

On behalf of everyone at ASIC, I would like to say a warm thank you to former Commissioners Danielle Press and Sean Hughes for their outstanding contributions.

Our enduring commitments

As you read through this report, two themes emerge: first, our dedication to working with our stakeholders and financial industry organisations to improve conduct and strengthen trust in the system; and second, our commitment to enforcing and administering the law to best effect.

Our enduring commitment to driving positive outcomes for consumers and investors and ensuring the integrity of Australia's financial system will continue to motivate us in the year ahead.



Joseph Longo
Chair

1.1 ASIC's role and responsibilities

ASIC is Australia's integrated corporate, markets, financial services and consumer credit regulator. ASIC was 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 purpose

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 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 that ASIC must 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 of 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 we receive
- 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:

- the 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

A fair, strong and efficient financial system is fundamental for every individual and business in Australia, and Australia's reputation as a safe and attractive place to invest. ASIC performs a crucial role in maintaining Australia's position as having one of the most stable and successful financial systems in the world.

We take a targeted, risk-based and flexible approach to our regulation and supervision role, setting strategic priorities that aim to change behaviours to drive good consumer and investor outcomes, and promote strong and innovative development of the financial system.

Our regulation and supervision functions to detect, deter and act against misconduct, and maintain the trust and integrity in the financial system that is critical for all Australians, are closely related to the work of our enforcement and compliance teams.

Our work as a regulator is focused on ensuring our financial markets work well for individuals, businesses and the Australian economy as a whole.

ASIC Corporate Plan

Our *Corporate Plan 2022–26 (Focus 2022–23)* (Corporate Plan) outlines our regulatory priorities and the actions we plan to take over the next four years. These are based on monitoring and analysis of our operating environment, identification of threats and behaviours that lead to harm, and prioritisation of harms that need to be addressed.

This annual report reports against our 2022–23 Corporate Plan. Our *Corporate Plan 2023–27 (Focus 2023–24)* was published on 28 August 2023.

See pages 19–20 for more details on our Corporate Plan priorities.

Chapter 2 sets out our achievements against the qualitative and quantitative measures identified in our Corporate Plan.

1.2 ASIC's structure

ASIC's organisational structure

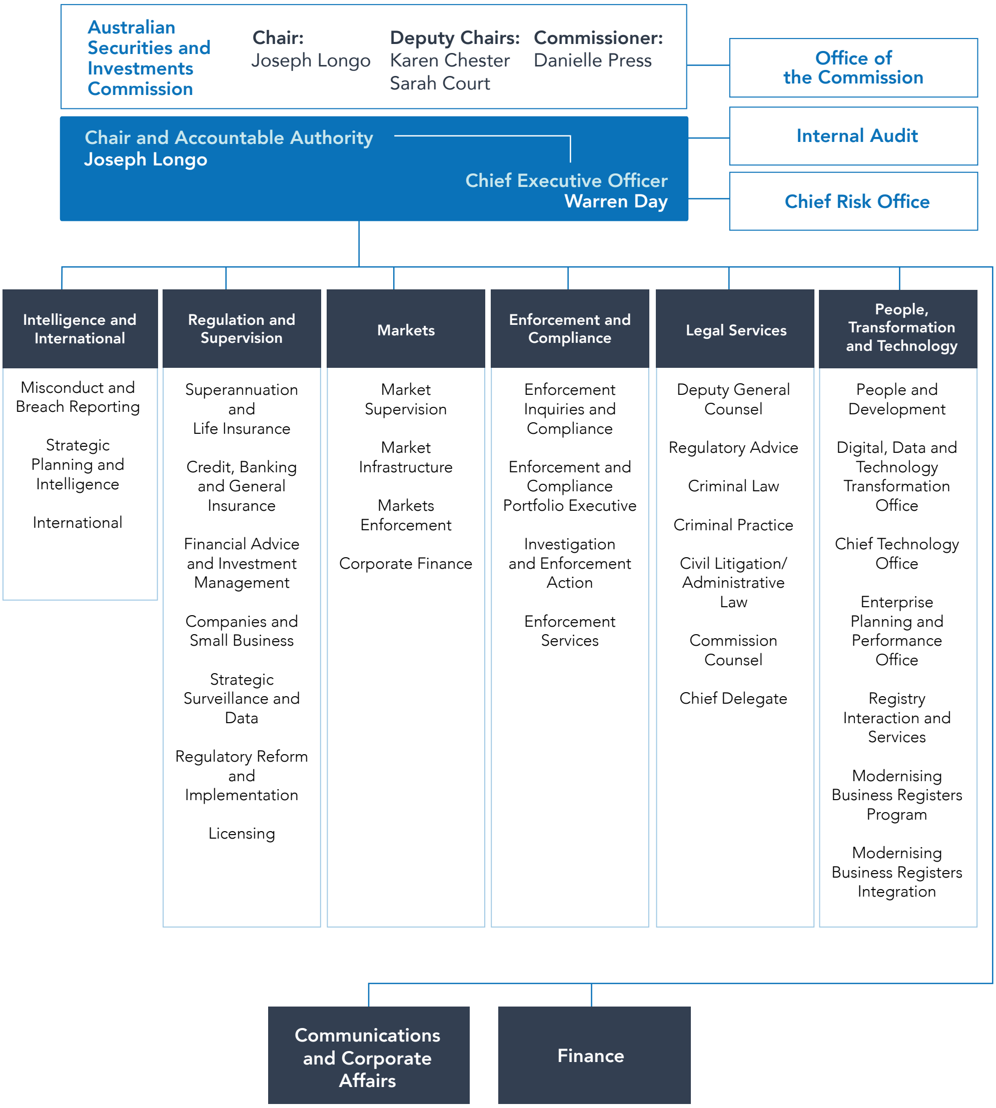
Following an organisational review in 2022–23, ASIC implemented a new structure. For the whole 2022–23 reporting period, ASIC operated under the structure illustrated in Chart 3.1 in Chapter 3. ASIC's new structure came into effect on 3 July 2023 and is illustrated in Chart 1.2.

The new structure has been implemented to better meet ASIC's future needs. It enables quicker decision making and improves operational flexibility to respond to emerging risks and harms in the financial system and markets.

The new structure strengthens collaboration and coordination, and streamlines ASIC's enforcement, compliance, regulatory and supervisory functions. It also combines ASIC's intelligence and international functions to better harness data to drive an intelligence-led regulatory approach.

Our organisational redesign marks the most significant changes to the agency's structure in more than a decade. The redesign, as well as our investment in data and digital, supports our commitment to being a leading, digitally enabled, data-informed regulator.

Chart 1.2—Organisational structure as at 1 July 2023



ASIC Commissioners

Joseph Longo

Chair

Joseph Longo commenced as ASIC Chair on 1 June 2021.

Sarah Court

Sarah Court commenced as ASIC Deputy Chair on 1 June 2021.

Karen Chester

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

Danielle Press

Danielle Press ceased her role as an ASIC Commissioner on 15 September 2023.

She commenced as an ASIC Commissioner on 17 September 2018.

Sean Hughes

Sean Hughes ceased his role as an ASIC Commissioner on 3 February 2023.

He commenced as an ASIC Commissioner on 1 December 2018.

1.3 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 2022–23, ASIC collected $1,835 million for the Commonwealth in fees, charges and supervisory cost recovery levies, an increase of 9% from the 2021–22 year.

Revenue, appropriations and expenditure

In 2022–23, ASIC received $426 million in operating appropriation revenue from the Australian Government, including $55 million for the Enforcement Special Account (ESA), representing a $4 million or 1% increase compared with 2021–22.

ASIC received approximately $32 million of own-source revenue[1] in 2022–23, $36 million less than the previous year. The decrease in own-source revenue mainly relates to:

- lower court cost recoveries from enforcement matters – these recoveries are unpredictable and vary from year to year
- a decrease in revenue received from the Australian Taxation Office (ATO) to fund work for the Modernising Business Registers (MBR) program – ASIC received appropriation directly from the Australian Government for a portion of the MBR program in 2022–23
- lower reimbursements to cover operating and capital expenditure incurred by ASIC on government programs funded directly by other Australian Government entities, as much of the work was completed in 2021–22.

The increase in total expenses relates to:

- an increase in wages and salary expenses due to projects being delivered as operating costs and the transfer of costs from the work-in-progress accounts to employee expenses relating to software development costs that were previously recognised as assets
- the effect of annual pay rises and flow-on effects to employee provisions
- an increase in separation and redundancy costs compared to the previous year
- an increase in amortisation expenses for computer software because of a change in the useful life of software assets following an internal review of ASIC's end-to-end processes for the accounting and management of software assets.

The 2022–23 deficit is primarily driven by the expense variances mentioned above.

1 Mainly includes revenue from other Australian government entities, court costs recovered and retained by ASIC, and royalties.

Table 1.3.1 Revenue, appropriations and expenditure

	2022–23 ($'000s)	2021–22 (Restated)[2] ($'000s)	Change ($'000s)	Percentage change
Revenues from government (including ESA)	**426,323**	422,001	4,322	1%
Own-source revenue	**32,366**	67,873	(35,507)	(52%)
Total revenue	**458,689**	489,874	(31,185)	(6%)
Total expenses (including depreciation and amortisation, net of gains)	**542,340**	492,019	50,321	10%
Surplus/(Deficit)	**(83,651)**	(2,145)	(81,506)	3,800%

Table 1.3.2 ASIC's use of taxpayers' money for outcomes approved by Parliament

	2022–23 ($'000s)	2021–22 (Restated) ($'000s)
Operating expenses (including depreciation and amortisation, net of gains)		
Total expenses (net of gains)	**542,340**	492,019
Annual change on previous year	**10%**	0%
Fees and charges (including industry funding) raised for the Commonwealth		
Total	**1,834,550**	1,675,771
Annual change on previous year	**9%**	11%

Restatement of previous year figures

In 2022–23, ASIC initiated an internally led review of the processes, framework and management of capital across the organisation. This resulted in a number of transactions being reclassified from the balance sheet to operating expenditure relating to transactions from current and previous years. An adjustment was made to restate the previous year balances for transactions relating to the period 2017–18 to 2021–22. The restatement is disclosed in the Overview section of this year's financial statements, in line with the Accounting Standards.

2 See the Overview in the financial statements section for more information.

2

ASIC's annual performance statement

Chair's statement

I, Joseph Longo, as the Accountable Authority of ASIC, present the 2022–23 annual performance statement of ASIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (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.

2.1 Performance objectives

ASIC's performance reporting in 2022–23 was guided by the Corporate Plan and our 2022–23 Portfolio Budget Statement, which set out our objectives and targets related to investor and consumer trust and confidence, and fair and efficient markets.

We plan to achieve our key performance outcome, as stated in the Portfolio Budget Statement, 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 do this by:

- pursuing enforcement outcomes
- undertaking supervision and surveillance
- providing guidance to industry
- assessing licence and registration applications
- engaging with consumers and industry stakeholders
- providing regulatory relief where appropriate
- educating consumers.

These regulatory activities are used to achieve our vision of ensuring a fair, strong and efficient financial system for all Australians.

2.2 Measuring and reporting on our performance

This year, our work aligned with the strategic priorities and actions outlined in the Corporate Plan published in August 2022.

Measuring our performance

In evaluating our work, we combine quantitative and qualitative indicators to provide a narrative about our approach, as detailed in our Corporate Plan.

As ASIC is a law enforcement agency, the volume and results of our surveillance and enforcement activities remain an important measure of our performance. Table 2.3.1 outlines our key results.

We have been developing an impact assessment methodology to measure the impact and effectiveness of our regulatory interventions. This annual report includes case studies based on this methodology. These appear in Impact assessments 2.5.1, 2.5.2 and 2.6.1. This is the first year that ASIC has publicly reported on the impact assessment methodology. We will continue to refine it in the future.

Our work aligns with the Australian Government's best practice principles for regulator performance: continuous improvement and building trust; risk based and data driven; and collaboration and engagement. The case studies in this annual report illustrate how our work demonstrates these principles in relation to our core strategic projects, other strategic work and ongoing regulatory work.

Reflecting these principles, we also measure our performance against our Service Charter targets to continuously improve our performance, capability and culture (see section 2.7).

Our Corporate Plan outlines ASIC's core strategic projects, other strategic work, and ongoing regulatory work. In deciding on these projects, ASIC applied the regulator best practice principles to identify key trends in our regulatory environment and target our surveillance and enforcement actions. In this chapter, we report on the progress we have made in each category. The core strategic projects for 2022–23 were:

- scams
- sustainable finance
- crypto-assets
- design and distribution obligations
- reportable situations
- cyber and operational resilience
- the Financial Accountability Regime (FAR)
- digital technology and data.

Our other strategic work is conducted in the following industry sectors:

- superannuation
- financial advisers
- investment managers
- credit and banking
- insurance
- market infrastructure
- market supervision
- corporations
- financial reporting and audit
- registered liquidators.

Our ongoing regulatory work includes:

- enforcement
- supervision and surveillance
- guidance
- licensing and registration
- engagement
- regulatory relief
- education.

We use a combination of the regulatory tools available to us to achieve outcomes for consumers and investors.

This chapter sets out key results against our priorities and in relation to the above strategic projects and ongoing regulatory work.

ASIC's strategic priorities

In 2022–23, our work was guided by four strategic priorities identified in our Corporate Plan:

- Product design and distribution: reduce the harm to consumers caused by poor product design, distribution and marketing, especially by driving compliance with new requirements.
- Sustainable finance: support market integrity through proactive supervision and enforcement of governance, transparency and disclosure standards.
- Retirement decision making: protect consumers, especially as they plan and make decisions for retirement, with a focus on superannuation products, managed investments and financial advice.
- Technology risks: focus on the impacts of technology in financial markets and services, drive good cyber-risk and operational resilience practices, and act to address digitally enabled misconduct, including scams.

2.3 Key results

Table 2.3.1 sets out our key results for 2022–23 across our supervision, surveillance, enforcement, guidance and education work.

The number of supervisory, surveillance and enforcement actions we undertake, the value of fines and penalties, and the number of convictions vary from year to year. The variations depend on factors such as the severity of breaches of the law and the complexity of the investigations we undertake.

Our new structure means we have changed our approach to surveillance and enforcement work. In the lead-up to the new structure coming into effect, we focused on finalising existing activities to enable a smooth transition. As a result, there are notable variances in some activities and outputs compared to last year.

Table 2.3.1 Key results

Outcome	Total 2022–23	Total 2021–22
Surveillance		
Surveillances completed[1,2]	**Over 1,300**	Over 1,040
Instances of potentially misleading or deceptive promotional material withdrawn or amended	**57**	61
Interim stop orders and final stop orders on disclosure documents[3]	**21**	18
Interim stop orders under design and distribution obligations[4]	**78**	2

1 This includes over 30 surveillances involving an on-site presence.
2 The number of surveillances completed is a measure of surveillance activity or actitivities by entity or related entities (such as companies, partnerships, licensed or unlicensed entities, and individuals), by disclosure documents (prepared by entity or entities) or by transactions (by entity or entities). These surveillance activities may arise from reports of misconduct, breach reports or as part of a larger surveillance project examining a thematic or industry-wide issue (i.e. a project may comprise a number of surveillances).
3 These stop orders were issued to prevent offers being made under disclosure documents containing misleading or deceptive statements, and omissions of information required under the legislation.
4 These stop orders were issued under ASIC's design and distribution obligations powers, which came into effect in October 2021, following a transitional period.

Outcome	Total 2022–23	Total 2021–22
Enforcement		
Investigations		
Investigations commenced[5]	**134**	107
Criminal actions[6]		
Criminal litigation completed	**44**	38
Criminal litigation completed successfully (as a percentage)	**90%**	89%
New criminal litigation commenced	**32**	52
Average time to complete an investigation (in months)	**23**	23
Average time to a criminal court decision (in months)	**21**	15
Average total time to complete an investigation and reach a court decision (in months)[7]	**60**	44
Criminal outcomes		
Number of people/companies convicted[8]	**35**	34
Custodial sentences (including fully suspended)	**21**	13
Non-custodial sentences/fines	**14**	21
Total dollar value of fines	**$189,640**[9]	$2.1m[10]

5 Investigations for these purposes meet the definition in section 13 of the ASIC Act and section 247 of the National Credit Act.

6 The statistics relating to criminal actions and outcomes have been revised to include results that were omitted last year due to delays in record keeping. This was due to the timing of our public comment on the matters and cut-off date for reporting. These changes comprised adding one completed successful criminal litigation action (resulting in a conviction and custodial sentence) and two commenced criminal litigation actions. In line with these additions, the average time statistics have been adjusted.

7 The time to complete criminal investigations is measured from the date an investigation commences to the date a referral is made to the Commonwealth Director of Public Prosecutions (CDPP). The time to reach a criminal court decision is measured from the date charges are laid by the CDPP to the date a sentence is handed down. The time involved in achieving enforcement outcomes can vary, depending on many factors, such as the time a matter is with the CDPP for assessment or the time a matter is before the courts.

8 This includes three successful criminal actions without a conviction recorded.

9 The decrease in fines and pecuniary penalties arising from criminal actions in 2022–23 is attributed to a larger-than-usual proportion of matters resulting in custodial sentences instead of fines.

10 The increase in fines arising from criminal actions in 2021–22 is attributed to a fine of $1.71 million imposed on Avanteos Investments. The former subsidiary of Commonwealth Bank was convicted and penalised for failing to update defective disclosure statements, resulting in deceased consumers being charged fees after their death.

Outcome	Total 2022–23	Total 2021–22
Total dollar value of reparation orders	–	–
Total dollar value of pecuniary penalties	**$28,883**	$102,175
Civil action		
Civil litigation completed	**52**	61
Civil litigation completed successfully (as a percentage)	**94%**	100%
New civil litigation commenced	**62**[11]	75
Average time to complete an investigation (in months)	**15**	19
Average time to a civil court decision (in months)	**22**	17
Average total time to complete an investigation and reach a court decision (in months)[12]	**42**	33
Civil outcomes		
Total dollar value of civil penalties	**$185.4m**	$229.9m
Administrative actions and outcomes[13]		
Action taken against auditors[14]	**468**	59
Action taken against liquidators	**2**	3
People disqualified or removed from directing companies[15]	**32**	58

11 The decrease in the number of new civil litigation commenced is attributed to the cyclical nature of our enforcement work. Following the completion of 61 civil litigation actions last year, we have commenced 132 new investigations, which are at the beginning of the enforcement life cycle. The outcome of these investigations will flow through in the years to come.

12 The 'average total time to complete a civil investigations' is measured from the date an investigation commences to the date initiating proceedings are filed by ASIC. The 'average total time to reach a civil court decisions' is measured from the date initiating proceedings are filed to the date a judgment is handed down. There are occasions when a judgment is reserved, which affects the overall time to reach a court decision.

13 This includes all disqualifications, suspensions, cancellations and bannings resulting from surveillance and enforcement activities.

14 As part of a 2022–23 compliance program, ASIC communicated to more than 1,400 self-managed superannuation fund (SMSF) auditors that they had outstanding annual statements. Most of these auditors subsequently lodged their statements. Those SMSF auditors with outstanding annual statements were advised on 3 August 2022 that ASIC was considering cancelling their registration. Notice of cancellation was sent to these auditors on 23 January 2023, following their continued non-compliance.

15 This includes four disqualifications arising from civil proceedings, where the court ordered that the defendant be disqualified from directing companies.

Outcome	Total 2022–23	Total 2021–22
People/companies removed, restricted or banned from providing financial services[16]	**77**	39
People/companies removed, restricted or banned from providing credit services[17]	**28**	18
Public warning notice[18]	**1**	–
Reprimands issued[19]	**3**	–
Licence conditions imposed on ASX	**–**	3
Court enforceable undertakings		
Court enforceable undertakings accepted	**3**	1
Compensation or remediation agreed in court enforceable undertakings[20]	**–**	–
Infringement notices[21]		
Total number of infringement notices issued	**20**	3
Total dollar value of infringement notices[22]	**$6.7m**	$136,890
Summary prosecutions		
Summary prosecutions for strict liability offences	**210**	181
Total value of fines and costs	**$1.6m**	$1,019,106

16 This includes one instance where the court imposed permanent injunctions on an individual, restraining them from carrying on a financial services business in Australia in contravention of the Corporations Act and one instance where an individual was removed from providing financial services under the terms of a court enforceable undertaking.
17 This includes four instances where the court made orders restraining individuals from engaging in credit activity.
18 On 28 June 2023, ASIC issued a public warning notice to consumers about the activities of David Zohar regarding the promotion of investments in Lithium Lakes Limited.
19 These reprimands were issued by the Financial Services and Credit Panel to admonish financial advisers in relation to conduct or circumstances that had already ceased.
20 Compensation or remediation programs monitored by ASIC are not reflected in this statistic. Amounts in compensation or remediation were agreed in court enforceable undertakings accepted by ASIC.
21 These notices were issued for infringements related to the market integrity rules and the ASIC Act. Compliance with infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law. The figure includes infringement notices issued by ASIC and infringement notices issued by the Markets Disciplinary Panel (MDP).
22 This includes an infringement notice of $4.5 million issued by the MDP to Openmarkets Australia. The MDP had reasonable grounds to believe that Openmarkets had contravened numerous market integrity rules and did not have appropriate procedures to ensure compliance with requirements to deal with suspicious trading. This is the largest penalty the MDP has ever imposed.

Outcome	Total 2022–23	Total 2021–22
Applications for relief from the Corporations Act		
Relief applications		
Relief applications received	**1,154**	1,361
Relief applications approved	**887**	1,084
Relief applications refused or withdrawn	**301**	374
Relief applications in progress	**59**	127
Licensing and professional registration activities		
Administrative decisions		
Licensing and registration applications received	**1,497**	1,655
Licensing and registration applications approved	**1,287**	1,596
Licensing and registration applications refused or withdrawn	**413**	439
Licensing and registration applications in progress	**612**	819
Australian financial services (AFS) licences, including limited AFS licences (new and variations)		
Applications approved	**841**	1,178
Applications refused/withdrawn	**215**	277
Licences cancelled/suspended	**329**	314
Applications in progress	**417**	559
Australian credit licences (new and variations)		
Applications approved	**263**	267
Applications refused/withdrawn	**145**	139
Licences cancelled/suspended	**212**	224
Applications in progress	**135**	180

Outcome	Total 2022–23	Total 2021–22
Registered auditors – registered company auditors, authorised audit company and self-managed superannuation fund (SMSF) auditors		
Applications approved	**183**	151
Applications refused/withdrawn	**53**	23
Licences cancelled/suspended	**1,019**	607
Applications in progress	**60**	80
Registered liquidators		
Liquidators registered by ASIC	**29**	21
Registration committees convened during the year	**36**	25
Outcome of Registration Committee convened during the year		
Applications for registration approved by Committee[23]	**28**	17
Applications for registration refused by Committee	**3**	7
Committee matters in progress – registration application yet to be determined	**5**	1
Stakeholder engagement		
Meetings with industry groups and other stakeholders	**Over 1,600**[24]	Over 1,900
Consultation and guidance		
Consultation papers published	**7**	20
Industry reports published	**37**	37
New or revised regulatory guides published	**34**	41
New or revised information sheets	**29**	59
Legislative instruments made, amended and repealed	**56**	58

23 A breakdown of the applications approved by the Committee, with or without conditions, can be found in Table 6.2.3.

24 The decrease in stakeholder engagement meetings in 2022–23 is attributed to a change in focus, with teams allocating more resources to cross-agency core strategic projects (see section 2.4).

Outcome	Total 2022–23	Total 2021–22
Education		
Users visiting ASIC's Moneysmart website[25]	**11.1m**	11.0m
Average number of users to the Moneysmart website per month	**1.0m**	1.0m
Number of users who have used a Moneysmart online tool	**5.6m**	5.3m
Average number of users using a Moneysmart tool per month	**530,000**	495,000

25 The number of people visiting the Moneysmart website includes users from around the world. Of the 11.1 million users, 9.7 million (88%) were from Australia, using an Australian IP address.

2.4 Core strategic projects

Our Corporate Plan outlines our regulatory priorities and the actions we plan to take over the next four years. These are based on monitoring and analysis of our operating environment, the identification of threats and behaviours that lead to harm, and the prioritisation of harms that need to be addressed.

In 2022–23, our work was guided by four strategic priorities identified in our Corporate Plan – product design and distribution; sustainable finance; retirement decision making; and technology risks. Our eight core strategic projects, discussed below, contribute to achieving our four strategic priorities.

Scams

ASIC's scam strategy for 2022–23 focused on maximising the disruption of investment scams, influencing financial institutions to do more to prevent and detect financial scams, and ensuring their response to customers who had fallen victim to a scam was appropriate.

ASIC's anti-scam work in 2022–23 included:

- a review of the scam prevention, detection and response strategies of Australia's four major banks, resulting in the publication of a report
- a highly successful trial of an investment scam website takedown service, which contributed to ASIC obtaining funding to continue to engage this service from July 2023
- enforcement action with significant outcomes, including one scammer being sentenced to more than five years in prison.

Case study 2.4.1 Successful website takedown trial

In 2022, ASIC engaged a third-party website takedown service provider to carry out a three-week trial to test the provider's capacity to take down investment scam and phishing websites. The websites taken down included:

- fake firms claiming to be regulated by ASIC
- fake firms impersonating Australian financial services (AFS) licence holders
- crypto-asset investment scams
- unregulated firms offering financial services or products
- fake comparison sites promoting these investment scams
- suspected fraudulent websites identified by ASIC (including from reports of misconduct lodged with ASIC).

The trial was highly successful and outcomes included:

- almost 900 scam groups (mainly websites but also compromised mail servers) relating to over 3,000 individual attacks (webpages and emails) were detected and taken down
- 62% of attacks were removed in 24 hours or less.

Following the trial, and as part of the FY24 Budget, the Government committed a total of $17.6 million over four years (and $4.4 million ongoing) for ASIC to engage a third party to take down investment scam and phishing websites from July 2023.

For more examples of our work on scams, see case studies 2.6.4 and 2.6.10.

Sustainable finance practices

Environmental, social and governance (ESG) issues are driving the biggest changes to financial reporting and disclosure standards in a generation. Sustainable finance is an important strategic priority for ASIC. It is a transformational issue for global markets, and ASIC is committed to keeping pace with changes as we develop.

In the last year, ASIC's focus in relation to sustainable finance has shifted from educating our regulated population about the need to develop good practices in this area to taking enforcement action. Our strategy is to enforce existing laws, work closely with domestic and international bodies to actively contribute to proposed domestic law reform and guidance, and further strengthen our own capabilities in this space.

In June 2022, we published **Information Sheet 271**[26] *How to avoid greenwashing when offering or promoting sustainability-related products* to help product issuers avoid greenwashing. Since then, we have conducted surveillances of sustainability-related disclosure and governance practices of listed companies, managed funds and superannuation funds. Where misconduct was identified, ASIC took the appropriate regulatory and enforcement action to protect investors and deter further misconduct.

We conducted a targeted review of sustainability-related statements and products to ensure firms maintain high standards of governance and disclosure. A summary of our outcomes in relation to greenwashing misconduct is set out in **Report 763**[27] *ASIC's recent greenwashing interventions*. The report provides transparency about why and when ASIC intervened to correct disclosures.

ASIC contributed to the ongoing improvement of climate and sustainability disclosure and governance practices and standards through our continued work with domestic and international peers. These included the Council of Financial Regulators Climate Working Group and the International Organization of Securities Commissions (IOSCO) Sustainable Finance Task Force. ASIC's work on greenwashing also aligns with the Australian Government's broader sustainable finance agenda.

See case studies 2.5.4 and 2.5.12 for more examples of our sustainable finance work.

26 https://asic.gov.au/regulatory-resources/financial-services/how-to-avoid-greenwashing-when-offering-or-promoting-sustainability-related-products/

27 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-763-asic-s-recent-greenwashing-interventions/

Crypto-assets

Emerging technologies and products, including the expansion of crypto-assets, present new terrain for legislators and regulators to navigate.

ASIC supports the Australian Government's commitment to establishing a framework for licensing and regulating crypto-asset service providers. We will continue to look at enforcement actions we can take under our existing remit to safeguard investors, consumers and the market.

In response to the risks posed by crypto-assets, we undertook a wide range of activities to protect investors and maintain market integrity. We have supported Treasury with its continuing consideration of law reform to regulate crypto-asset service providers and payment stablecoins. Additionally, we have highlighted the risks of crypto-asset investing to consumers through a range of communication activities and updates to Moneysmart webpages on cryptocurrencies and crypto scams.

We also used our regulatory enforcement tools, where appropriate, by:

- commencing civil penalty proceedings against three entities – BPS Financial Pty Ltd, Web3 Ventures Pty Ltd (trading as Block Earner) and Finder Wallet Pty Ltd – for alleged unlicensed conduct and other breaches
- making four interim stop orders where ASIC found that the target market determinations (TMDs) for financial products providing exposure to crypto-assets were non-compliant with design and distribution obligations
- undertaking targeted surveillance of issuers of derivatives providing exposure to crypto-assets, including Oztures Trading Pty Ltd (trading as Binance Australia Derivatives).

We also continued to engage in bilateral and multilateral discussions on crypto-assets with our domestic and overseas peers, including the Council of Financial Regulators in Australia and the IOSCO Fintech Task Force.

Design and distribution obligations

ASIC is focused on reducing the potential for harm to retail consumers from poor product design and distribution practices, including by enforcing and uplifting compliance with design and distribution obligations.

ASIC pursued targeted, risk-based surveillance focused on sectors and products that pose the greatest risks of consumer harm. We have completed surveillances in the superannuation, small amount credit and investment product sectors, and published public reports on our findings to influence behaviours across the industry, encouraging firms to improve their compliance.

We made 78 stop orders in the period ending 30 June 2023, predominantly in relation to deficient TMDs.

In December 2022, ASIC commenced civil penalty proceedings in the Federal Court of Australia against American Express Australia Limited (Amex) and Firstmac Limited (Firstmac) for alleged breaches of the design and distribution obligations. The proceedings brought against Amex concern two credit cards it issued that were co-branded with retailer David Jones. The proceedings brought against Firstmac concern its distribution of interests in a registered managed investment scheme to its term deposit holders.

> **See case studies 2.5.11 and 2.5.13 for more examples of how ASIC is implementing the design and distribution obligations.**

Reportable situations

We worked throughout 2022–23 to support the implementation and ongoing improvement of the reportable situations regime to ensure we meet our own objectives and those of industry and consumers.

We released our first publication of information lodged under the regime on 27 October 2022. ASIC's approach to reporting will evolve over time as the regime matures and allows for greater granularity in reporting.

On 27 April 2023, ASIC released updates to **Regulatory Guide 78**[28] *Breach reporting by AFS licensees and credit licensees*. The updates are intended to support the use of breach reporting data for ASIC's regulatory purposes and public reporting, and to reduce the regulatory burden on industry. ASIC also made minor changes to the prescribed form for lodging reportable situations. These form changes clarify how some questions should be answered, and direct licensees to the guidance available in Regulatory Guide 78.

ASIC has developed an application programming interface (API) to facilitate machine-to-machine submission of reportable situations data. This API improves efficiency for higher-volume users submitting reports under the reportable situations regime by removing the need to manually input information into the prescribed form.

We have developed enhanced data analytics capabilities to better support us in using the information received under the reportable situations regime. This includes self-service data analytics tools for interacting with the data, as well as a machine learning (ML) model for triaging reports.

28 https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-78-breach-reporting-by-afs-licensees-and-credit-licensees/

Cyber and operational resilience

One of ASIC's strategic priorities across the financial services sector is to encourage good cyber-risk and operational resilience practices. Recently, we have seen cyber-attacks affect the integrity and efficiency of global markets, and in turn, trust and confidence in service and product providers. ASIC will continue to work closely with the Australian Prudential Regulation Authority (APRA) and other regulators, regulated firms and government on these important issues.

This year, we conducted our Cyber Pulse Survey, following consultation with industry and government, to understand cyber preparedness and to uplift standards in our regulated cohort. The survey opened on 7 June 2023, and public companies and other entities holding an ASIC licence or authorisation were encouraged to participate. We asked respondents to assess their cyber security and controls, governance arrangements and incident preparedness. Observations from the survey results will be shared in a public report in the 2023–24 financial year.

We supported whole-of-Australian-Government responses, leading the National Coordination Mechanism's Financial Services Working Group following the cyber-attack on Latitude Financial Services. ASIC has also engaged with government on policy initiatives, and on proposals with the broader Council of Financial Regulators. We continue to actively participate in joint initiatives and incident response with the Council of Financial Regulators' Cyber and Operational Resilience Working Group.

Financial Accountability Regime

ASIC continues to work with APRA to prepare for the implementation of FAR. During 2022–23, ASIC and APRA developed a package of materials to assist industry to meet the new FAR requirements for authorised deposit-taking institutions (ADIs), including drafting supporting legislative instruments for consultation.

ASIC and APRA are also engaging with ADIs and banking industry bodies to help regulated entities prepare for the implementation of FAR. We are working with APRA to assess pre-commencement material, particularly regarding the new requirement for accountable entities to nominate their significant related entities.

Both agencies continue to engage closely with regulated entities and with each other on aligning supervisory and enforcement approaches.

Digital technology and data

Technology and data are critical to every business we regulate. We are dealing with operating environments, customer engagement and misconduct that all centre on technology and data. We have been investing in new technologies and systems to enhance our capabilities for some years, and are committed to looking at ways we can enhance our capabilities even further.

During 2022–23, ASIC reviewed all external digital interactions and worked with external stakeholders to identify areas for improvement. We began redeveloping our licensing systems using human-centred design techniques.

We have continued to enhance our data lake platform to allow us to store and process data at the scale required, and provide our analysts with the latest analytics tools. We successfully launched our first recurrent data collection on internal dispute resolution (IDR), with the first real data collected in January–February 2023 from around 100 industry entities. We also developed ways to effectively collect, store, combine and leverage recurrent data sets to inform our regulatory work. This includes data on external dispute resolution (EDR) from the Australian Financial Complaints Authority (AFCA) and IDR data provided by financial entities from January 2023 onwards.

We delivered pilots of ML solutions for teams across ASIC and rolled out the latest business intelligence visualisation tools organisation-wide. This has improved self-service reporting and our analytics capability. We also developed a data literacy program that is being progressively rolled out to all relevant staff.

We formed a partnership with APRA to collect data for FAR and for superannuation, with both projects in different stages of development.

We also created and embedded a data ethics framework and developed an ASIC Artificial Intelligence (AI) Policy to ensure that we responsibly take advantage of the opportunities offered by emerging generative AI.

For more information on this work, see case study 2.5.8.

2.5 Other strategic work

Superannuation

ASIC is responsible for regulating conduct in relation to superannuation, including the conduct and disclosure obligations of superannuation trustees of registrable superannuation entities. We are issues driven and focus on trustee conduct that affects superannuation fund members.

This financial year, we focused on increasing trustees' compliance with IDR obligations and continuing to improve the insurance arrangements trustees provide to members.

Identifying and consolidating multiple accounts

Unintentional duplicate accounts in the same superannuation fund can result in members paying multiple sets of fees, including insurance premiums, which can significantly erode their superannuation balance over time. Trustees are required to annually identify and automatically consolidate duplicate member accounts in a superannuation fund to minimise members paying unnecessary fees. After considering data that raised questions about whether trustees are consistently complying with this important obligation, ASIC reviewed a sample of nine trustees, covering industry and retail funds, to examine their compliance.

Our review highlighted that some trustees were not doing enough to reduce the proliferation of accounts. Some trustees were failing to meet their legal obligations, while others were identified as needing to improve their practices. For instance, three of the nine trustees in ASIC's review did not have documented business rules for identifying and consolidating multiple accounts on an annual basis across some or all of their funds.

Following engagement with ASIC, all the trustees with poor practices are implementing improvements that will result in fewer members having duplicate accounts and will help ensure they are not paying additional fees. Three trustees are undertaking remediation for members affected by the trustees' failure to comply with the law. To highlight the importance of this issue and encourage better practices across the industry, ASIC publicised its review and areas for improvement (see **Media Release 23-175**[29] 'ASIC warns super trustees to boost efforts to consolidate duplicate member accounts', 29 June 2023).

29 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-175mr-asic-warns-super-trustees-to-boost-efforts-to-consolidate-duplicate-member-accounts/

Case study 2.5.1 Internal dispute resolution in superannuation

ASIC reviewed trustees' compliance with their obligations in **Regulatory Guide 271**[1] *Internal dispute resolution*. We conducted an initial review of 35 trustees before undertaking a more detailed examination of 10 trustees.

ASIC identified several areas of concern directly affecting consumers including that:

- several trustees failed to respond to a significant portion of their complaints in a timely manner
- most trustees failed to keep complainants informed when there was a delay in responding
- many written responses failed to alert consumers to their right to take their complaint to AFCA
- internal reporting often lacked sufficient detail to identify, much less remedy, deficiencies in complaint handling.

The review also found that trustees needed to improve complaints management to better manage systemic issues and harness intelligence to improve their products and services.

ASIC wrote to the relevant trustees and required them to promptly remedy the issues identified. We are also considering other regulatory action where we identified more serious concerns.

In addition, ASIC released **Report 751**[2] *Disputes and deficiencies: A review of complaints handling by superannuation trustees* in December 2022. This report encourages all superannuation trustees to critically examine their dispute resolution arrangements, make timely improvements and ensure that these are fit for purpose in the future.

1 https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-271-internal-dispute-resolution/
2 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-751-disputes-and-deficiencies-a-review-of-complaints-handling-by-superannuation-trustees/

Impact assessment 2.5.1 Delivering better outcomes for members in relation to insurance provided through their superannuation funds

ASIC's work to address consumer harms arising from insurance provided through superannuation funds has seen trustees make a range of changes to their practices, including offering better value insurance and improving how they manage claims made by members.

Why ASIC intervened

Approximately 8 million Australians have some type of insurance through their superannuation. Many trustees automatically provide members with death cover, total and permanent disability (TPD) cover and income protection cover rather than the member actively selecting cover.

ASIC found three broad areas of concern: poor value insurance, deficient claims handling processes, and communication practices that did not help members understand or make suitable changes to their cover.

How ASIC intervened

In 2022, we reviewed 15 trustees with funds including 3 million accounts with death and/or TPD cover, and around 800,000 accounts with income protection cover. We conducted the review to check on the progress made by trustees to improve their arrangements for life insurance in superannuation in response to law reform and concerns raised by ASIC.

The findings are set out in the March 2023 **Report 760**[1] *Insurance in superannuation: Industry progress on delivering better outcomes for members*.

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1 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-760-insurance-in-superannuation-industry-progress-on-delivering-better-outcomes-for-members/

Impact assessment 2.5.1 continued

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How trustees responded to ASIC's concerns

We found that trustees had addressed all three areas of concern:

› Trustees have made changes so that members get better value for money from their insurance cover. All 15 trustees have removed or are in the process of removing their 'activities of daily living' definition for TPD cover, with this change improving insurance cover for around 3 million members.

› Many trustees have enhanced their oversight of how insurers are handling claims and streamlined their claims processes to make them easier for members to navigate. Of the 15 trustees, 10 are analysing complaints and withdrawn claims to identify and address frictions in their claims handling process.

› Trustees have improved how they explain their insurance offerings to make it easier for members to understand and make appropriate decisions for their circumstances. Most of the 15 trustees now more clearly explain when and how different terms and conditions apply.

How ASIC's intervention improved consumer outcomes

Consumers will benefit as:

› retirement balances should increase as a result of members no longer paying for insurance that does not meet their needs or that they cannot claim

› members are less likely to withdraw claims due to frictions or unnecessary complexities in the claims handling process

› members should be able to make better decisions about the level and nature of insurance cover they hold through their superannuation fund.

Financial advisers

The financial advice sector covers AFS licensees and their representatives that provide personal advice to retail clients on financial products, general advice, and personal advice to wholesale clients.

ASIC's work in this sector during 2022–23 included focusing on financial adviser conduct and referrals of misconduct to the Financial Services and Credit Panel; completing the Life Insurance Framework review and providing the findings for consideration in the Quality of Advice Review; updating guidance for financial advisers who provide self-managed superannuation advice; and financial adviser registration.

Our work reviewing the Financial Advisers Register to ensure it accurately reflects the status of financial advisers who did not pass the financial adviser exam also continued this year.

Case study 2.5.2 Updated guidance on self-managed superannuation fund advice

In December 2022, we issued **Information Sheet 274**[1] *Tips for giving self-managed superannuation fund advice* to help AFS licensees and their representatives comply with their obligations when providing personal advice about self-managed superannuation funds (SMSFs). We also updated consumer information on our Moneysmart SMSF webpage.

The information sheet provides updated guidance about SMSF balances, and compares the performance of SMSFs with APRA-regulated funds. It explains that the superannuation balance – whether high or low – is important but it is only one factor when considering whether an SMSF is suitable for a client. Other important factors include the risks and costs associated with setting up and/or switching to an SMSF, investment strategies, diversification, liquidity, asset choice, trustee responsibility, time commitment, and the potential benefits of professional advice when deciding to set up and/or switch to an SMSF.

In response to feedback received from ASIC's targeted industry consultation, we supplemented the information sheet with case studies to illustrate that an SMSF balance is only one factor a financial adviser should consider when determining whether an SMSF is suitable for their client.

1 https://asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/tips-for-giving-self-managed-superannuation-fund-advice/

Case study 2.5.3 ASIC anti-hawking action

In February 2023, following ASIC action, National Advice Solutions Pty Ltd appeared at the Southport Magistrates Court in Queensland and pleaded guilty to one charge of breaching anti-hawking laws. The Court imposed a penalty of $70,000. Between August 2019 and June 2020, National Advice Solutions made unsolicited calls to consumers encouraging them to roll over their superannuation into different superannuation products. The company then charged an initial fee for the rollover as well as ongoing fees.

ASIC also cancelled National Advice Solutions' AFS licence for providing advice to clients under what they described as a 'layered advice strategy'. Under this strategy, the licensee separated the financial advice they provided to clients into pre-determined topics, regardless of the client's personal circumstances, goals or advice needs. ASIC's action makes clear that it is inappropriate in these circumstances to separate out insurance and superannuation advice, as the products are so intrinsically linked that advice regarding the two topics cannot appropriately be delivered in isolation.

Further, ASIC banned National Advice Solutions' two responsible managers from providing financial services for 10 years. ASIC found that they both bore part of the responsibility for the systemic failings that arose from using a layered advice strategy.

This action is part of ASIC's ongoing efforts to improve standards across the financial advice industry.

Investment managers

The investment management sector includes responsible entities, wholesale trustees, operators of notified foreign passport funds, custodians, investor-directed portfolio service operators, managed discretionary account (MDA) providers, traditional trustee company service providers, corporate collective investment vehicles and crowd-sourced funding intermediaries.

In 2022–23, we focused on taking action against greenwashing and testing compliance with design and distribution obligations for investment products.

Case study 2.5.4 Sustainable finance and greenwashing

Since publishing **Information Sheet 271**[1] *How to avoid greenwashing when offering or promoting sustainability-related products*, ASIC has undertaken reactive and proactive greenwashing surveillances. Our work included reviewing the product disclosure statements (PDSs) of 122 funds and considering the investment processes of 17 funds.

As a result of our review, 14 responsible entities amended disclosures in 21 PDSs and one fund's name was changed after greenwashing concerns were raised. In one instance, the PDS for a fund was changed to remove vague claims that its minerals were responsibly sourced and to provide further explanation about how ore is refined in accordance with relevant standards. In another instance, a PDS was amended after concerns were raised about the use of vague terms, such as 'social diversity', 'robust sustainable practices' and 'protection of the planet'.

1 https://asic.gov.au/regulatory-resources/financial-services/how-to-avoid-greenwashing-when-offering-or-promoting-sustainability-related-products/

Design and distribution obligations

In 2022, ASIC reviewed investment product issuers' compliance with design and distribution obligations. We released our findings in **Report 762**[30] *Design and distribution obligations: Investment products*. We focused on these because we were concerned that consumers were at risk of being inappropriately exposed to high-risk products. As a result of our review, we issued 26 interim stop orders for breaches of the TMD requirements. Our actions led to 12 issuers amending 18 TMDs and 5 issuers withdrawing 7 TMDs.

ASIC placed stop orders on Open Corps Fund Management Limited, trading as ResiFund (Resi), in its capacity as the responsible entity for the Australian Residential Property Fund. The Fund invested in a portfolio of Australian residential property assets, used leverage, had low levels of liquidity and engaged in property development activities.

ASIC found that Resi had failed to appropriately address the risks and features of the Fund in defining its target market and used inadequate distribution conditions. Notably, ASIC took issue with Resi's treatment of the Fund's investment strategy as 'low risk'.

The stop orders were lifted following a hearing and amendments to the Fund's TMD that addressed ASIC's concerns by excluding certain categories of investors from the target market.

30 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-762-design-and-distribution-obligations-investment-products/

Impact assessment 2.5.2 Misleading marketing of funds' investment performance and risk

ASIC has acted to improve the way in which managed funds are promoted to consumers. Where marketing does not accurately reflect a product's performance or risk profile, consumers may make investments that do not meet their objectives.

Why ASIC intervened

ASIC was concerned that retail investors and potentially unsophisticated wholesale investors, especially retirees, were making important investment decisions influenced by marketing that did not accurately portray the risk and return profile of the funds in which they were investing.

How ASIC intervened

In March 2022, ASIC began surveillance of the marketing of managed funds to identify inaccurate or potentially misleading content in promotional materials. We scrutinised traditional and digital media marketing of funds, including search engine and social media advertising. We identified concerns with marketing materials, scrutinised funds' PDS, websites, other disclosures and TMDs. We then raised our concerns with the responsible entities or trustees of the managed funds.

How businesses responded to ASIC's concerns

The surveillance resulted in changes that should reduce the level of misleading marketing of fund performance and associated risks by 17 responsible entities or trustees of 23 funds with approximately $2.1 billion in assets under management. They have:

- amended, or arranged for the funds' investment manager to amend, their marketing material and/or practices
- agreed to withdraw or improve advertisements, with changes to content, including increasing the prominence of warnings about the reliability of past performance continuing into the future; clearly explain that target returns are not guaranteed; not compare their funds to products with a lower risk profile; and not suggest that investor capital was safe when this was not the case.

Four of these responsible entities also undertook to amend the compliance plans of five funds (representing $705 million in assets under management) to ensure better supervision of these funds' marketing.

Voluntary changes made to fund compliance plans included vetting fund advertising before releasing it, providing regular training for staff involved in fund marketing requirements, and monitoring dynamic digital marketing.

In addition, ASIC placed interim stop orders on a further two responsible entities in relation to marketing two additional funds – one of which was replaced with a permanent stop order.

Impact assessment 2.5.2 continued

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How ASIC's intervention improved consumer outcomes

Consumers will benefit as they can:

- make better investment decisions as a result of receiving more balanced marketing materials
- choose among funds based on their fundamental investment risk in a market that is less distorted by inaccurate marketing.

Credit and banking

The credit and banking sector includes authorised deposit takers (banks and credit unions), credit providers and lessors, credit intermediaries (including mortgage and finance brokers), payment providers, traditional trustee companies and debt management firms. ASIC's work in this sector in 2022–23 focused on compliance with design and distribution obligations, and protecting financially vulnerable consumers through the use of product intervention orders.

Reinforcing compliance with design and distribution obligations for providers of consumer credit

ASIC undertook targeted reviews of compliance with design and distribution obligations by selected small amount credit contract and buy now pay later providers. This included a review of their TMDs and the data and metrics that inform review triggers. In December 2022, ASIC released **Report 754**[31] *Target market determinations for small amount credit contracts*. We observed that small amount credit contact providers' TMDs lacked detail in the descriptions of their products and target markets. Further, their review triggers were not sufficiently granular to be useful. Review triggers must establish events and circumstances that would reasonably suggest that the target market may no longer be appropriate. In June 2023, we provided similar feedback to the buy now pay later providers that were subject to ASIC's review.

We also issued two interim stop orders in relation to credit products where we saw deficiencies in the TMDs of those products. The interim stop orders were in relation to:

- a credit for rent product issued by One Card Credit Pty Ltd known as the Scorebuilder and Safetynet product (February 2023)
- a buy now pay later product issued by humm BNPL Pty Ltd (May 2023).

We revoked both interim stop orders once the providers made sufficient changes to their TMDs or products to comply with their obligations.

31 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-754-target-market-determinations-for-small-amount-credit-contracts/

Case study 2.5.5 Protecting financially vulnerable consumers: Cigno action

ASIC made two product intervention orders in July 2022 in relation to short-term credit and continuing credit contracts. These orders successfully stopped particular business models, including models used by entities such as Cigno Pty Ltd (Cigno) and BHF Solutions Pty Ltd (BHF Solutions), which sought excessive fees from vulnerable consumers who required small loans, resulting in significant consumer detriment.

ASIC also began court proceedings against Cigno and BHF Solutions, alleging the entities had engaged in credit activities without holding an Australian credit licence for their lending model, which they purported to operate under the continuing credit exemption in the National Credit Code.

In the first instance, the Federal Court of Australia dismissed our application; however, we successfully appealed to the Full Court of the Federal Court, which handed down its decision in June 2022. In December 2022, the High Court dismissed special leave applications by Cigno and BHF Solutions seeking to appeal the decision of the Full Court. The matter was remitted to the Federal Court and final orders were made on 12 July 2023, including declarations of contravention and injunctions.

Insurance

The insurance sector comprises life and general insurance and includes insurance product providers (including friendly societies), insurance product distributors, risk management product providers and claims handling and settling services providers.

This year, ASIC's work in insurance focused on investigating general insurance pricing practices, preparing for the implementation of reforms to the unfair contract terms regime, and working with industry to improve practices.

Case study 2.5.6 General insurance pricing misconduct

ASIC has taken significant and sustained action over the past two years to address widespread failures by general insurers to meet the pricing promises made to their consumers. Our work has resulted in general insurers taking steps to repay an estimated $815 million in remediation and to improve their systems to minimise the risk of future pricing failures.

Pricing misconduct occurs when insurers promise price discounts, benefits or rewards to customers (including no-claims discounts, multi-policy discounts or loyalty discounts), and then fail to deliver on the promises in full. These pricing failures distort competition and result in consumers being overcharged on their policies or not receiving all the benefits promised to them.

ASIC acted to improve consumer outcomes by calling on all general insurers to review their pricing practices, systems and controls as a matter of priority, to ensure consumers received the full discounts they were promised (see **Media Release [21-270MR]**[1] 'ASIC launches Federal Court action and calls on general insurers to review pricing practices', 15 October 2021). ASIC subsequently wrote to 11 general insurers requiring them to conduct a comprehensive review of their pricing practices to identify any problems, fix deficiencies in their practices, and repay consumers who had been overcharged.

The thematic findings from the pricing reviews are set out in **Report 765**[2] *When the price is not right: Making good on insurance pricing promises*, published in June 2023. This report identifies how failures by general insurers to adequately manage their non-financial risks have led to pricing failures and significant consumer harm. It also confirms the standards general insurers need to meet in designing and promoting pricing promises to ensure consumers get the full benefit of any discounts promised.

ASIC has taken action in the Federal Court of Australia against Insurance Australia Limited (IAL) and the Court handed down a penalty of $40 million against IAL for failing to honour discount promises made to consumers who held NRMA-branded insurance policies (see **Media Release [21-270MR]**[1] and **Media Release [23-179MR]**[3] 'IAL penalised $40 million over pricing discount failures', 30 June 2023). This penalty is the largest-ever penalty imposed by the Court against an insurer for breaches of the financial services laws.

1 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-270mr-asic-launches-federal-court-action-and-calls-on-general-insurers-to-review-pricing-practices/
2 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-765-when-the-price-is-not-right-making-good-on-insurance-pricing-promises/
3 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-179mr-ial-penalised-40-million-over-pricing-discount-failures#!page=2&type=media%20releases&startDate=01/01/2023&endDate=02/08/2023

Case study 2.5.6 continued

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We have also taken civil penalty proceedings in the Federal Court over alleged pricing discount failures by RACQ Insurance Limited (see **Media Release [23-038]**[1] 'ASIC sues RACQ over alleged pricing discount failures, urges industry to improve pricing practices', 24 February 2023).

ASIC has other ongoing investigations into general insurers involving suspected failures to deliver on promised price discounts.

Our interventions will improve consumer outcomes as:

- consumers will be less likely to be overcharged on their premiums due to insurers improving their systems, controls and governance in respect of pricing promises
- an efficient and competitive insurance marketplace is supported by insurers meeting their pricing promises in full, providing more transparent pricing, and acting to rebuild trust in the general insurance industry.

1 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-038mr-asic-sues-racq-over-alleged-pricing-discount-failures-urges-industry-to-improve-pricing-practices/

Unfair contract terms review

ASIC continued its work on unfair contract terms in 2022–23, including by issuing proceedings against:

- Auto & General Insurance Company Limited on 4 April 2023 relating to a broad notification obligation term contained in a number of PDSs it issued for home and contents insurance
- HCF Life Insurance Company Pty Limited on 11 May 2023 relating to a 'pre-existing condition' term contained in three types of insurance policies it issued.

ASIC has a number of other matters still under investigation in relation to alleged unfair contract terms.

Market infrastructure

The market infrastructure sector includes Australian financial market infrastructure licensees, various types of market operators, benchmark administrators, clearing and settlement facility operators, derivative trade repository operators and credit rating agencies.

ASIC's work in this sector during 2022–23 continued to focus on providers' compliance with their obligations under the financial services laws. This helps to ensure good consumer and investor outcomes and to maintain trust and integrity in Australia's financial markets.

Case study 2.5.7 ASX and CHESS replacement

We have maintained a high level of intensity in our regulatory supervision of ASX. This reflects the critical nature of the services ASX provides.

Following ASX's announcement that it would pause the CHESS Replacement Program in November 2022, ASIC and the Reserve Bank of Australia (the regulators) acted to ensure that all necessary steps were taken to support and maintain the current CHESS until it is successfully replaced. On 15 December 2022, ASIC issued notices to ASX Clear Pty Ltd (ASX Clear) and ASX Settlement Pty Ltd (ASX Settlement) under section 823B of the Corporations Act, which required ASX to produce a special report on the current CHESS, and to have that report audited by EY.

On the same day, we also issued a letter setting out our expectations, including requiring attestations from the Board of Directors that they reasonably believed that the information in the special report was accurate. They would also have to release public versions of the report that appropriately consider the confidentiality of commercial and security (including cyber) information.

ASIC took further regulatory action in February 2023 to ensure that ASX adequately responds to the findings and recommendations of the ASX CHESS Replacement Application Delivery Review by Accenture. This includes taking all the necessary steps to address the identified gaps and deficiencies in relation to the ASX Group's portfolio, program and project management frameworks.

The audited special report will assist us when we are assessing whether any further regulatory action is required. ASIC has also contributed to the consideration by the Parliamentary Joint Committee (Oversight of ASIC, the Takeovers Panel and the Corporations Legislation) of matters relating to the delayed implementation of the ASX CHESS Replacement Program, including the relevant oversight arrangements.

Case study 2.5.8 Data-centric approach to fixed income, commodities and currencies market surveillance reducing manual processing and increasing accuracy of surveillance activities

We won the Australian Public Service (APS) Data Analytics and Visualisation Award 2023 for our sophisticated insider trading surveillance and detection capability. An ASIC team of specialists in data analytics and surveillance developed the capability. The new system automatically hunts for and detects suspected market misconduct, and profitable and suspicious trading patterns, and identifies connections between traders and potential sources of inside information.

More broadly, we continue to take a data-centric approach to our surveillance of the markets. During 2022–23, we continued to develop advanced analytics in relation to the fixed income, commodities and currencies (FICC) sector of the market. We use market-leading technology in a centralised cloud platform to reduce technology risks and enable our surveillance analysts to efficiently and accurately identify signals of potential market misconduct.

We have developed dashboards and risk-based analytics that allow us to conduct reactive surveillances of matters that emerge from Australian Transaction Reports and Analysis Centre (AUSTRAC) suspicious matter reports and direct complaints to ASIC. We are able to quickly ascertain whether further investigation is required without the need to serve legal notices on issuers, market intermediaries and market licensees. This has reduced the burden on our regulated population.

Recently, we leveraged our over-the-counter (OTC) derivatives trade repository data and interactive dashboards to identify entities and the scale and size of their exposure during significant market events. For example, during the 2023 Silicon Valley Bank collapse, we were better prepared to respond in a coordinated manner alongside APRA and the Reserve Bank of Australia as market events unfolded.

Market supervision

ASIC promotes trust and confidence in markets through our surveillance of trading on Australia's securities, futures and OTC markets, and our supervision of market intermediaries, including market participants, investment banks, securities dealers and issuers of OTC products. Focus areas this year included conduct and conflicts of interest in wholesale markets; changing retail investor dynamics; product design and governance; responding to overseas banking issues and market volatility; and technology and operational resilience (e.g. the implementation of new market integrity rules, monitoring market participants' progress in meeting our expectations in market outages, and an environmental scan of the use of AI).

Case study 2.5.9 Disrupting high-risk offers of products and services to retail clients

In 2022–23, ASIC conducted a thematic review of online retail brokers in response to rapid growth in retail trading activity and the number of online firms providing stockbroking services to retail clients. We noted that some brokers are offering retail investors high-risk products or services that may be unfair, inappropriate or result in poor outcomes.

We issued a warning to brokers in August 2022 to be careful about or to reconsider offering retail investors high-risk products and services, such as securities lending, crypto-assets and offers of 'zero' or 'low-cost' brokerage where the true cost is masked.

ASIC acted swiftly to disrupt activities that may result in harm to retail investors and to clarify our regulatory expectations for brokers. Our action resulted in brokers changing their existing or planned offers of products or services, including:

- one broker reassessing its proposal to offer securities lending to retail clients
- several brokers reassessing or ceasing plans to offer retail clients the ability to trade unregulated crypto products alongside securities
- several brokers removing potentially misleading statements from their websites (e.g. about the safety and security of their products or services or how client assets are held)
- several entities making changes to strengthen their client money handling arrangements to better protect retail clients.

Case study 2.5.10 Artificial intelligence and machine learning in markets

We actively monitor the markets for new trends and emerging issues, including the latest opportunities and challenges emerging from the use of AI and ML.

During the year, ASIC undertook an environmental scan of AI and ML in markets, including use cases, benefits and risks, and controls to mitigate risks. This involved consulting with market participants and some of their clients and international regulators, and conducting desk-based research. We also assessed whether the automated order processing (AOP) Market Integrity Rules (Securities Markets) 2017 and associated guidance are still fit for purpose, given developments with AI, ML and automated trading, and in the context of guidance from IOSCO.

The firms consulted had varying levels of maturity in their use of AI and ML, and reported a range of use cases. Offshore proprietary trading firms and global institutional investment banks were the most sophisticated users of AI and ML techniques in their trading, risk management and back-office functions. They also had more sophisticated governance and control frameworks. The technology was more broadly used in back-office and operational functions to improve the efficiency of high-volume processing tasks. There appears to be an AI and ML skills deficit domestically, with over-reliance on offshore teams across the full spectrum of touch points. As the technology is increasingly used to achieve results for clients, a key challenge for firms will be ensuring their control functions have the capacity and capability to test, challenge and verify that the systems operate as intended, in compliance with the law and not contrary to their clients' interests.

In relation to the securities market AOP rules, we determined that they are fit for purpose, but aspects of the guidance could be updated (e.g. to reflect the more adaptive and learning nature of algorithms). Our assessment reinforced that there is a gap in the futures market rules, and this is an area that we plan to consult on in the future.

Corporations

In 2022–23, our work supervising the corporate sector focused on climate-related governance and financial disclosures, overseeing corporate finance transactions, considering applications for relief from certain corporate law obligations, and reviewing whistleblower programs and reporting on good practices for handling whistleblower disclosures.

Case study 2.5.11 Design and distribution obligations

We reviewed the appropriateness of TMDs for investment products offered under the fundraising provisions of the Corporations Act. These include shares issued by investment companies, preference shares, Additional Tier 1 securities issued by prudentially regulated entities, and debentures.

We selected the TMDs for review by assessing all retail offers of these products since 1 March 2022. We used risk-based criteria relating to the terms of the product, the underlying business model or asset allocation (as relevant), past performance, the size of the offer, and the nature of the offer (e.g. if the offer was only open to people associated with the company).

Over the review period, we identified 119 offers under the fundraising provisions that were subject to design and distribution obligations and took the following actions:

- We reviewed TMDs for 35 offers after risk assessment.
- We took action on 14 of the 35 offers, involving 7 stop orders and 7 negotiated outcomes that included the withdrawal of some offers.

See **Report 762**[1] *Design and distribution obligations: Investment products*, released on 3 May 2023.

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1 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-762-design-and-distribution-obligations-investment-products/

Case study 2.5.12 Greenwashing

We conducted reactive and proactive surveillances on greenwashing, looking into ESG-related disclosures in disclosure documents lodged with us by companies raising capital from retail investors. We intervened to secure changes or additional disclosure to prevent harm to investors, consumers and market integrity, and to deter greenwashing misconduct. Our interventions include:

- An oil and gas company removed net zero emissions statements, including a target to achieve net zero emissions by 2050, from its prospectus. The company was unable to provide additional information about how the targets would be achieved and the potential feasibility of achieving them.
- An energy exploration company removed 'clean energy' claims from its prospectus. The company's exploration activities were not sufficiently progressed to determine the viability of extracting clean energy from its assets.
- A mining company provided, in a supplementary prospectus, more detailed information and context to the environmental and sustainability credentials of its 'low-carbon' processing technology.

See **Report 763**,[1] *ASIC's recent greenwashing interventions* (RP 763) released on 10 May 2023.

1 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-763-asic-s-recent-greenwashing-interventions/

Case study 2.5.13 Corporate finance transactions

ASIC continues to take action in corporate control transactions to ensure that investors are given an equal opportunity to participate in, and receive the information they need to make an informed choice about, a control transaction. Our work also seeks to ensure that control transactions are structured and conducted in a fair and competitive manner. We adopt a risk-based approach in our review of corporate control transactions to ensure that we target conduct with the most potential to harm investors.

In 2022–23, we reviewed 43 schemes of arrangement and 24 takeover bids with an implied value of more than $24.6 billion. We achieved disclosure or structural changes in about 75% of those we reviewed. We also received 35 shareholder-approved acquisitions and attained disclosure changes in almost 90% of the acquisitions we reviewed.

We also reviewed an independent expert's report that was to be provided to investors in a company so they could vote on a third party increasing its control of the company. The expert concluded that the transaction was fair and reasonable.

We intervened to ensure that an appropriate valuation methodology had been used to value the securities in the company and that the expert had applied appropriate assumptions in its valuation to reach its opinion. As a result of our intervention, the independent expert's opinion was withdrawn. Our intervention ensured that investors were not given information that would undermine their ability to make an informed choice about how to vote on the transaction. Ultimately, the transaction did not proceed.

ASIC continues to review fundraising documents to ensure they provide investors with enough information to make fully informed investment decisions, and to confirm that they comply with design and distribution obligations. In 2022–23, we received more than 450 original prospectuses that were collectively seeking to raise more than $7 billion.

We intervened and issued 23 disclosure, and design and distribution obligation, stop orders, preventing the issuers from making the offers. A number of these offers were in the unlisted sector, where high-risk offers were made to raise funds from retail investors to on-lend to potential property and mining developments.

Case study 2.5.14 Review of whistleblower programs

We reviewed the whistleblower programs of seven large firms, focusing on their arrangements to protect and support whistleblowers, handle and use information contained in whistleblower disclosures, and the level of executive and board oversight of the programs.

Generally, our review showed that all firms had developed practices to handle whistleblower disclosures that are in line with Part 9.4AAA of the Corporations Act. These practices were also often in line with good practice tips highlighted in **Regulatory Guide 270**[1] *Whistleblower policies*. We observed that the quality and maturity of the firms' governance frameworks and programs to assess and consider whistleblower disclosures varied, and ASIC has provided feedback to the firms.

On 2 March 2023, ASIC published **Report 758**,[2] *Good practices for handling whistleblower disclosures*, summarising our review findings and setting out scalable good practices that firms can adopt for their own whistleblower programs.

1 https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-270-whistleblower-policies/
2 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-758-good-practices-for-handling-whistleblower-disclosures/

Financial reporting and audit

Quality financial reports provide important information for investors and other stakeholders making decisions about the allocation of scarce resources. Auditors play a vital role in underpinning investor trust and confidence in the quality of those financial reports.

In 2022–23, we aligned our financial reporting and audit surveillance (previously known as audit inspection) programs, as there can be a strong link between the issues identified in a financial report and the quality of audit work undertaken on the financial report. We combined the two programs to create a single financial reporting and audit surveillance program and implemented risk-based targeting of financial reports, making better use of internal and external data. We will choose higher risk financial reports, and with key audit areas reviewed primarily relating to the most significant outcomes from the financial report reviews. We will report negative findings directly to the directors of companies, audit committees and audit firms.

Case study 2.5.15 ASIC root cause analysis of six largest audit firms

ASIC released a thematic report following its review of root cause analysis on negative audit quality findings conducted by the largest six audit firms. The report included better practice recommendations.

The review was conducted in advance of the new audit quality management standard ASQM 1 *Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements* coming into effect. ASQM 1 required all audit firms to have designed and implemented systems for quality management by 15 December 2022.

Report 739[1] *Root cause analysis: Audit firm thematic review* identified many existing good practices across the six firms, including the inclusion of a wide range of sources of audit files for root cause analysis, and maintaining the independence of root cause analysis teams. The report included better practice recommendations for all audit firms to consider when planning for the implementation of ASQM 1.

Our review showed that the top root cause of negative audit quality findings, across the sample reviewed, was skill deficiency in individual auditors, followed by the application of professional scepticism and auditor mindset.

ASIC encourages audit firms to consider potential underlying root causes more widely, including focusing on supervision and review, and exploring further relevant remedial actions to improve audit quality.

1 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-739-root-cause-analysis-audit-firm-thematic-review/

Case study 2.5.16 Former auditor of Big Un Limited convicted for failing to comply with auditing standards

On 1 August 2022, the former auditor of the collapsed entity Big Un Limited was convicted for failing to conduct the audit of Big Un Limited in compliance with auditing standards. The audit related to the financial year ending 30 June 2017.

Following a guilty plea, the former auditor was convicted and ordered to pay a penalty of $2,000. At the time of the offence, the maximum penalty for contravening subsection 307A(2) of the Corporations Act was $10,500. In March 2019, the penalties significantly increased, with the possibility of up to two years imprisonment for individuals or penalties of up to $53,280 for audit companies.

In October 2020, the former auditor voluntarily cancelled their registration as a company auditor.

This is the second auditor to face criminal charges for failing to comply with auditing standards. In 2021, the auditor of Halifax Investment Services was convicted of the same offence.

Registered liquidators

The registered liquidator team regulates 656 registered liquidators who accepted appointments to nearly 8,000 external administrations during the year. Our work during the year focused on:

- examining poor behaviours by liquidators, including those relating to independence, remuneration and competency
- supporting liquidator investigations through grants from the Assetless Administration Fund
- improving our data analytics and technology capabilities and reporting to enhance our ability to identify and act on emerging harms, set strategic priorities, create efficiencies and inform policy.

Case study 2.5.17 Natural language processing for declarations of independence, relevant relationships and indemnities

We have been using natural language processing (NLP) and more recently ML to review the content of declarations of independence, relevant relationships and indemnities (DIRRIs) to support our surveillance of registered liquidator independence.

NLP and ML facilitate electronic reviews of DIRRIs (lodged with ASIC as a PDF attachment) to search for specified words and phrases and identify instances in which conflict concerns may exist. ML refines the accuracy of the search process by using annotated keyword data. This enables all DIRRIs lodged (not just a small sample) to be reviewed in 'real time' and releases ASIC resources to focus on surveillance of identified potential concerns, rather than staff reviewing each DIRRI manually, which is not practical given the large number of DIRRIs lodged with ASIC annually.

Using this solution, we have successfully identified DIRRIs where we have acted early to address independence concerns.

From 1 July 2022 to 30 June 2023, we processed around 6,100 DIRRIs using NLP and ML, identifying an average of 17.7% of DIRRIs for review. We began inquiries in 9.8% of DIRRIs reviewed (including DIRRIs from group appointments).

Most matters actioned resulted in improved educational and disclosure outcomes. Improvements in disclosures benefit creditors by allowing them to better assess a liquidator's independence.

Review of small business restructuring process

In January 2023, ASIC published **Report 756**[32] *Review of small business restructuring process*. The report outlines the findings from our lodgement data for all 82 small business restructuring practitioner appointments that commenced in the review period (1 January 2021 to 30 June 2022) and the outcomes of those restructurings to 30 September 2022.

Small business restructuring appointments have increased substantially since the review period, with 447 restructuring practitioner appointments from 1 July 2022 to 30 June 2023. Following the report, we engaged with small business practitioners who had appointments during the review period. The practitioners provided feedback on their experience with the process.

32 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-756-review-of-small-business-restructuring-process/

This was ASIC's first report since reforms were introduced on 1 January 2021 to create a new simplified debt restructuring process for eligible small businesses and a new type of registered liquidator. This is the first type of insolvency appointment that leaves the control of the insolvent company in the hands of the directors and not the appointed registered liquidator.

Based on information reviewed to 30 September 2022, ASIC identified:

- creditors approved the majority (72) of the 78 sent to affected creditors (92%)
- where a restructuring plan was accepted, 47 plans (65%) were effectuated, one plan (2%) was terminated and 24 plans (33%) were ongoing as at 30 September 2022
- the majority of companies where a restructuring plan was effectuated or was ongoing appeared to be continuing to operate (66%)
- the ATO was a creditor of 89% of the companies that entered a restructuring plan and was a major creditor of 79% of the companies.

2.6 Ongoing regulatory and enforcement work

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. Our enforcement actions focus on preventing and addressing significant harm to consumers, markets and our financial system.

Criminal convictions

In 2022–23, our investigations resulted in 35 people being convicted of criminal offences, with 21 people receiving custodial sentences (including fully suspended sentences).

Civil actions

In 2022–23, we completed 52 civil actions, covering issues such as fees for no service breaches, systemic compliance failures, continuous disclosure contraventions, false and misleading advertising, misleading sale of insurance, financial hardship misconduct, superannuation advice breaches, and failure to comply with the best interests duty.

The total value of penalties for these civil court cases was $185.4 million.

Protective actions

We banned, removed or restricted 77 people or companies from providing financial services, and 28 people or companies from providing credit services.

We disqualified or removed 32 people from directing companies.

Corrective actions

We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. In 56 instances, potentially misleading or deceptive promotional material was withdrawn or amended in 2022–23.

Infringement notices

In 2022–23, ASIC issued 15 infringement notices and received $219,480 in related payments. We issued infringement notices against:

- Tlou Energy Limited ($53,280)
- Vanguard Investments Australia Limited ($39,960)
- Diversa Trustees Limited ($13,320)
- Black Mountain Energy Limited ($39,960)
- Midway Limited ($33,000)
- Jacaranda Finance Pty Ltd ($26,640)
- Future Super Investment Services Pty Ltd ($13,320).

The Markets Disciplinary Panel (MDP) issued five infringement notices to a market participant, with a total of $6.49 million in penalties for alleged breaches of the market integrity rules.

Court enforceable undertakings

Court enforceable undertakings are a flexible tool that ASIC can use to improve compliance with the law and encourage a culture of compliance.

We accepted three court enforceable undertakings in 2022–23.

We monitor all active court enforceable undertakings to ensure all obligations are met. Currently, we are monitoring 13 such undertakings, and our work indicates that all parties are complying.

Helping protect small business

Where necessary, we take action against companies, directors and other officeholders who fail in their duties. This helps to create a level playing field. In 2022–23, we recorded 252 small business–related outcomes.

Together with other federal, state and territory agencies, ASIC is a member of the ATO-led Phoenix Taskforce, which aims to detect, deter and disrupt illegal phoenix activity. Taskforce members share information and use sophisticated data-matching tools to identify those promoting or engaging in phoenix activity. We work together to disrupt phoenix operators' business model and make it financially unviable, removing their ability to operate, applying financial penalties and prosecuting the worst offenders.

Case study 2.6.1 Illegal phoenix activity

In March 2023, ASIC disqualified former Victorian director Roxanne Cornell for five years after finding she engaged in illegal phoenix activity. Between November 2015 and February 2020, Ms Cornell was a director of Coconut Post Tensioning Pty Ltd, Coconut Group Pty Ltd and Petrox Nominees Pty Ltd – all companies that operated in the building and construction industry. All three companies subsequently went into liquidation, owing a combined total of $6,133,017 to creditors.

ASIC found that Ms Cornell acted improperly and failed to meet her obligations as a director. This included engaging in phoenix activity by transferring and operating a business using new entities to sustain a loss-making business and to intentionally avoid paying creditors. Other concerns ASIC had included Ms Cornell making improper payments from the entities to herself and others, causing detriment to the companies, and not assisting the liquidators appointed to the entities.

We continue to focus on illegal phoenix activity and are committed to using our regulatory tools of engagement, surveillance and enforcement to identify, disrupt and act against those who engage in this conduct.

Table 2.6.1 Small business enforcement outcomes by misconduct and remedy type

Misconduct type	Criminal	Administrative	Total (misconduct)
Action against persons or companies	240	31	**271**

Of the actions summarised in Table 2.6.1:

- 181 convictions related to individuals who failed to assist registered liquidators
- 48 convictions related to companies that failed to lodge annual financial reports with ASIC
- 11 related to criminal convictions prosecuted by the Commonwealth Director of Public Prosecutions (CDPP), with 3 receiving custodial sentences
- 27 persons were disqualified from managing corporations, with 3 related to illegal phoenix activity
- 4 Australian credit licences were cancelled or suspended.

As at 1 July 2023, ASIC had 93 small business–related criminal cases underway against persons or companies.

Enforcement examples

As ASIC is a law enforcement agency, the volume and results of our enforcement activities provide an important measure of our performance. Table 2.3.1 provides data on our enforcement activities, but we also use case studies in our reporting to better illustrate the impact of our actions.

We regulate all financial services and consumer credit, and authorised financial markets operating in Australia. This role covers many thousands of entities, individuals and transactions, making our remit one of the broadest of any comparable regulator in Australia or the world. Consequently, over the course of a year, we take more actions than we can report on in detail in our annual report. In choosing case studies for our annual report, we prioritise those that most clearly relate to the priorities and core projects identified in our Corporate Plan, and the priorities identified in our enforcement priorities for 2023.

Guided by this approach, the following nine case studies provide a snapshot of the enforcement actions we took over 2022–23.

Case study 2.6.2 ASIC issued infringement notices relating to sustainable finance

During 2022–23, we issued 12 infringement notices, totalling more than $150,000, relating to sustainable finance practices across five entities. These spanned listed companies, a responsible entity of a managed fund, a superannuation trustee and a superannuation fund promoter. All infringement notices have been paid.

Note: Payment of an infringement notice is not an admission of guilt or liability.

We issued:

- four infringement notices to Tlou Energy Limited and three to Black Mountain Energy Limited, relating to suspected false or misleading sustainability-related statements made to the ASX
- three infringement notices to investment manager Vanguard Investments Australia Limited and one to superannuation trustee Diversa Trustees Limited, relating to suspected false or misleading statements made by the entities that overstated the investment exclusions applicable to their products
- one infringement notice to Future Super Investment Services Pty Ltd, the promotor of the Future Super Fund, relating to a suspected false or misleading Facebook post that overstated the positive environmental impact of the Fund.

Case study 2.6.3 ANZ penalised $25 million for misleading customers and failing to provide promised benefits

Action by ASIC resulted in Australia and New Zealand Banking Group Limited (ANZ) being ordered to pay a $25 million penalty in October 2022. This was due to its failure to provide certain benefits it had agreed to give customers with offset transaction accounts or under its Breakfree Package.

The Breakfree Package offered fee waivers, interest rate discounts on eligible ANZ products, and other benefits in exchange for paying an annual fee. Its offset customers were entitled to interest rate reductions on eligible home and commercial loans. These benefits were not always passed on to the customer.

ASIC's investigation led to court findings that for more than 20 years, ANZ failed to provide benefits, such as fee waivers and interest rate discounts, to approximately 689,000 customer accounts, with customers affected up until September 2021. The court also found that ANZ made false or misleading representations to certain customers when it represented that it had, and would continue to have, adequate systems and processes to provide the contractual benefits they were entitled to. ASIC's action will result in ANZ paying more than $211 million in remediation to affected customers.

This matter was the final civil case filed following ASIC's enforcement investigations arising from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission).

Case study 2.6.4 Melbourne woman sentenced after stealing millions from superannuation and share trading accounts

Following a joint investigation by the Australian Federal Police (AFP) and ASIC, in December 2022, a Melbourne woman was sentenced to five years and six months' imprisonment for her central role in an international cybercrime syndicate.

The syndicate engaged in fraud and identity theft to steal more than $3.3 million from superannuation and share trading accounts, and attempted to steal a further $7.5 million.

The offender worked with others to create a cloned website that mimicked the website of a superannuation fund, using a domain name that was almost identical to the legitimate site. Online advertisements were used to promote the cloned website, bringing it the top of the search engine.

The intention was to harvest super members' usernames and passwords when they visited the cloned website ('phishing'). The stolen information was used to gain unauthorised access to member accounts.

ASIC and the AFP's complex investigation revealed cybercrime occurring on multiple levels that had a devastating impact on the victims.

We will continue working with other regulators and law enforcement agencies, both domestic and international, to disrupt scams and coordinate enforcement strategies.

Case study 2.6.5 Dealing with debtors in financial hardship – ClearLoans' $6 million penalty

ASIC action against credit provider Membo Finance Pty Ltd and its credit representative Richmond Group Financial Services Pty Ltd, trading as ClearLoans, resulted in the companies being ordered to pay more than $6 million in penalties.

ClearLoans was a credit business that provided loans of between $3,000 and $15,000 on 12-month to 60-month terms, with a fixed interest rate of 43% per annum. Loans were secured by a personal guarantee, usually by a friend or relative. In cases of default by a debtor, ClearLoans attempted to collect from the guarantor.

Our investigation led to Federal Court findings that the companies had failed to act efficiently, honestly and fairly when dealing with debtors in financial hardship, had commenced court proceedings to enforce credit contracts in a state other than where the debtor or guarantor lived, and had breached other requirements of the consumer credit legislation.

In addition to the financial penalties, ASIC also obtained court orders for ClearLoans to discontinue a number of enforcement proceedings against borrowers and guarantors.

Case study 2.6.6 GetSwift's $15 million penalty for breaching continuous disclosure laws

In February 2023, following proceedings brought by ASIC, GetSwift Ltd was ordered by the Federal Court to pay a pecuniary penalty of $15 million, the largest ever penalty against a company for breaching continuous disclosure laws.

The Court also imposed penalties on GetSwift's principal directors, Bane Hunter and Joel Macdonald, that were among the highest imposed on individuals for corporate misconduct. Mr Hunter was ordered to pay a $2 million pecuniary penalty and disqualified from managing corporations for 15 years. Mr Macdonald was ordered to pay a $1 million pecuniary penalty and disqualified from managing corporations for 12 years. A third director, Brett Eagle, was ordered to pay a pecuniary penalty of $75,000 and was disqualified from managing corporations for two years.

In 2017, GetSwift made ASX announcements about agreements with clients, including Amazon, the Commonwealth Bank of Australia (CBA) and Yum Brands, for the use of its software-as-a-service platform. However, these clients were only trialling, or contemplating trialling, the GetSwift platform. At the time of the announcements, these trials were not revenue generating. Over the period of the announcements, GetSwift's share price rose almost 800%. GetSwift also raised $100 million in capital from institutional investors, including $75 million in December 2017, when the company's share price was close to its peak.

This result aligns with ASIC's enduring enforcement priority to take action for breaches of the continuous disclosure provisions to protect consumers and to maintain trust and integrity in Australian financial markets.

Case study 2.6.7 Markets Disciplinary Panel fined Ord Minnett Limited $888,000

On 31 March 2023, following an ASIC investigation into an on-market share buyback conducted by Ord Minnett Limited (Ord Minnett), the MDP issued an infringement notice for $888,000 for two contraventions of the market integrity rules.

On 1 September 2021, Ord Minnett received instructions to commence a buyback on behalf of an ASX-listed entity. The MDP had reasonable grounds to consider that Ord Minnett twice contravened market integrity rules when conducting the buyback by failing to follow client instructions, and executing a pre-arranged trade that caused the market to not be fair and orderly.

Ord Minnett was fined $111,000 for the first breach and $777,000 for the second breach.

The MDP considered that Ord Minnett did not intend to breach the rules but failed to adequately investigate the question of crossings in a buyback. The MDP considered that Ord Minnett failed to recognise the contraventions or implement any changes to its systems to prevent or mitigate the risk of further breaches.

This was ASIC's first matter before the MDP under the newly increased penalty regime.

Case study 2.6.8 Former director of Tesla Motors Australia convicted for insider trading

Following an ASIC investigation and referral to the CDPP, in March 2023, a former director of Tesla Australia was convicted and sentenced on two counts of insider trading.

As part of our surveillance of Australia's financial markets, ASIC observed some unusual trading activity on the ASX around the time that a small Australian lithium producer, Piedmont Lithium Ltd, announced that it had entered into an agreement with Tesla Motors Inc. On a review of the trading, it appeared that the then country director of Tesla Australia had purchased shares in Piedmont in advance of the supply agreement being announced.

The former director was charged with one count of insider trading and one count of tipping another with inside information. They pleaded guilty, were convicted on both charges and sentenced to two and half years imprisonment to be served if there was any further misconduct. They were also ordered to forfeit the full trading profit and were disqualified from managing companies for five years.

Case study 2.6.9 Tyson Scholz – Permanent injunctions ordered against social media 'finfluencer'

Following ASIC action, in April 2023 the Federal Court made permanent injunctions against social media finfluencer Tyson Robert Scholz, prohibiting him from carrying on a financial services business in Australia in contravention of the Corporations Act.

These orders followed the findings in December 2022 that Mr Scholz had contravened section 911A of the Corporations Act by carrying on a financial service business between March 2020 and November 2021 without an AFS licence.

The Court permanently prohibited Mr Scholz from:

- hosting online groups for which a membership fee is charged, and in which messages are exchanged by members about share trades (either in a group chat or through direct messages from Mr Scholz), without an AFS licence
- carrying on a financial services business in Australia in contravention of section 911A of the Corporations Act.

ASIC took this action to underline the importance of ensuring that anyone who recommends financial products or provides financial advice on social media complies with financial services laws that exist to protect investors.

Impact assessment 2.6.1 Preventing investment losses from binary options

We acted to protect consumers from significant investment losses from the sale of binary options. These products can result in investors losing substantial sums in a short period. Our action resulted in estimated savings to consumers of more than $100 million.

Why ASIC intervened

Binary options are OTC derivatives that allow consumers to speculate on the occurrence or non-occurrence of a specified event in a defined timeframe. They have an 'all-or-nothing' payoff structure, with one of two possible outcomes resulting in the consumer losing their entire investment.

The way in which binary options were designed and sold meant that consumers were likely to make cumulative losses over time. Our research found that in 2018, around 80% of retail clients who traded binary options made losses, which were estimated to total $490 million.

How ASIC intervened

We prohibited businesses from issuing and distributing binary options to retail clients by making a product intervention order. The initial order was in place from May 2021 to October 2022. We extended the order in September 2022 following public consultation. The ban on selling binary options will now continue until October 2031.

How businesses responded to ASIC's concerns

ASIC has monitored the binary options market and found that all licensed businesses have complied with the product intervention order, and ceased selling binary options to retail clients. We have also taken disruptive action where we have identified scams and unlicensed offers of binary options.

How ASIC's intervention improved consumer outcomes

We estimate that extending the prohibition on selling binary options until 2031 will save consumers more than $100 million in investment losses. This assumes the net loss of around $14 million incurred by consumers in trading binary options in the 12 months before the product intervention order commenced in May 2021 would have continued at a similar rate without our intervention.

Supervision and surveillance

ASIC's supervision and surveillance work is core to our statutory mandate to monitor and promote market integrity and consumer protection in the Australian financial system. It seeks to influence behavioural change and prevent harm resulting from poor corporate systems and conduct.

Supervision of large financial institutions

Our institutional supervision focuses on those financial institutions that have the greatest potential impact on consumers due to market share or other factors. This focused supervision seeks to proactively minimise misconduct and consumer harm by improving organisation-wide factors, including governance, accountability, systems and culture. In 2022–23, the four major banks (ANZ, CBA, National Australia Bank and Westpac Banking Corporation) were subject to institutional supervision.

A key area of focus included reviewing their approach to scam prevention, detection and response.

Case study 2.6.10 Scam prevention, detection and response by the four major banks

Scams are increasing in volume and sophistication, causing significant financial and other harm to Australian consumers, including the most vulnerable in our community.

Recognising the important role of banks in scam prevention, detection and response, ASIC conducted a review of the four major banks' activities in these areas and published **Report 761**[1] *Scam prevention, detection and response by the four major banks* in April 2023.

Our review focused on the major banks with the expectation that they should have the most mature and effective policies, processes and practices in relation to scams.

Through the review, ASIC saw that the major banks had invested significantly in their anti-scam efforts over the last several years and had implemented a number of innovative initiatives. However, noting the increasing prominence and impact of scams, ASIC considers that there is still more to be done. Key findings included that:

› their overall approach to strategy and governance in relation to scams was variable and overall less mature than expected

› their approaches to determining liability were inconsistent and narrow

› scam victims were not always well supported by their bank

› there were gaps and inconsistencies in how they detect and stop scam payments

› while there were examples of emerging good practice, steps taken to help prevent customers from falling victim to scams varied across banks.

1 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-761-scam-prevention-detection-and-response-by-the-four-major-banks/

Ongoing surveillance activities in relation to sustainable finance

Since publishing **Information Sheet 271**[33] *How to avoid greenwashing when offering or promoting sustainability-related products* in June 2022, we have undertaken reactive and proactive surveillance in relation to greenwashing.

Our work has covered disclosure documents, PDSs, advertisements, websites and other market disclosures. More specifically, it has included:

- surveillance of the managed funds sector, including a review of the PDSs of 122 funds, and further consideration of the investment processes of 17 funds
- surveillance of ESG-related disclosures in disclosure documents lodged with us by companies raising capital from retail investors
- responding to reports of misconduct and breach reports.

As a result of this surveillance work, between 1 July 2022 and 31 March 2023, we achieved 23 corrective disclosure outcomes, securing changes or additional disclosure to prevent harm to investors, consumers and market integrity, and to deter greenwashing misconduct.

We continue to encourage all product issuers and advisers to consider the questions and principles set out in **Information Sheet 271**[33] and to keep up to date with international and domestic developments in relation to sustainable finance.

ASIC has received $4.3 million from the Australian Government to further expand our surveillance and enforcement activities in relation to greenwashing over 2023–24. As part of this expanded program of surveillance, we will be progressing our surveillance across our regulated populations.

33 https://asic.gov.au/regulatory-resources/financial-services/how-to-avoid-greenwashing-when-offering-or-promoting-sustainability-related-products/

Case study 2.6.11 Public outcomes of our supervision and surveillance work

We publish the results of our supervision and surveillance work.

Our reports support good consumer outcomes and change behaviour by improving practices across a sector or market. Reflecting the principles of regulator best practice, these reports illustrate how we use data and technology to identify harms more quickly and accurately, and to provide more efficient and targeted regulation.

In 2022–23, we released 37 supervision, surveillance or review reports, including on issues such as:

- progress made by superannuation trustees to improve their arrangements for life insurance in superannuation – **Report 760**[1] *Insurance in superannuation: Industry progress on delivering better outcomes for members*
- compliance with design and distribution obligations by issuers of investment products – **Report 762**[2] *Design and distribution obligations: Investment products*
- how failures by general insurers to manage non-financial risk have led to significant consumer harm – **Report 765**[3] *When the price is not right: Making good on insurance pricing promises.*

1 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-760-insurance-in-superannuation-industry-progress-on-delivering-better-outcomes-for-members/
2 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-762-design-and-distribution-obligations-investment-products/
3 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-765-when-the-price-is-not-right-making-good-on-insurance-pricing-promises/

Misconduct reports by the public

Our analysis of reports of misconduct received from the public is critical to informing our regulatory work.

We encourage members of the public to report concerns about corporate and financial services to us. We use this information to direct our regulatory activities to identify and address harms to investors and consumers.

Since the initial COVID-19 pandemic lockdown in early 2020, ASIC has seen consistently high levels of reports relating to scam behaviour. This has resulted in ASIC issuing regular alerts, warnings and reminders to the public to be vigilant in protecting their money and identity.

For more information on misconduct and breach reports, see Appendix 5.

Guidance

Through regulatory guides, consultation papers and information sheets, we provide guidance to industry on how we will administer the law.

We do this to enhance industry participants' understanding of their legal obligations and how to meet them. Our feedback reports provide transparency about ASIC consultations.

In 2022–23, we published seven consultation papers, 34 new or revised regulatory guides and 29 new or revised information sheets.

For a complete list of the publications issued, see our website at **www.asic.gov.au/regulatory-resources/**.

Licensing and registration

Licensing

ASIC assesses applications for AFS licences, credit licences, audit companies, registered companies and SMSF auditors. We also support the committee that assesses the registration of liquidator applications. Aligned with the principles of regulator best practice, we use a risk-based approach to assessment, devoting more of our resources to complex and higher-risk applications to ensure that only suitable persons and organisations are licensed or registered.

In 2022–23, ASIC finalised 2,005 AFS licences and credit licence applications, including cancellations and suspensions. We approved 841 AFS licences and 263 credit licences. We cancelled or suspended 329 AFS licences and 212 credit licences, the majority of which were licensees voluntarily applying for licence suspension or cancellation. During the reporting period, 195 AFS licence and credit licence applications were voluntarily withdrawn, mostly after we completed our assessment and informed applicants that they were unlikely to meet the statutory requirements to obtain a new or varied licence. We refused to accept 160 applications for lodgement, mainly due to material deficiencies in the information provided. Two applications assessed were refused in 2022–23.

We assessed 1,028 applications relating to auditor (company auditor, authorised audit company and SMSF auditor) registrations, cancellations or suspensions. Of these, 169 were approved, 50 were withdrawn and 777 were cancelled or suspended.

Case study 2.6.12 Facilitating transition to the corporate collective investment vehicles regime

On 1 July 2022, the corporate collective investment vehicle (CCIV) regime commenced. A CCIV is a new type of company that is used for investing and funds management.

In recognition of the similarities between CCIVs and managed investment schemes, ASIC considered that AFS licensees authorised to provide financial product advice and/or deal in managed investment schemes would be competent to provide those financial services in relation to the CCIV regime.

To facilitate licensees' adoption of the new regulatory regime, we wrote to the 185 AFS licensees who held relevant authorisations in managed investment schemes offering to add an authorisation for 'securities in a CCIV'. Existing eligible licensees who took advantage of this did not have to provide any supporting documents to vary their licences, and 41 of these were granted this authorisation in 2022–23.

In addition, we updated **Information Sheet 240**[1] *AFS licence applications: Providing information for fit and proper people and certain authorisations* to streamline proof for prospective AFS licensee applicants. We have prioritised their assessment since 1 July 2022.

To date, we have approved five corporate director applicants, with two for retail and wholesale CCIVs, and three for only wholesale CCIVs.

1 https://asic.gov.au/for-finance-professionals/afs-licensees/applying-for-and-managing-an-afs-licence/afs-licence-applications-providing-information-for-fit-and-proper-people-and-certain-authorisations/

Case study 2.6.13 Debt management firms

Firms can only provide debt management services if they were licensed or had applied to ASIC for a licence before 1 July 2021.

As at June 2023, ASIC had received 123 applications to provide debt management services, and granted 79 licences.

The rate of debt management firm applications withdrawn and refused is approximately three times higher than the historical average for non-debt management firm credit licence applications. This result supports the objective of the legislative reforms to ensure that only participants that ASIC has no reason to believe will not comply with credit licence obligations are licensed to provide debt management services.

Case study 2.6.14 Importance of disclosing material changes to an applicant's proposed business when applying for a licence

ASIC received an application for an AFS licence to provide general financial product advice and deal in a range of financial products.

Based on the information provided by the applicant, ASIC formed the view that the licence should be granted and provided the applicant with a draft AFS licence. However, ASIC subsequently became concerned that the applicant intended to engage in securities lending to retail clients, which the applicant had not disclosed in the application.

As we had recently cautioned industry about offering securities lending to retail investors (see **Media Release (22-239MR)**[1] 'ASIC warns brokers considering high-risk offers to retail investors', 31 August 2022), we were concerned that this may have been a deliberate omission. We no longer had reason to believe the applicant would comply with their licence obligations if an AFS licence was granted. When advised of our concerns, the applicant withdrew their application.

1 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-239mr-asic-warns-brokers-considering-high-risk-offers-to-retail-investors/

Registry services and outcomes

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

Modernising Business Registers program

As part of the 2020 Budget, the Australian Government announced the implementation of the MBR program.

The aim of the MBR program was to transfer existing business registers to a modernised platform to be administered by Australian Business Registry Services (ABRS) within the ATO. This would allow the creation of a single, accessible and trusted source of business data.

In April 2021, as a first step in the MBR program, the Commissioner of Taxation was appointed Registrar for the ABRS and ASIC registry staff, and functions were moved to the ABRS through a machinery of government change.

Since then, the ABRS has been responsible for carrying out ASIC registry functions under delegation from ASIC, including operating the Customer Contact Centre in Traralgon, Victoria.

Until the Registrar assumes direct responsibility for registry functions under the law, ASIC will continue to report on registry performance.

ASIC's Registry Interactions and Services team manages ASIC's relationship with the ABRS.

Independent review of the MBR program

In February 2023, the Australian Government announced an independent review of the MBR program led by Mr Damon Rees, to ensure the program was being delivered within a reasonable timeframe and budget.

In August 2023, in response to the review's findings that the expected economic benefits of the program do not justify the revised costs, the Assistant Treasurer announced the Government would stop the MBR program and would prioritise the stabilisation of existing registers.

ASIC is working with Treasury and the ATO to implement the Government's decision to stop the program and plan the way forward for the modernisation of business registers. The Government will consider options to uplift registries following further analysis.

ASIC remains committed to providing efficient and accessible business registers that make it easier for Australians to do business and interact with government.

ASIC registers

ASIC's registers are the official source of information for business names, companies and financial professionals registered to operate in Australia. They are a critical part of Australia's economic infrastructure. The registry is responsible for the administration of ASIC registers, including the two largest registers of companies and business names, and a range of professional and other registers.

The registry aims to ensure information on the registers is accurate, up to date and available to those using it, enabling business and consumer stakeholders to make informed decisions. The registry is focused on making it easier for businesses to engage with ASIC and comply with the law, enhancing commercial certainty. The registry aims to provide services that are online and accessible to all Australians and continuously looks for ways to improve services and support efficient registration.

Table 2.6.2: ASIC registers

Outcome	Total 2022–23	Total 2021–22
Total companies registered	3.23m	3.09m
New companies registered	274,964	292,166
Total business names registered	2.71m	2.54m
New business names registered	387,629	421,607

Outcome	Total 2022–23	Total 2021–22
Calls and online inquiries responded to by our Customer Contact Centre	408,062	523,858
Registry lodgements	3.25m	3.25m
Percentage of registry lodgements online	94.6%	94.3%
Number of searches of ASIC registers	317.7m	265.8m

Performance overview

The registry received almost 3.25 million lodgements during the 2022–23 financial year. The most common lodgement made was 'Change to company details' (Form 484), with 1 million received. The ABRS, operating the Customer Contact Centre, answered 408,000 inquiries.

Business registration

The registry helped facilitate 663,000 new registrations, comprising 275,000 companies and 388,000 business names.

Throughout 2022–23, the registry promoted the use of the Australian Government's Business Registration Service, which is available through **business.gov.au**. In total, 99.4% of applications to register a company or business name are now made online. The cost of registering a business name is $42 for one year and $98 for three years.

Increased use of online channels

More than 94.6% of the 3.25 million lodgements received were submitted online, while the volume of lodgements submitted by mail decreased by 27%. Similarly, telephone calls to the Customer Contact Centre operated by the ABRS decreased by 9%, while inquiries submitted through the website increased by 6%.

Analysis of key registry outcomes

Key outcomes achieved by the registry in 2022–23 are set out below.

Director identification numbers

As part of the MBR program, the director ID service was introduced in November 2021. The vast majority of directors have now obtained a director ID, with more than 2.3 million director IDs issued.

In 2022–23, ASIC supported the ABRS to encourage directors to apply for their director ID.

We are responsible for enforcing related offences set out in the Corporations Act, which include failing to obtain a director ID.

The director ID requirement applies to directors if their organisation is a company, registered foreign company, registered Australian body or First Nations corporation.

Registry services

ASIC retains registry functions under the law, and we remain committed to ensuring business registers are efficient and accessible and make it easier to do business.

We work closely with the ABRS to ensure the registry is administered for the benefit of all Australians.

In 2022–23, we continued working with the ABRS to:

- support the transfer of responsibility for statutory registry functions from ASIC to the ABRS
- deliver the subset of functions that remain with ASIC, using technology to make it easier for regulated entities to meet their obligations
- move the ASIC business registers off ageing technology infrastructure to the new ABRS registry platform and establish services for data exchange between ASIC and the ABRS
- ensure we have full and timely access to registry data to support our regulatory and enforcement work
- implement registry-related aspects of regulatory reforms, including financial advise registration and CCIV regimes.

Engagement

First Nations engagement

Our Indigenous Outreach Program is supported by an established and specialist team working across ASIC. It provides advice, insights and support to ensure our engagement with First Nations people is culturally appropriate and sensitive. It also aims to ensure that we are a trusted source of information and resources for First Nations consumers and communities through our communications channels. We also work with industry, service providers and other government agencies to influence system change and support positive financial outcomes for First Nations people.

We undertake various engagement and outreach opportunities throughout the year to build and leverage relationships with stakeholder groups and ensure we are aware of the range of experiences of First Nations people and communities. This year, we:

- responded to 85 inquiries (as at 30 June 2023) from First Nations consumers and stakeholders working with First Nations consumers that came through a dedicated helpline and email channel
- undertook regional and remote outreach with local service providers in the Anangu Pitjantjatjara Yankunytjatjara Lands (South Australia), Wujal Wujal (Queensland), and Broome and the surrounding communities of Bidyadanga and Djarindjin (Western Australia)
- participated in events such as the First Nations Foundation's Financial Wellness days in Sydney (NSW), Broome banking roundtables (Western Australia), Financial Counselling Australia's national conference in Canberra (ACT), and through regular networks including the North Queensland Indigenous Consumer Issues Taskforce
- continued to participate in activities as part of the National Indigenous Consumer Strategy (NICS), including leading the national NICS project to develop learning modules for increased

engagement with a cross-agency resource, *The Guide to Enforcement: Indigenous Consumer Matters*.

In February 2023, we published our **Indigenous Financial Services Framework**[34] (Framework). The Framework was developed through extensive and thorough consultations with First Nations people across geographic regions, as well as representatives from the financial services industry, other government agencies and regulators.

The Framework articulates several long-term outcomes that ASIC will continue to pursue. We will do so by embedding key learnings across our organisation and through ongoing collaboration and engagement with other key stakeholders whose role also affects First Nations people's financial outcomes and wellbeing.

Case study 2.6.15 Better Banking for Indigenous Consumers project

We began our Better Banking for Indigenous Consumers project in late 2022. Under the project, a review of data from some of Australia's major and regional banks revealed that many First Nations consumers had high-fee accounts despite being eligible for a low-fee basic account.

Our review focused on fees charged to transaction accounts in identified geographic areas with higher-than-average proportions of First Nations people receiving concession payments from Services Australia and the Department of Veterans' Affairs, and students and apprentices nationally who received Abstudy payments. We found that more than 110,000 consumers with high-fee accounts, who were eligible for low-fee accounts, had paid over $6 million in fees over a 12-month period. The most prevalent fee was for being overdrawn, which is not charged on a low-fee account.

The reviewers also considered banks' current processes for promoting and migrating customers to low-fee basic transaction accounts. In particular, we considered data demonstrating significant numbers of customers on concession payments who paid fees for being overdrawn or having payments dishonoured, and considered the implications for existing distribution processes and triggers in banks' transaction account TMDs.

ASIC is committed to working with banks to better support positive financial outcomes for First Nations customers.

34 https://asic.gov.au/about-asic/what-we-do/how-we-operate/stakeholder-liaison/asic-s-indigenous-outreach-program/asic-s-indigenous-financial-services-framework/financial-services-industry-engagement/

Engagement with the Australian Government: Law reform and inquiries

ASIC provides advice to the Australian Government on the operational implications of policy initiatives and legislative change to support the Government's law reform agenda. We implement reforms once they are passed by Parliament, including through regulatory guidance and using our regulatory and enforcement tools.

We identify the opportunities and risks that affect our ability to implement the law as intended by Parliament and advise on law reform to facilitate and improve the performance of the financial system.

In 2022–23, we actively participated in several reviews and reform processes, including:

- the Australian Law Reform Commission's Review of the Legislative Framework for Corporations and Financial Services Regulation
- the Review of the ASIC Industry Funding Model
- the Quality of Advice Review
- reforms to the buy now pay later sector
- implementation of the FAR
- Treasury consideration of law reform to regulate crypto-asset service providers and payment stablecoins.

Engagement with Parliament: Accountability mechanisms

ASIC remains committed to engaging with and responding to parliamentary and other oversight and accountability mechanisms. Staff from a range of teams across ASIC make a substantial contribution to this work, in particular by preparing supporting materials for appearances at hearings, and written responses to Questions on Notice.

In 2022–23, we responded to 146 sets of Questions on Notice (around 504 individual questions) from parliamentarians. Questions on Notice cover topics across all of ASIC's remit, work and governance.

Detailed information on external oversight of ASIC, and ASIC's engagement with Parliament and other oversight mechanisms, is provided in Appendix 2: ASIC's governance and operations.

Panels

We take a consultative approach to addressing harms and emerging developments in Australia's financial system. ASIC hosts the following consultative committees and forums:

- ASIC Consultative Panel
- ASIC Consumer Consultative Panel
- Corporate Governance Consultative Panel
- Cyber Consultative Panel
- Digital Finance Advisory Panel
- FICC Markets Consultative Panel
- Financial Advisers Consultative Panel
- Markets Consultative Panel.

ASIC Consultative Panel

The ASIC Consultative Panel is our strategic consultative body – assisting ASIC to identify and assess potential threats and harms in the sectors we regulate, consult on proposed regulatory changes and market conditions, and provide input into our strategic and forward planning.

Panel members are pre-eminent representatives from the academic, consumer, industry, legal and regulatory sectors, and are appointed in their personal capacity.

The Panel's Terms of Reference were refreshed in 2022–23 to ensure it is working effectively and efficiently. This included amending the scope of the Panel to formally reflect its role in providing feedback on ASIC's strategic and forward planning and enhance member engagement, including through additional formal and ad hoc meetings.

The Panel met twice in 2022–23 to consider changing market conditions, review a range of threats and harms as input for ASIC's strategic planning for 2023–24, and discuss specific topics, such as changing capital market dynamics and sustainable finance. Members were also consulted on a range of issues in their areas of expertise, including cryptocurrencies, AI and retirement income.

ASIC Consumer Consultative Panel

The ASIC Consumer Consultative Panel was established in November 1998 after we assumed regulatory responsibility for consumer protection in financial services. A key role of the Panel is to provide ASIC with information and intelligence on current and emerging consumer issues affecting consumers of the financial products and services ASIC regulates.

The Panel met in person three times in 2022–23, including in a joint session with the Australian Competition and Consumer Commission's (ACCC's) equivalent consumer panel, the Consumer Consultative Committee.

The Panel members' priority areas of focus included:

- financial services issues facing First Nations people and communities, particularly the effects of the failure of the Youpla Group (formerly the Aboriginal Community Benefit Fund), banking access, digital exclusion, second-hand car lending and insurance
- consumer credit and cost-of-living issues, including mortgage stress, financial hardship and credit reporting
- a joint focus with the ACCC's consumer panel on 'greenwashing' claims in financial services and across retail markets for goods and services
- general insurance claims handling, unfair contract terms, and the impacts of climate change and extreme weather events on insurance accessibility.

Corporate Governance Consultative Panel

The Corporate Governance Consultative Panel continued to meet during 2022–23. The Panel was established in 2020 to enable ASIC to gain a deeper understanding of developments and emerging issues in corporate governance practices. Members of the Panel include listed company directors, industry association representatives, institutional investors and academics. The Panel met twice in 2022–23. It discussed climate change–related disclosure, whistleblower programs and the cyber resilience of companies.

Cyber Consultative Panel

The Panel met twice this year, in November and May, in accordance with its Terms of Reference. This independent group advises ASIC on our supervisory approach for the cyber resilience of financial services and markets, and shares views on trends or emerging threats.

We engaged with this Panel in relation to our Cyber Pulse Survey to seek views and feedback on the form and content of the survey and our approach generally. Other topics of discussion included incident responses, the cyber insurance market domestically and the Australian Government's 2023–2030 Cyber Security Strategy consultation and the effect of the strategy on ASIC-regulated entities.

Digital Finance Advisory Panel

The Digital Finance Advisory Panel was established in 2015 to help inform ASIC's financial technology (fintech) and regulatory technology (regtech) approach and to maintain engagement with the sector. Panel members are drawn from a cross-section of the fintech and regtech communities, academia and industry associations.

The Panel also includes active observers from government and regulatory agencies to help facilitate dialogue between industry and the public sector. The establishment of the Panel has fostered a network of domestic departments and agencies dealing with innovative businesses, promoting a coordinated approach to financial innovation and regtech. The Panel helps inform the focus of ASIC's engagement with the fintech and regtech sectors.

During 2022–23, the Panel explored topics including crypto-assets, payment reforms, the Consumer Data Right, central bank digital currencies and AI.

FICC Markets Consultative Panel

The FICC Markets Consultative Panel is a new ASIC external panel that was formed in April 2023, and held its first meeting in the 2022–23 financial year. Issues discussed included FICC market conditions, the securitisation market, cyber and operational resilience in the industry, green bonds, and FICC monitoring and surveillance capabilities.

Financial Advisers Consultative Panel

The Financial Advisers Consultative Panel met three times in 2022–23. The Panel provided an industry perspective on emerging risks and technological challenges facing the industry. The discussion focused on monitoring finfluencers, cyber resilience and security, and technology advances in financial advice processes.

Implementation of law reform work continued to feature in the meetings. This included relevant provider registration and qualified tax relevant provider status, the reportable situations regime, and design and distribution obligations. The Financial Advisers Register review and **Information Sheet 274**[35] *Tips for giving self-managed superannuation fund advice* were also discussed.

The Panel also provided industry insight into investment preferences for ESG credentials, product design offerings, client behaviour and the Quality of Advice Review work.

Markets Consultative Panel

During 2022–23, the Markets Consultative Panel met five times. Issues discussed included market conditions and challenges, emerging risks in retail markets, crypto-assets, AI, monitoring of employee communications, cyber events, operational and market resilience, and changes to the market integrity rules.

Improving stakeholder engagement through better regulatory efficiency

We are implementing three initiatives to improve regulatory efficiency and outcomes for stakeholders and ASIC. These initiatives contribute to ASIC administering the law more effectively, and make it easier for you to interact with us. They include continuing to develop and maintain our regulatory guidance; our use of information-gathering powers and early investigation meetings; and our approach to stakeholder engagement.

As part of this project, we launched a regulatory developments timetable in February 2023 to help industry better anticipate when we will issue draft or final guidance, or create a legislative instrument. The timetable will be published biannually.

These initiatives complement our projects to enhance our licensing processes, systems and related communications, which all contribute to regulatory efficiency and effectiveness.

35 https://asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/tips-for-giving-self-managed-superannuation-fund-advice/

ASIC's regional engagement program

We maintain an active presence in all states and territories across Australia. Our wide-ranging program of targeted engagement with regional stakeholders is led by the Regional Commissioners in each state and territory.

The Regional Commissioners also maintain a network of Regional Liaison Committees, which meet regularly, giving us opportunities to discuss current and emerging local issues with industry and consumer representatives in each area. Eleven face-to-face meetings were held in Queensland, New South Wales, South Australia, Tasmania, Victoria and Western Australia in 2022–23. These meetings provide valuable insights that help inform broader ASIC activity.

Our regional engagement program also includes direct engagement with community organisations, including First Nations representatives. For example, in the Northern Territory, ASIC liaises regularly with representatives of First Nations businesses, government departments and agencies, non-government organisations and financial counsellors who work with First Nations communities. Highlights this year included collaborating with **Beyond Blue**[36] to provide a workshop for business owners and managers in Central Australia and working with the Northern Territory Indigenous Business Network to deliver a business support workshop.

We also regularly promote ASIC's Moneysmart tools and resources to regional communities to encourage consumer financial capability. In March, we co-hosted a stand with the Australian Small Business and Family Enterprise Ombudsman at the South East Field Days event in regional South Australia. In 2022–23, we also partnered with Charles Darwin University to deliver seven Moneysmart workshops to students, and supported a trial Moneysmart schools project for public schools in the ACT.

During 2022–23, themes and issues discussed during regional engagement included the current economic environment, issues facing small businesses in the regions, and cost-of-living pressures on consumers.

Issues relating to insurance – including availability, affordability and claims handling – were particularly important for those communities affected by extreme weather events. Other discussions included the consequences of the variable levels of financial capability in communities, and the cost of and access to financial advice.

Another recurring theme was the challenges, particularly for small businesses, of maintaining effective cyber resilience and dealing with the increasing prevalence and complexity of scams and digitally enabled misconduct. An ongoing focus was ASIC's work in relation to cyber security, including how businesses can improve their cyber resilience, and combatting scams.

36 https://www.beyondblue.org.au/

Our regional liaison program continues to be an important element of our stakeholder engagement and informs our business planning and prioritisation of work.

See section 2.7 for more information about our results against our Service Charter.

International engagement

ASIC engages closely with peer regulators and agencies overseas to develop international regulatory policy, enhance cooperation, and positively influence the operation and regulation of global financial markets. In 2022–23, we made 225 international cooperation requests and received 362 in relation to activities such as surveillance, supervision, enforcement, research and licensing.

This included 93 international requests for assistance in enforcement matters, of which 34 requests (including supplementary requests) sought ASIC's assistance to compel materials from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

We participate in a range of international forums. ASIC is a member of the:

- Board of IOSCO and is represented on its policy committees and taskforces, including those examining issues around financial stability, sustainable finance, asset management, crypto-assets, technology, market fragmentation, enforcement, consumer protection, emerging risks and standards implementation. As part of IOSCO, ASIC:
  - is Vice-Chair of the Committee on Regulation of Market Intermediaries
  - is a member of the Fintech Task Force
  - is a member of the Task Force on Sustainable Finance
  - participates in Asia-Pacific Regional Committee meetings and co-chairs the Working Group on Enhancing Supervisory Cooperation
- International Association of Insurance Supervisors' Market Conduct Working Group
- International Financial Consumer Protection Organisation and participates in the G20/Organisation for Economic Co-operation and Development (OECD)'s Financial Consumer Protection Task Force initiatives
- Council of Financial Regulators' International Coordination Group, which meets regularly to coordinate a cohesive approach to major international regulatory risks and issues
- Global Financial Innovation Network, which is committed to supporting financial innovation and providing a more efficient way for innovative fintech and regtech firms to interact with regulators.

ASIC negotiates memorandums of understanding (MOUs) with international regulatory agencies to foster coordination, cooperation and information sharing, and reflect agencies' intentions to maintain proactive, open and collaborative relationships. These agreements strengthen cooperation and underpin market access arrangements; e.g. substituted compliance arrangements.

In 2022–23, ASIC:

- concluded an MOU with our counterpart in Luxembourg and is finalising several MOUs with counterparts in New Zealand and India
- co-led the negotiation of a multilateral MOU on supervision between member authorities of IOSCO's Asia-Pacific Regional Committee for the Asia-Pacific region.

Throughout 2022–23, ASIC continued to support the Department of Foreign Affairs and Trade in negotiations for free trade agreements with multiple countries.

Innovation Hub

As part of our approach to support responsible innovation, we established the Innovation Hub in 2015, which helps innovative Australian fintech and regtech businesses navigate the regulatory framework. It also provides a platform for domestic and international engagement on fintech and regtech developments.

Informal assistance and guidance

In 2022–23, ASIC staff met with representatives of 84 innovative businesses to help them understand how the regulatory framework may apply to their intended business model. Some business models proposed involved payments, credit, services related to crypto-assets, regtech and services that use a range of different technologies.

During the financial year, ASIC granted 12 licences to new innovative businesses, which included neo banks and businesses offering services in payments, digital advice and crypto-assets. Fintech businesses that received informal assistance from our Innovation Hub before submitting their licence applications were consistently approved faster than those that did not seek assistance.

Enhanced regulatory sandbox

The enhanced regulatory sandbox (ERS) administered by the Innovation Hub and the Licensing team allows eligible businesses to test certain innovative financial services or credit activities for up to 24 months without first obtaining an AFS or credit licence. The ERS allows ASIC to facilitate innovation while ensuring consumer and investor protection.

In 2022–23, eight entities actively tested their business model in the ERS and four of those entities reached the end of their exemption period. The business models tested included payment facilities and equity market comparison services. At the end of their exemption period, representatives of a number of the businesses said they had a positive experience. One has since obtained an AFS licence while another is in the process of seeking an AFS licence.

Domestic and international engagement

In 2022–23, the Innovation Hub hosted four Digital Finance Advisory Panel meetings, one Regtech Liaison Forum and one Financial Innovation: Regulator Meet-up session. The latter brought together industry leaders and regulatory representatives to help inform ASIC and stakeholders on key fintech- and regtech-related developments, issues and collaboration opportunities.

ASIC is one of 11 coordination group members of the Global Financial Innovation Network, which has more than 70 members, including regulators, government bodies and international organisations.

ASIC is also a member of the steering group for the IOSCO Fintech Task Force, which leads two workstreams, Crypto and Digital Assets, and Decentralised Finance.

Business Research and Innovation Initiative – Regtech Round

Sponsored by the Department of Industry, Science and Resources, the Business Research and Innovation Initiative (BRII) is an Australian Government program that provides funding for small to medium regtech businesses to develop innovative solutions to regulatory challenges in government.

We were selected as one of four government agencies to participate in the BRII RegTech Round, which assesses the potential of regtech to solve challenges across government agencies and departments.

Our challenge explores the potential of using technology to help identify and assess poor market disclosure by listed companies. This is an important initiative that forms part of our digital and data agenda.

In the first stage of the program, five regtech entities were awarded grants of up to $100,000 to conduct a three-month feasibility study of their proposed solutions. Eastern Analytica Pty Ltd (trading as DHI-AI PTY LTD) provided a successful solution that took it to the next stage of the program. ASIC will work closely with the company, which will receive another grant (of up to $1 million) to develop a proof of concept over 15 months.

Small business engagement

ASIC plays an important role in relation to small businesses to ensure a strong and healthy economy for all Australians. As part of this role, we:

- assist small businesses by providing information and guidance
- engage with small businesses so that we can understand and respond to the challenges they face
- help to protect small businesses through our surveillance, policy and enforcement work.

We are also a member of the ATO-led Phoenix Taskforce. For more information on this taskforce, see case study 2.6.1.

Education

Through Moneysmart, ASIC seeks to improve the financial skills and knowledge of consumers and investors to help them make informed financial decisions.

The Moneysmart program includes the Moneysmart website, social media communities and lesson plans to help teachers deliver financial literacy education in the classroom.

In 2022–23, the Moneysmart website had 9.7 million Australian users, with the most popular tools being the income tax calculator (1.9 million page views) and the mortgage calculator (1.6 million page views), which had functionality added to it this year to help users see the effect of rising interest rates on their home loan repayments.

We engage with consumers and investors via social media channels, encouraging Australians to have conversations about money and to use Moneysmart's tools and content. Our social media activity included:

- Facebook: 196,900 likes, with 46 million impressions and 859,000 engagements
- Twitter: 61,400 followers, with 674,000 impressions and 9,400 engagements
- Instagram: 4,600 followers, with 5.3 million impressions and 7,000 engagements.

ASIC's resources help Australians manage the rising cost of living

- From February to June 2023, there was a marked increase (600,000 more users than the previous year) in visitation to our Moneysmart website as Australians sought guidance on managing their finances.
- In response to increased interest rates and financial pressures, ASIC created a cost-of-living hub on the Moneysmart website to provide people with information.
- In March 2023, a campaign providing information on managing mortgage repayments reached 590,000 people on social media. The campaign used data provided by lenders to reach consumers in 21 postcodes known to be experiencing mortgage stress, encouraging them to review their situation and contact their lender.

Building awareness of scams

- Australians lost $377 million to investment scams in 2022, and scams are a strategic priority for ASIC. We promoted scams awareness throughout 2022–23, mainly through Moneysmart's social media channels.
- In November 2022, ASIC participated in Scams Awareness Week, which is an annual campaign to reduce the impact of scams by helping consumers identify and avoid them.
- The Moneysmart website was also a key source of information during major data breaches in late 2022 as Australians sought information on identity theft.

Refreshed teacher resources

- ASIC provides access to free lesson plans for teachers and members of the public to support financial literacy.
- In February 2023, we released eight new lesson plans tailored to different grade levels, from primary through to secondary school. The lesson plans cover core financial topics, such as budgeting, compound interest, buying a car and spotting scams.

2.7 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. This includes a number of interactions through services provided by the ATO and ABRS on behalf of ASIC (see 'Registry services and outcomes' on page 75). Table 2.7.1 sets out our performance against the key measures outlined in the Service Charter for the 2022–23 financial year.

Table 2.7.1 ASIC Service Charter performance 2022–23

Service	Measure	Target	Result
When you contact us			
General telephone queries	We aim to answer telephone queries on the spot	80%	89.1%
General email queries	We aim to reply to email queries within three business days	90%	99.9%
Give reasonable assistance			
Searching company, business name or other data online	We aim to ensure that our online search service is available between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	100.0%
Lodging company, business name or other data online	We aim to ensure that 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%	99.7%
When you do business with us			
Registering a company or business name online	We aim to register the company or business name within one business day of receiving a complete application	90%	99.4%
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application	90%	92.2%

Service	Measure	Target	Result
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within seven business days	90%	94.1%
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 one business day	90%	99.9%
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 five business days	90%	92.3%
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	80%
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	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 75% Varied: 66%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: 88% Varied: 83%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 91% Varied: 81%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 93% Varied: 87%

Service	Measure	Target	Result
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	70%	81%
	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	90%	94%
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or individual, ASIC aims to respond within 28 days of receiving all relevant information	70%	72%
When you have complaints about us			
About ASIC officers, services or actions	We aim to resolve a complaint within 28 days	70%	97%

2.8 Unclaimed money

ASIC is responsible for the administration of unclaimed money from authorised deposit-taking institutions, under section 69 of the *Banking Act 1959* (Banking Act); life insurance companies and friendly societies, under section 216 of the *Life Insurance Act 1995* (Life Insurance Act); and companies with unclaimed money, under various sections of the *Corporations Act 2001* (Corporations Act).

ASIC's register of unclaimed money is publicly available through the ASIC Moneysmart webpage. Claims are processed within 30 business days of receiving all necessary claim documentation. We have paid claimants interest on unclaimed money from 1 July 2013.

During 2022–23, ASIC received $341.8 million in unclaimed money compared to $289 million received in 2021–22. We paid a total of $124.3 million in claims and interest in 2022–23 compared with $109.7 million the previous year. Funds are transferred to and from the Official Public Account.

Table 2.8.1 Amount paid to owners of unclaimed money

	2022–23 ($)			
Claims by type	**Principal**	**Interest**	**Total**	**2021–22 ($)**
Company	32,394,309	1,414,739	33,809,048	34,338,410
Banking	74,456,046	3,108,109	77,564,155	65,975,776
Life insurance	12,344,879	608,960	12,953,839	9,423,909
Total	**119,195,234**	**5,131,808**	**124,327,042**	**109,738,095**

	2022–23 ($)			
Claims by type	**Principal**	**Interest**	**Total**	**2021–22 ($)**
Deregistered company trust money	5,701,908	N/A	5,701,908	2,531,694

3

ASIC's structure and management

3.1 ASIC's structure and management

ASIC governance

ASIC's governance and accountability structures are consistent with ASIC being an independent Commonwealth agency that is a statutory body corporate. They reflect the legislative framework within which ASIC operates.

ASIC's Chair, Joseph Longo, is the Accountable Authority under section 9A of the ASIC Act and has held this position since 1 June 2021. During the reporting period, Mr Longo was the accountable person on all dates except 3–12 January 2023 and 14–15 June 2023. During these periods, Sarah Court was the acting ASIC Chair and Accountable Authority.

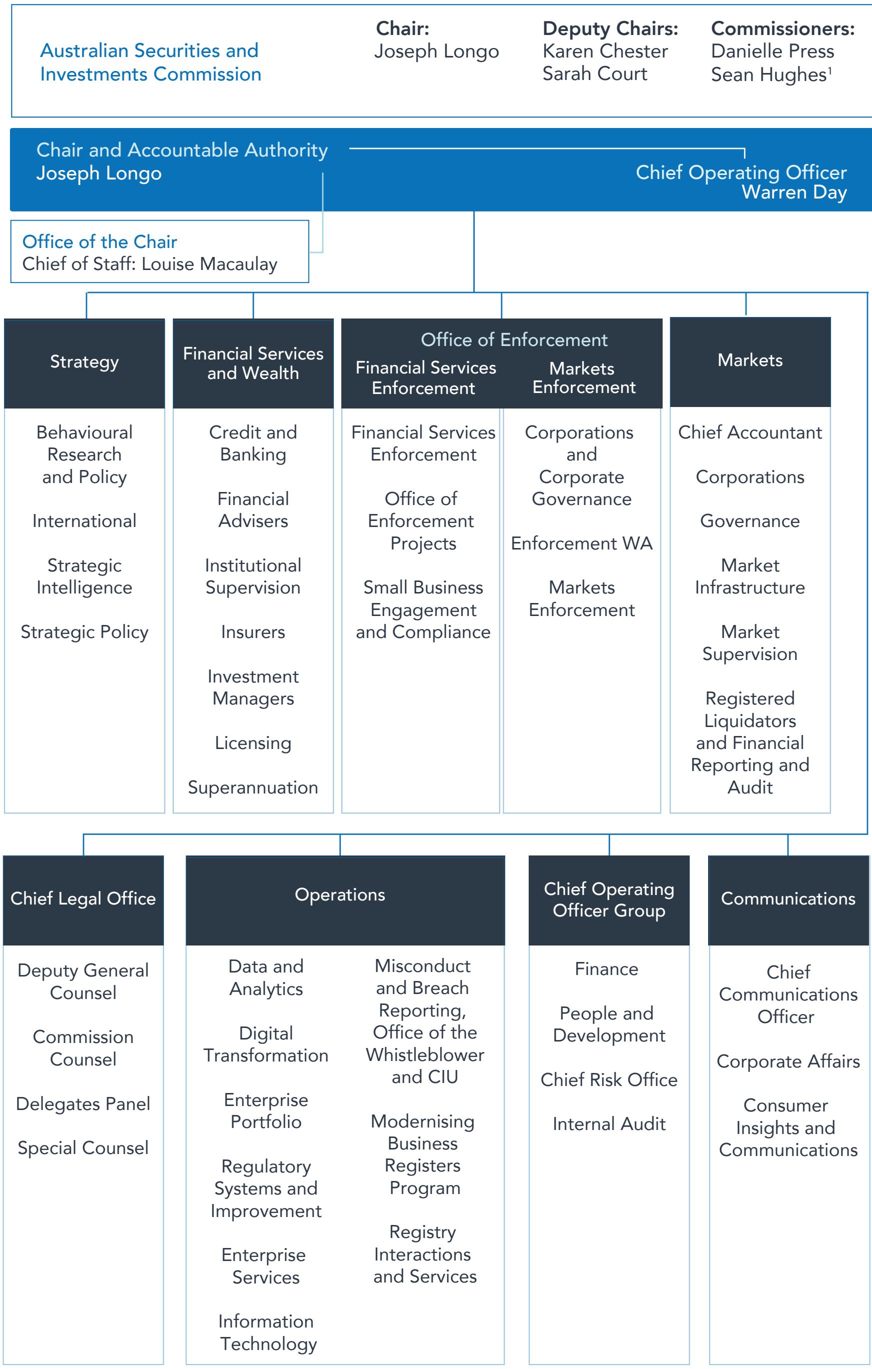
On organisational matters, ASIC's Chair has sole executive management responsibility. As the Accountable Authority, the Chair relies on and uses ASIC's key senior executives to carry out day-to-day management activities and deal with operational issues. The Chair delegates functions where he considers this will benefit ASIC's executive management.

ASIC's Commission acts as a strategic non-executive body focusing on high-level regulatory and statutory decision making and stakeholder management, and provides support to the Chair on organisational oversight.

ASIC's Chief Operating Officer (COO) is responsible for non-regulatory decision making and the operational performance of ASIC. The COO enhances ASIC's governance by enabling the Commission to focus on strategic matters, external engagement and communication. As of 1 July 2023, the COO's title changed to Chief Executive Officer.

Further information about ASIC's governance and the role of the Commission is set out in Appendix 2.

Chart 3.1 ASIC organisational structure as at 30 June 2023



[1] Sean Hughes ceased his role on 3 February 2023.

ASIC Executive Committee

Chair Commission

Joseph Longo

Executive Director Financial Services Enforcement

Tim Mullaly

Acting Executive Director Financial Services and Wealth

Suneeta Sidhu

General Counsel

Chris Savundra

Acting Executive Director Markets Enforcement

Melissa Smith

Executive Director Markets

Greg Yanco

Chief Operating Officer

Warren Day

Executive Director Operations

Zak Hammer

Executive Director Strategy

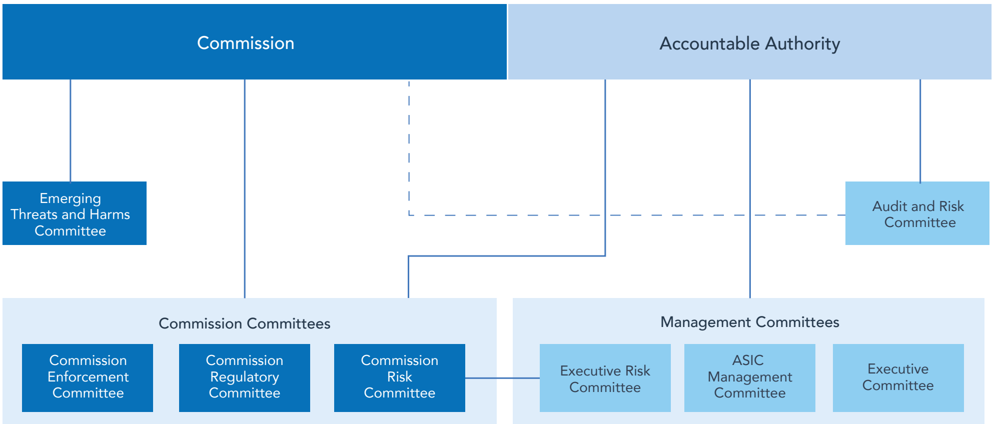
Greg Kirk

Chief of Staff

Louise Macaulay

ASIC Executive Committee members as at 30 June 2023.
The above does not include standing attendees.

ASIC governance structure



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

Commission meetings

Commission meetings are convened by ASIC's Chair under section 103 of the ASIC Act. They generally take place weekly or as required.

Commission committees

Commission committees are decision-making committees and comprise the full Commission and other standing attendees. There are three Commission committees:

- **Commission Enforcement 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**: makes strategic and/or significant decisions relating to regulatory policy, law reform, applications for relief, and policy frameworks and reports, and oversees ASIC's regulatory activities and functions.
- **Commission Risk Committee**: considers all types of risk of a strategic and/or significant nature that affect ASIC, our regulated population, Australia's financial system and Australian consumers. This Committee is responsible for setting and monitoring ASIC's risk management framework and risk appetite. The Committee monitors ASIC risk by reviewing and challenging whether material risks have been identified, ensuring that risk remediation plans are in place, and challenging whether adequate resources have been deployed to appropriately manage risks.

Specialist committee

The **Emerging Threats and Harms Committee** is a specialist committee that identifies, considers and provides advice on the management of emerging risks and strategic risks within our regulated population or areas we regulate.

This Committee is one component of ASIC's broader risk management framework.

Governance committees

Governance committees assist the Commission and the Accountable Authority in undertaking their governance roles. There are two Governance committees:

- **Commission Risk Committee**: (as set out above).
- **Audit and Risk Committee**: operates independently of management and plays a key role in assisting the Chair to discharge their responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. The Committee provides independent assurance to the ASIC Chair and Commission on ASIC's financial and performance reporting responsibilities, risk oversight and management, and system 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 three Management committees:

- **Executive Committee**: assists the Accountable Authority, Commission and COO to manage ASIC and our budget, and deliver our business plans in alignment with our strategic priorities and regulatory objectives.
- **Executive Risk Committee**: identifies and monitors significant risks to ASIC, maintains our risk management frameworks and policies; manages risks in line with those frameworks and policies; and implements and oversees audit/assurance processes and risk mitigation strategies. It reports to the Accountable Authority and the Commission Risk Committee.
- **ASIC Management Committee**: assists the Accountable Authority and the COO to manage the internal operations of ASIC and to deliver outcomes aligned with our strategic direction and priorities.

Regional Commissioners as at 30 June 2023

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

Australian Capital Territory

Peter Dunlop

- Commenced as Regional Commissioner in August 2022.

New South Wales

Mark Adams

- Commenced as Regional Commissioner in November 2021.

Northern Territory

Duncan Poulson

- Commenced as Regional Commissioner in February 2006.

Queensland

Amanda Zeller

- Commenced as Regional Commissioner in May 2019.

South Australia

Natasha Haslam

- Commenced as Regional Commissioner in August 2022.

Tasmania

Chris Green

- Commenced as Regional Commissioner in November 2013.

Victoria

Diana Steicke

- Commenced as Regional Commissioner in October 2022.

Western Australia

Rhian Richards

- Commenced as Regional Commissioner in November 2021.

4

ASIC's people

4.1 Workforce planning

Employment at ASIC

All employees are employed by the Chair of ASIC under section 120 of the ASIC Act. The Chair also determines their terms and conditions of engagement. Most of our employees remained covered by the ASIC Enterprise Agreement 2019–2022. Under the Public Sector Interim Workplace Arrangements, they received a 3% pay rise from 27 October 2022. ASIC will negotiate a new Enterprise Agreement in 2023–24, which, if voted on successfully, will commence in 2023–24.

In December, ASIC's Chair released an updated ASIC Code of Conduct. The Code was renewed to support the delivery of ASIC's current strategic and organisational priorities. It also reflects and refers to policies that have been updated since 2019, as well as updated advice on how to report suspected breaches.

A new ASIC structure came into effect on 3 July 2023, marking the most significant changes to the agency's structure in more than a decade. ASIC's organisational redesign aims to position us to meet future needs and to continue our work to support Australia's strong financial system and markets.

The announcement of an organisational structure followed a review in late 2022. A proposed structure was shared with staff on 9 March 2023 and, following consultation with staff, a final structure was announced on 2 May 2023.

The design principles underpinning the new structure are flexibility, accountability, minimising duplication, enabling quicker decision making, and bringing complementary functions together.

Through this process, ASIC aimed to create a structure that:

› improves the timeliness of decision making
› strengthens collaboration and coordination and brings a whole-of-ASIC approach to delivering our **strategic priorities**[1]
› improves the way we manage risk, taking a proactive approach that supports our aspiration as a confident and ambitious regulator.

Reflecting our strong commitment to workplace flexibility, ASIC's flexible work arrangements policy and procedures were updated this year to include provisions for hybrid working. This was supported by the release of ASIC's Hybrid Ways of Working eLearn Module and communications resources to guide discussions on implementing flexible work arrangements.

In 2022–23, we continued to implement our capability framework to identify our strengths and gaps. We also refreshed our Leadership and Learning strategy to reflect ASIC's capability development agenda. Work was also

1 https://asic.gov.au/about-asic/corporate-publications/asic-corporate-plan/

undertaken to pilot transitioning from performance management to performance development.

Recruitment

We continue to invest in our workforce and recruitment practices, to engage people with sharp, analytical minds who will challenge and improve the way we work. We recruit people from a wide variety of disciplines, including finance, economics, statistics and analytics, law, business and accounting, mathematics, arts and social science, information technology and computer science.

In 2022–23, ASIC was a finalist in the SEEK 2022 Star Awards in the Talent Acquisition Team of the Year (over 1,000 employees) category.

Staff benefits

In addition to providing professional development opportunities, our employees received benefits this year that included:

- generous employer superannuation contributions
- individual and team recognition and awards
- study assistance.

Emerging talent

ASIC has a well-recognised two-year national graduate program that attracts diverse candidates, who are assessed through a multi-faceted selection process. The program provides participants with professional development in business and interpersonal skills, with opportunities to work across ASIC teams via four rotations.

In 2022–23, ASIC:

- employed 11 new graduates
- finalised ongoing employment for all 2021 graduates
- continued to support the 2022 graduates in their final rotations
- launched the 2024 graduate program recruitment campaign, receiving nearly 200 applications in the first week
- began graduate development workshop procurement for the next three years.

We established ASIC's new internship program. This program provides participants with relevant work experience that complements their studies and contributes to career pathways after graduation. At the same time, it increases our ability to attract quality entry-level talent for ongoing roles. The majority of ASIC interns had their internships extended by their host teams, and several interns graduating from their studies this year intend to apply to ASIC's graduate program, contributing to our emerging talent pipeline.

ASIC also made three offers to candidates participating in the Australian Government's Indigenous Apprenticeships Program.

Mentoring

Our people are given opportunities to participate in a range of mentoring programs. In 2022–23, these included the following:

- **ASIC mentoring program**: this program supported the professional development of 72 mentees and 60 mentors across ASIC.
- **Women in Banking and Finance**: conducted externally, this program supported nine women team members, preparing them for senior leadership roles, and four senior executives as mentors.
- **Women in Law Enforcement Strategy**: conducted externally, this 10-month program seeks to address the under-representation of women in law enforcement agencies, particularly at senior levels. Five team members participated as mentees and one senior executive as mentor.
- **PACE Mentoring Program**: conducted externally, this program connects students and jobseekers with a disability (mentees) with mentors from leading organisations. The program provides mentees with the opportunity to develop skills and expand their networks, while giving our mentors the opportunity to develop their leadership skills and disability confidence. Sixteen ASIC mentors participated in the program.

Leadership and learning

At ASIC, we develop team member capabilities through formal and on-the-job learning activities. These activities are aligned to the capabilities identified in our Organisational Capability Framework and our professional and technical capability sets. These focus on building and maintaining capability in regulatory practice, enforcement, law, data analytics, accounting and auditing.

In 2022–23, we delivered 177 face-to-face learning activities, resulting in 8,835 completions. Additionally, 13,296 digital learning resources were accessed and completed.

ASIC continues to sponsor, guide, develop and deliver capability-building activities by working in partnership with our professional and technical learning advisory panels and networks.

We continue to focus on having effective leaders. In 2022–23, we once again delivered our Existing Leaders and Emerging Leaders programs and piloted a Technical Experts Leadership Program for our technical specialists. A total of 177 ASIC people leaders participated in our leadership programs.

ASIC's Study Assistance Program continues to support our people to develop their capabilities and ensure their knowledge and skills are current. Throughout 2022–23, 91 ASIC team members commenced study in disciplines including accounting and finance, information technology and analytics, corporate governance and law.

Work health and safety

We continue to prioritise the health, safety and wellbeing of our people. In 2022–23, we marked R U OK? Day with a webinar from award-winning medical journalist Sophie Scott to raise awareness about burnout and explore the early results of the Wellbeing Survey we conducted in July 2022. We further promoted the importance of recognising the early signs of burnout and taking a preventative approach with a series of presentations on the survey results to our business groups. These included discussions on actions that can be taken within groups to promote wellbeing.

We also continued to roll out Sustaining Me workshops on preventing burnout. These workshops examined the factors that can contribute to burnout, explored ideas around emotional regulation, the need for good time management, and the importance of physical wellbeing.

From 14 October 2022, when the National Cabinet removed COVID-19 isolation periods, the reporting of COVID-19 cases in the workplace ceased. This reflected the easing of COVID-19 restrictions across the various jurisdictions and moving away from the emergency phase of the pandemic. We continued to circulate messages encouraging staff members to stay home when unwell, and advising on sensible precautions to discourage the spread of communicable diseases. We also rolled out annual influenza vaccinations. Additionally, we have a strong early intervention program that emphasises proactive management of injuries and illnesses. ASIC did not report any notifiable incidents to Comcare in 2022–23.

Regional Workplace Health and Safety Committees continued to meet regularly. Our health and safety representatives, first aid officers and Harassment Contact Officer received training to support their roles.

4.2 Diversity and inclusion at ASIC

Diversity, inclusion and belonging is a key pillar of our people strategy. ASIC is a place of belonging, regardless of difference, where all individuals are accepted, safe and affirmed.

In 2022–23, we demonstrated our commitment to diversity, inclusion and belonging by:

- publishing our **ASIC Diversity and Inclusion Strategy 2023–25: Different people, one purpose**[2]
- coming second for the Access and Inclusion Index award presented by the Australian Network on Disability
- achieving the Best in Class award for our premises from the Australian Network on Disability
- maintaining a gender-balanced leadership cohort, with women comprising 54% of Executive Level 1, 50% of Executive Level 2 and 58% of Senior Executive Service (SES) positions.

We also hosted events this year to foster diversity, inclusion and belonging, including:

- a program of learning opportunities for Inclusion at Work Week, focused on building awareness of any barriers to success that may exist due to a person's gender, ethnicity, religion, sexuality, disability or caregiving responsibilities
- a NAIDOC Week address given by Professor Deen Sanders OAM

Diversity committees

ASIC has six employee-led diversity committees whose members volunteer their time to support a culture of inclusion and belonging. Committee highlights in 2022–23 included the following:

- Our Accessibility Committee supported the PACE Mentoring Program.
- The Multicultural Committee focused on telling stories that make our people unique, publishing a series of articles on the ASIC intranet.
- Our newest diversity group, the Parents and Carers Network, focused on the role of the carer and the intersection of caring and careers.
- The Reconciliation Action Plan (RAP) Committee published our **Stretch RAP: January 2023 – January 2026**,[3] ASIC's fifth RAP.

2 https://asic.gov.au/about-asic/what-we-do/our-people/diversity-at-asic/diversity-and-inclusion-strategy-2023-25/

3 https://download.asic.gov.au/media/xklhag3u/asic-stretch-reconciliation-action-plan-2023-2026.pdf

- Our Rainbow Network held an education session on LGBTIQ+ domestic violence, with a presentation by Ben Bjarnesen, founder and Managing Director of the LGBTQ Domestic Violence Awareness Foundation.
- Women in ASIC awarded Catherine Iles, Senior Specialist, Financial Services Enforcement, the Women in Leadership 2023 award.

First Nations employment and learning initiatives at ASIC

ASIC's recruitment procedures supported our employment goals for First Nations people and ensured the optimal use of our talent pools.

We continued to participate in external employment initiatives, including the Australian Government's Indigenous Apprenticeships Program and Indigenous Graduate Pathway. We also extended our partnership with the CareerTrackers Indigenous Internship Program. This program creates opportunities for two First Nations students to undertake an ASIC internship and broadens our exposure to First Nations tertiary student cohorts and talent. One intern graduating from their studies this year will apply to ASIC's graduate program.

We offered a number of training opportunities to team members that support the commitments we have made in our Stretch RAP and our Indigenous Cultural Safety Strategy. ASIC delivered six 'Lunch & Learn' Indigenous Cultural Safety workshops in 2022–23. These aimed to empower ASIC leaders to promote the inclusion of our First Nations team members and stakeholders through information, allyship, advocacy and support. Further learning was made available through our Indigenous Cultural Safety eLearn module.

Equitable gender briefing

In 2022–23, ASIC exceeded all targets for both junior and senior female barristers. For junior female barristers, for which the target is 30%, we achieved 41% based on the value of briefs, and 47% based on the number of briefs. For senior female barristers, for which the target is 25%, ASIC achieved 29% based on the value of briefs, and 28% based on the number of briefs.

We continue to work to ensure that female barristers, especially those in senior roles, are equitably briefed alongside their male counterparts.

Accessibility

We aim to provide information and services for everyone who needs them.

Our websites aim to meet the Level AA success criteria in the **W3C Web Content Accessibility Guidelines (WCAG) Version 2.1**.[4]

Some accessibility considerations include:

- compatibility with common web browsers
- adaptive content design that is easy to read using screen readers and other assistive technologies
- 'skip to content' links at the top of the webpage, which allows screen readers to skip navigational elements and go straight to the text
- text equivalents for images, videos and podcasts.

> Further information on our approach to meeting the accessibility needs of our stakeholders is detailed on the ASIC website.

4 https://www.w3.org/TR/WCAG21/

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Financial Statements

Contents

Independent Auditor's Report

INDEPENDENT AUDITOR'S REPORT

Australian National
Audit Office

To the Treasurer

Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission (the Entity) for the year ended 30 June 2023:

(a) comply with Australian Accounting Standards – Simplified Disclosures and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and

(b) present fairly the financial position of the Entity as at 30 June 2023 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2023 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Emphasis of Matter

I draw your attention to the Overview note of the financial statements, which describes the prior period error related to the incorrect classification of intangible assets in the prior year. The adjustment for the error resulted in a move from a surplus to a deficit for the year ended 30 June 2022. My opinion is not modified in respect of this matter.

Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Chair is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Simplified Disclosures and the rules made under the Act.

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The Chair is also responsible for such internal control as the Chair determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chair is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Chair is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless the assessment indicates that it is not appropriate.

Auditor's responsibilities for the audit of the financial statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office

Mark Vial
Executive Director

Delegate of the Auditor-General

Canberra

17 August 2023

Statement by the Accountable Authority and Chief Financial Officer

In our opinion, the attached financial statements for the year end 30 June 2023 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Australian Securities and Investments Commission will be able to pay its debts as and when they fall due.

J.P. Longo
Chair
17 August 2023

P.J. Dunlop
Chief Financial Officer
17 August 2023

Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2023

	Notes	2023 $'000	2022 (Restated) $'000
NET COST OF SERVICES			
Expenses			
Employee benefits	1.1A	**313,333**	282,381
Suppliers	1.1B	**144,837**	143,010
Depreciation and amortisation	3.2	**77,323**	64,689
Finance costs	1.1C	**1,703**	1,719
Impairment loss on financial instruments		**486**	–
Write-down and impairment of other assets	1.1D	**4,728**	220
Total expenses		**542,410**	492,019
Own-source revenue			
Sale of goods and rendering of services		**2,343**	1,281
Revenue from other Australian Government entities	1.2A	**18,321**	40,581
Other revenue	1.2B	**11,702**	26,011
Total own-source revenue		**32,366**	67,873
Gains			
Reversal of write-downs and impairment		**70**	–
Total gains		**70**	–
Net (cost) of services		**(509,974)**	(424,146)
Total revenue from Government	1.2C	**426,323**	422,001
Surplus/(Deficit)		**(83,651)**	(2,145)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Asset revaluation		**–**	1,033
Movement in makegood provision	3.5	**(383)**	3,449
Loss on disposal of previously revalued assets		**–**	(802)
Total comprehensive income/(loss)		**(84,034)**	1,535

The above statement should be read in conjunction with the accompanying notes.

Statement of Financial Position

AS AT 30 JUNE 2023

	Notes	2023 $'000	2022 (Restated) $'000
ASSETS			
Financial assets			
Cash and cash equivalents	3.1A	**80,866**	72,743
Trade and other receivables	3.1B	**130,047**	142,066
Total financial assets		**210,913**	214,809
Non-financial assets			
Buildings	3.2	**169,242**	190,642
Plant and equipment	3.2	**15,957**	23,671
Computer software	3.2	**29,896**	69,914
Prepayments		**17,369**	14,332
Total non-financial assets		**232,464**	298,559
Total assets		**443,377**	513,368
LIABILITIES			
Payables			
Suppliers	3.3A	**20,768**	29,510
Other payables	3.3B	**46,381**	35,345
Total payables		**67,149**	64,855
Interest-bearing liabilities			
Leases	3.4	**168,823**	185,524
Total interest-bearing liabilities		**168,823**	185,524
Provisions			
Employee provisions	6.1	**73,816**	77,490
Other provisions	3.5	**10,654**	5,131
Total provisions		**84,470**	82,621
Total liabilities		**320,442**	333,000
Net assets		**122,935**	180,368
EQUITY			
Contributed equity		**551,969**	525,368
Reserves		**25,797**	26,180
Accumulated deficit		**(454,831)**	(371,180)
Total equity		**122,935**	180,368

The above statement should be read in conjunction with the accompanying notes.

Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2023

	Notes	2023 $'000	2022 (Restated) $'000
CONTRIBUTED EQUITY			
Opening balance		**525,368**	500,703
Transactions with owners			
Distributions to owners			
Returns of capital			
Return of equity	5.1B	**(281)**	(4,409)
Contributions by owners			
Equity injections – appropriations		**5,824**	3,530
Departmental capital budget	5.1A	**21,058**	25,544
Total transactions with owners		**26,601**	24,665
Closing balance as at 30 June		**551,969**	525,368
RETAINED EARNINGS			
Opening balance			
Balance carried forward from previous period		**(371,180)**	(359,090)
Prior period adjustment[1]		**–**	(9,945)
Adjusted opening balance		**(371,180)**	(369,035)
Comprehensive income			
Surplus/(Deficit) for the period		**(83,651)**	(2,145)
Total comprehensive income/(loss)		**(83,651)**	(2,145)
Closing balance as at 30 June		**(454,831)**	(371,180)
ASSET REVALUATION RESERVE			
Opening balance		**26,180**	22,500
Comprehensive income			
Other comprehensive income		**(383)**	3,680
Total comprehensive income		**(383)**	3,680
Closing balance as at 30 June		**25,797**	26,180

	2023 $'000	2022 (Restated) $'000
TOTAL EQUITY		
Opening balance		
Balance carried forward from previous period	**180,368**	164,113
Prior period adjustment[1]	**–**	(9,945)
Adjusted opening balance	**180,368**	154,168
Comprehensive income		
Surplus/(Deficit) for the period	**(83,651)**	(2,145)
Other comprehensive income	**(383)**	3,680
Total comprehensive income/(loss)	**(84,034)**	1,535
Transactions with owners		
Distributions to owners		
Returns of capital		
Return of equity	**(281)**	(4,409)
Contributions by owners		
Equity injections – appropriations	**5,824**	3,530
Departmental capital budget	**21,058**	25,544
Total transactions with owners	**26,601**	24,665
Closing balance as at 30 June	**122,935**	180,368

1 Refer to the Prior period adjustment in the Overview for more details.

The above statement should be read in conjunction with the accompanying notes.

Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2023

	Notes	2023 $'000	2022 (Restated) $'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		**487,437**	500,469
Operating cash received		**2,343**	1,281
Net GST received		**17,621**	14,851
Cost recoveries		**8,097**	24,497
Other cash received		**26,423**	67,639
Total cash received		**541,921**	608,737
Cash used			
Employees		**306,654**	283,233
Suppliers		**165,053**	166,184
Interest payments on lease liabilities		**1,621**	1,689
s74 receipts transferred to OPA		**30,135**	108,063
Total cash used		**(503,463)**	(559,169)
Net cash from operating activities		**38,458**	49,568
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles		**11,767**	33,165
Net cash (used by) investing activities		**(11,767)**	(33,165)
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity		**2,336**	29,106
Total cash received		**2,336**	29,106
Cash used			
Principal payments of lease liabilities		**20,904**	19,070
Total cash used		**(20,904)**	(19,070)
Net cash from/(used by) financing activities		**(18,568)**	10,036
Net increase/(decrease) in cash held		**8,123**	26,439
Cash and cash equivalents at the beginning of the reporting period		**72,743**	46,304
Cash and cash equivalents at the end of the reporting period	3.1A	**80,866**	72,743

The above statement should be read in conjunction with the accompanying notes.

Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2023

	Notes	2023 $'000	2022 $'000
NET COST OF SERVICES			
Expenses			
Grants	2.1A	**4,880**	5,191
Impairment loss allowance on other assets	2.1B	**91,967**	62,392
Claims for unclaimed monies	2.1C	**184,337**	77,507
Promotional costs for Moneysmart initiatives		**583**	575
Suppliers – other administered		**645**	–
Total expenses		**282,412**	145,665
LESS:			
Own-source revenue			
Taxation revenue			
Fees		**1,014,253**	943,822
Supervisory cost recovery levies		**61,483**	73,497
Total taxation revenue		**1,075,736**	1,017,319
Non-taxation revenue			
Supervisory cost recovery levies		**298,735**	240,218
Fees and fines	2.2A	**460,079**	418,234
Unclaimed monies lodgements	2.2B	**341,841**	289,011
Total non-taxation revenue		**1,100,655**	947,463
Total revenue		**2,176,391**	1,964,782
Net contribution by services		**1,893,979**	1,819,117

The above statement should be read in conjunction with the accompanying notes.

Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2023

	Notes	2023 $'000	2022 $'000
ASSETS			
Financial assets			
Cash and cash equivalents		**1,646**	1,380
Supervisory cost recovery levies receivable	4.1A	**359,977**	311,875
Fees and fines receivable	4.1B	**239,098**	150,403
Trade and other receivables	4.1C	**10,427**	13,732
Total assets administered on behalf of Government		**611,148**	477,390
LIABILITIES			
Payables and provisions			
Suppliers and other payables	4.2A	**53,270**	48,360
Unclaimed monies provisions	4.2B	**518,963**	458,953
Total liabilities administered on behalf of Government		**572,233**	507,313
Net assets/(liabilities)		**38,915**	(29,923)

The above statement should be read in conjunction with the accompanying notes.

Administered Reconciliation Schedule

FOR THE YEAR ENDED 30 JUNE 2023

	2023 $'000	2022 $'000
Opening assets less liabilities as at 1 July	**(29,923)**	(68,195)
Net contribution by services		
Administered income	**2,176,391**	1,964,782
Administered expenses	**(282,412)**	(145,665)
	1,893,979	1,819,117
Transfers (to)/from the Australian Government		
Appropriation transfers from OPA:		
Special (unlimited) and ordinary appropriations		
Appropriation Act (No. 1)	**8,621**	6,678
Banking Act unclaimed monies	**77,517**	65,944
Life Insurance Act unclaimed monies	**12,954**	9,424
s77 PGPA Act	**36,940**	38,239
Total of appropriation transfers from OPA	**136,032**	120,285
Administered transfers to OPA	**(1,961,173)**	(1,901,130)
Closing assets less liabilities as at 30 June	**38,915**	(29,923)

The above statement should be read in conjunction with the accompanying notes.

Administered Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2023

	2023 $'000	2022 $'000
OPERATING ACTIVITIES		
Cash received		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act, Superannuation Industry (Supervision) Act and ASIC Supervisory Cost Recovery Levy[1]	**1,620,850**	1,616,300
Corporations Act unclaimed monies	**112,911**	113,072
Banking Act unclaimed monies	**217,383**	158,336
Life Insurance Act unclaimed monies	**11,547**	17,603
Net GST received	**55**	26
Total cash received[1]	**1,962,746**	1,905,337
Cash used		
Refunds paid to:		
Company shareholders	**33,809**	34,338
Deposit-taking institution account holders	**77,564**	65,976
Life insurance policy holders	**12,954**	9,424
Grants	**5,759**	5,217
Promotion expenses for Moneysmart initiatives	**702**	485
Suppliers[1]	**6,551**	9,196
Total cash used[1]	**(137,339)**	(124,636)
Net cash from operating activities[1]	**1,825,407**	1,780,701
Cash from OPA for:		
Appropriations	**136,032**	120,285
Less: Cash to OPA for:		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act and ASIC Supervisory Cost Recovery Levy fees and charges	**1,619,332**	1,612,118
Corporations Act unclaimed monies	**112,911**	113,073
Banking Act unclaimed monies	**217,383**	158,336
Life Insurance Act unclaimed monies	**11,547**	17,603
Total cash to OPA	**(1,961,173)**	(1,901,130)
Net increase/(decrease) in cash held	**266**	(144)
Cash and cash equivalents at the beginning of the reporting period	**1,380**	1,524
Cash and cash equivalents at the end of the reporting period	**1,646**	1,380

1 Comparisons have been changed to disclose suppliers' expenses previously netted off.

The above statement should be read in conjunction with the accompanying notes.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2023

Overview

ASIC is an independent Australian Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001*, and other legislation, throughout Australia.

ASIC collects and administers revenue under the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009* and prescribed fees set by the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003*, the *National Consumer Credit Protection Act 2009*, the Business Names Registration (Fees) Regulations 2010 and the *Superannuation Industry (Supervision) Act 1993*. In addition, ASIC collects revenue under the *ASIC Supervisory Cost Recovery Levy Act 2017*, and the ASIC Supervisory Cost Recovery Levy Regulations 2017. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items. Administered items are distinguished by shading in these financial statements.

ASIC is structured to deliver a single outcome:

> *Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.*

The continued existence of ASIC in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for ASIC's administration and programs.

Basis of preparation

The financial statements are required by s42 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

The financial statements and notes have been prepared in accordance with the:

- Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR); and
- Australian Accounting Standards and interpretations, including simplified disclosures for Tier 2 Entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

New accounting standards

Adoption of new Australian accounting standard requirements

Two amending standards (AASB 2021-2 and AASB 2021-6) were adopted earlier than the application date as stated in the standard. These amending standards have been adopted for the 2022–23 reporting period.

The following amending standards were issued prior to the signing of the statement by the accountable authority and chief financial officer, were applicable to the current reporting period and had no material effect on ASIC's financial statements:

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
AASB 2021-2 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates* and	AASB 2021-2 amends AASB 7, AASB 101, AASB 108, AASB 134 and AASB Practice Statement 2. The amending standard requires the disclosure of material, rather than significant, accounting policies, and clarifies what is considered a change in accounting policy compared to a change in accounting estimate.
AASB 2021-6 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards*	AASB 2021-6 amends the Tier 2 reporting requirements set out in AASB 1049, AASB 1054 and AASB 1060 to reflect the changes made by AASB 2021-2. The details of the changes in accounting policies and adjustments are disclosed below and in the relevant notes to the financial statements. This amending standard is not expected to have a material impact on the entity's financial statements for the current reporting period or future reporting periods.

Taxation

ASIC is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Reporting of Administered activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Administered Schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and use the same policies as departmental items, including the application of Australian Accounting Standards.

Prior period error

In 2022–23, ASIC undertook an internal review of end-to-end processes for accounting and management of software assets, including work-in-progress, plant and equipment assets, and ASIC's asset management framework. The review identified costs incurred at early planning stages of projects and costs relating to Software as a Service (SaaS) arrangements often did not meet the asset recognition criteria under AASB 138 *Intangible Assets* for internally developed software and cloud computing arrangements. ASIC identified that these costs were incorrectly recognised as non-financial assets, instead of being recorded as operating expenses.

This resulted in reductions of $36.204 million in software and plant and equipment assets and net equity as at 30 June 2022. The table below summarises the adjustments to the prior year comparatives. The comparatives in the financial statements have been amended to reflect the restated amounts detailed below.

The net effect of the restatement was an adjustment of $26.259 million against the 2021–22 Surplus/(Deficit) and an adjustment $9.945 million related to 2020–21 and prior years which has been reflected as an opening balance adjustment in retained earnings. The adjustment has resulted in a move from a surplus of $24.114 million to a deficit of $2.145 million for 2021–22.

	Note	2022 $'000	Adjustments $'000	2022 (Restated) $'000
Statement of Comprehensive Income				
Employee benefits		269,139	13,242	282,381
Suppliers[1]	1.1B	129,993	13,017	143,010
Surplus/(Deficit)		24,114	(26,259)	(2,145)
Total comprehensive income/(loss)		27,794	(26,259)	1,535
Statement of Financial Position				
Non-financial assets				
Plant and equipment	3.2	24,414	(743)	23,671
Computer software	3.2	105,375	(35,461)	69,914
Equity				
Accumulated deficit		(334,976)	(36,204)	(371,180)
Net assets		216,572	(36,204)	180,368
Statement of Changes in Equity				
Retained earnings				
Opening balance		(359,090)	(9,945)	(369,035)
Surplus for the period		24,114	(26,259)	(2,145)
Closing balance		(334,976)	(36,204)	(371,180)
Total equity		216,572	(36,204)	180,368
Cash Flow Statement				
Employees		269,991	13,242	283,233
Suppliers		153,167	13,017	166,184
Purchase of leasehold improvements, plant and equipment and intangibles		59,424	(26,259)	33,165

1 Suppliers include specialist services, consultant and contractor costs relating to software projects.

Events after the reporting period

There were no events occurring after the balance date that had a material effect on the Departmental or Administered financial statements.

Note 1. Departmental financial performance

This section analyses the financial performance of ASIC for the period ended 30 June 2023

1.1 Expenses

	2023 $'000	2022 (Restated) $'000
1.1A: Employee benefits		
Wages and salaries	**232,333**	221,209
Superannuation		
Defined-benefit schemes	**10,324**	10,267
Defined-contribution schemes	**28,382**	29,157
Leave and other entitlements	**28,504**	19,037
Separation and redundancies	**13,790**	2,711
Total employee benefits	**313,333**	282,381

Accounting Policy

Accounting policies for employee-related expenses are detailed in Note 6 People and relationships.

	2023 $'000	2022 (Restated) $'000
1.1B: Suppliers		
Goods and services supplied or rendered		
Legal and forensic costs	**44,726**	42,241
Office computer and software expenses	**37,529**	33,871
Consultants and specialist services	**32,183**	34,988
Property-related outgoings	**9,323**	9,400
Other goods and services[1]	**4,190**	5,022
Information costs	**3,421**	3,894
Bank fees	**3,376**	3,249
Travel	**3,173**	1,147
Communications	**2,755**	3,198
Learning and development	**1,676**	2,448
Security	**1,054**	1,338
Audit fees (paid)[1]	**388**	388
Recruitment	**404**	1,242
Postage and freight	**205**	250
Total goods and services supplied or rendered	**144,403**	142,676
Goods supplied	**673**	588
Services rendered	**143,730**	142,088
Total goods and services supplied or rendered	**144,403**	142,676
Other suppliers		
Short-term leases	**47**	46
Workers' compensation expense	**341**	205
Fringe benefits tax	**46**	83
Total other suppliers	**434**	334
Total suppliers	**144,837**	143,010

1 Comparisons have been changed due to the requirement to separately disclose Audit fees (paid), which were originally included in Other goods and services.

	2023 $'000	2022 (Restated) $'000
1.1C: Finance costs		
Unwinding of restoration provision	**82**	30
Interest on lease liability	**1,621**	1,689
Total finance costs	**1,703**	1,719
1.1D: Write-down and impairment of other assets		
Write-off of leasehold improvements	**76**	39
Write-off of plant and equipment	**1,196**	7
Write-off of software	**3,456**	174
Total write-down and impairment of other assets	**4,728**	220

1.2 Own-source revenue

	2023 $'000	2022 (Restated) $'000
1.2A: Revenue from other Australian Government entities[1]		
Australian Taxation Office (ATO)	**17,609**	27,755
Department of Home Affairs	**682**	12,826
Australian National Audit Office	**30**	–
Total revenue from other Australian Government entities	**18,321**	40,581
1.2B: Other revenue		
Cost recoveries[2]	**8,097**	24,695
Resources received free of charge		
Remuneration of auditors	**388**	388
Committee fees	**49**	23
Other	**3,168**	905
Total other revenue	**11,702**	26,011
1.2C: Revenue from Government		
Appropriations:		
Departmental appropriations[3]	**426,323**	422,001
Total revenue from Government	**426,323**	422,001

1 Relates to reimbursement of operating and capital expenditure incurred by ASIC on government programs funded directly by other Australian Government entities.

2 Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

3 Includes $55.246 million (2022: $64.811 million) credited to the Enforcement Special Account (ESA). A special account is a limited special appropriation that notionally sets aside an amount that can be expended for a particular purpose. The ESA was established to fund the costs arising from the investigation and litigation of matters of significant public interest. For further information, refer to the Accounting Policy below.

Accounting Policy

Rendering of services

Revenue from rendering of services is recognised when the resources have been purchased. Revenue is recognised when the:

- amount of revenue, stage of completion and transaction costs incurred can be reliably measured
- probable economic benefits associated with the transaction will flow to ASIC.

Resources received free of charge

Resources received free of charge are recognised as revenue when, and only when, the fair value can be reliably determined, and the services would have been purchased had they not been donated. Use of these resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains, depending on their nature.

Revenue from Government

Amounts appropriated for departmental appropriations for the period (adjusted for any formal additions and reductions) are recognised as revenue from Government when ASIC gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

Amounts notionally set aside for a special account are debited against departmental appropriations and credited to that special account annually under Appropriation Act (No. 1).

Note 2. Income and expenses administered on behalf of Government

This section analyses the activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

2.1 Administered – expenses

	2023 $'000	2022 $'000
2.1A: Grants		
Rendering of services		
Insolvency practitioners	**4,880**	5,191
Total grants	**4,880**	5,191

Accounting Policy

ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.

Grant liabilities are recognised to the extent that (i) the services required to be performed by the grantee have been performed or (ii) the grant eligibility criteria have been satisfied, but payments due have not been made. When the Government enters into an agreement to make these grants and services, but services have not been performed or criteria satisfied, this is considered a commitment.

	2023 $'000	2022 $'000
2.1B: Impairment loss allowance on other assets		
Impairment of receivables	**88,088**	56,451
Waiver of fees and charges owing	**3,879**	5,941
Total impairment on other assets	**91,967**	62,392
2.1C: Claims for unclaimed monies		
Claims – Bank and deposit taking institution account holders	**77,564**	65,976
Claims – *Corporations Act 2001*	**33,809**	34,338
Claims – Life insurance policy-holders	**12,954**	9,424
Adjustments to provisions[1]	**60,010**	(32,231)
Total claims for unclaimed monies	**184,337**	77,507

1 Refer to the Accounting Policy under Note 4.2B.

Accounting Policy

Refer to Note 4.1 for the policy pertaining to the impairment of receivables and fee waivers.

In determining whether a fee should be waived in whole or part, ASIC considers the extent to which the company's officers or representatives contributed to the circumstances of the matter, in accordance with Part 7 of the Finance Minister's Delegation under s63 of the PGPA Act.

Administered expenses for refunds of unclaimed monies under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001* are recognised by estimating the value of claims likely to be repaid in respect of unclaimed money collected by ASIC as at balance date. The methodology used to determine the value of probable claims is determined by an independent actuary. Successful claims are paid out of the provision account.

2.2 Administered – income

	2023 $'000	2022 $'000
Non-taxation revenue		
2.2A: Fees and fines		
Fines	**372,403**	335,953
Searches and information brokers' fees	**74,279**	67,773
Fees for service	**13,397**	14,508
Total fees and fines	**460,079**	418,234
2.2B: Unclaimed monies lodgements		
Corporations Act 2001 unclaimed monies	**112,911**	113,072
Banking Act 1959 unclaimed monies	**217,383**	158,336
Life Insurance Act 1995 unclaimed monies	**11,547**	17,603
Total unclaimed monies lodgements	**341,841**	289,011

Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities managed by ASIC on behalf of the Government.

Administered revenue is generated from fees and fines under the following legislation:

- *Corporations (Fees) Act 2001*
- *Corporations (Review Fees) Act 2003*
- National Consumer Credit Protection (Fees) Regulations 2010
- Business Names Registration (Fees) Regulation 2012
- *Superannuation Industry (Supervision) Act 1993.*

Administered fee revenue is recognised on an accruals basis when:

- the client or the client group can be identified in a reliable manner
- an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions
- the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Administered taxation revenue is recognised at its nominal amount due and an expense is recognised for impaired debts.

ASIC undertakes the collection of certain levies on behalf of the Government. These comprise the:

- *ASIC Supervisory Cost Recovery Levy Act 2017*
- ASIC Supervisory Cost Recovery Levy Regulations 2017.

Accounting Policy (continued)

Administered revenue arising from levies is recognised on an accrual basis.

ASIC also receives non-taxation revenue from search fees, fines – including late fees, court fines, penalties and infringement notices – and unclaimed monies. Unclaimed monies revenue recognition is based on the annual amount of unclaimed monies received by ASIC (inflows), less an estimate of future outflows. Unclaimed monies revenue relates to lost money received under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001*. This revenue is not available to ASIC and is transferred to the OPA.

The collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less, rather than more, likely.

Note 3. Departmental financial position

This section analyses ASIC's assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in Note 6 People and relationships.

3.1 Financial assets

	2023 $'000	2022 $'000
3.1A: Cash and cash equivalents		
Cash in special accounts	**78,625**	71,137
Cash at bank	**2,241**	1,606
Total cash and cash equivalents	**80,866**	72,743

The closing balance of Cash in special accounts does not include amounts held in trust ($38.097 million in 2023 and $19.897 million in 2022). See Note 5.2 Special Accounts for more information.

	2023 $'000	2022 $'000
3.1B: Trade and other receivables		
Goods and services receivables:		
Goods and services	**3,800**	7,943
Total goods and services receivables (gross)	**3,800**	7,943
Less expected credit loss allowance	**(686)**	(548)
Total goods and services receivables (net)	**3,114**	7,395

	2023 $'000	2022 $'000
Appropriation receivables:		
Appropriation receivable	**123,635**	130,349
Total appropriation receivables	**123,635**	130,349
Other receivables:		
Tax receivable from the ATO	**3,298**	4,322
Total other receivables	**3,298**	4,322
Total trade and other receivables (net)	**130,047**	142,066
Trade and other receivables are expected to be recovered:		
No more than 12 months	**130,047**	142,066

Credit terms for goods and services were within 20 days (2022: 20 days).

Accounting Policy

Receivables

Trade receivables and other receivables are classified as 'loans and receivables' and recorded at face value less any impairment. Trade receivables are recognised where ASIC becomes party to a contract and has a legal right to receive cash. Trade receivables are derecognised on payment.

Financial assets are assessed for impairment at the end of each reporting period. Allowances are made when collectability of the debt is no longer probable.

3.2 Non-financial assets

Reconciliation of the opening and closing balances of property, plant and equipment, and intangibles

	Buildings $'000	Plant and equipment $'000	Computer software $'000	Total $'000
As at 1 July 2022 (Restated)[1]				
Gross book value	263,346	58,555	465,504	**787,405**
Accumulated depreciation/amortisation and impairment	(72,704)	(34,855)	(385,674)	**(493,233)**
Total as at 1 July 2022	**190,642**	**23,700**	**79,830**	**294,172**
Prior period adjustment	–	(29)	(9,916)	(9,945)
Adjusted total as at 1 July 2022	**190,642**	**23,671**	**69,914**	**284,227**
Additions:				
By purchase or internally developed	567	1,188	6,960	**8,715**
Right-of-use (ROU) assets	4,204	–	–	**4,204**
Total additions	**4,771**	**1,188**	**6,960**	**12,919**
Depreciation and amortisation	(5,297)	(7,706)	(43,522)	**(56,525)**
Depreciation of ROU assets	(20,798)	–	–	**(20,798)**
Total depreciation and amortisation	**(26,095)**	**(7,706)**	**(43,522)**	**(77,323)**
Other movements				
Impairments recognised in net cost of services	–	(111)	(2,251)	**(2,362)**
Disposals:				
Other	(76)	(1,085)	(1,205)	**(2,366)**
Total as at 30 June 2023	**169,242**	**15,957**	**29,896**	**215,095**
Total as at 30 June 2023 represented by:				
Gross book value	267,141	52,213	127,384	**446,738**
Accumulated depreciation/amortisation and impairment	(97,899)	(36,256)	(97,488)	**(231,643)**
Total as at 30 June 2023	**169,242**	**15,957**	**29,896**	**215,095**
Carrying amount of ROU assets	**137,786**	**–**	**–**	**137,786**

1 In 2022–23 ASIC undertook an internal review of end-to-end processes for accounting and management of software assets. This resulted in $36.204 million being adjusted where ASIC did not have control over the software being configured or customised under the Software-as-a-Service (SaaS) arrangement. The prior year balances were derecognised under AASB138 Intangible Assets recognition criteria. In addition, the review of the future economic benefit of software assets resulted in $18.497 million of accelerated amortisation.

Accounting Policy

Assets are recorded at cost of acquisition, except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Asset recognition threshold

Purchases of leasehold improvements, and plant and equipment are initially recognised at cost in the Statement of Financial Position, except for purchases valued at under $5,000, which are expensed in the year of acquisition (excluding where they form part of a group of similar items that are significant in total value).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it was located. This is particularly relevant to make good provisions taken up by ASIC where an obligation exists to restore the premises to their original condition at the conclusion of the lease. These costs are included in the value of ASIC's property expenses with a corresponding provision for the make good recognised.

Lease right-of-use assets

Lease right-of-use (ROU) assets are capitalised at the commencement date of the lease and comprise the initial lease liability amount and initial direct costs incurred when entering into the lease, less any lease incentives received. These assets are accounted for by Australian Government lessees as separate asset classes to corresponding assets owned outright, but they are included in the same column as the corresponding underlying assets would be if they were owned.

An impairment review is undertaken for any ROU lease asset that shows indicators of impairment and an impairment loss is recognised against any ROU lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition.

Revaluations

Following initial recognition at cost, leasehold improvements, and plant and equipment (excluding ROU assets) are carried at the latest revaluation, less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended on the volatility of movements in market values for the relevant assets. An independent valuation of ASIC's assets was undertaken as at 30 June 2022.

Revaluation adjustments are made on a class basis. Any revaluation increment was credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date was eliminated against the gross carrying amount of the asset and the asset was restated to the revalued amount.

Accounting Policy (continued)

Depreciation

All depreciable leasehold improvements, and plant and equipment assets are written down to their estimated residual values over their estimated useful lives to ASIC, using the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future, reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2023	2022
Leasehold improvements	**Residual lease term**	Residual lease term
Plant and equipment	**2 to 80 years**	2 to 80 years

Impairment

All assets were assessed for impairment as at 30 June 2023. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the entity were deprived of the asset, its value in use is taken to be its current replacement cost.

Derecognition

An item of property, or plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

ASIC's intangibles comprise software either purchased or internally developed for internal use. ASIC does not recognise an intangible asset when we do not control the software being configured or customised and these configurations or customisations do not create a resource controlled by ASIC that can be reliably measured.

Intangible assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful life of ASIC's software is 2 to 10 years (2022: 2 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2023.

Accounting Policy (continued)

Accounting judgements and estimates

In the process of applying the accounting policies listed in this note, ASIC made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- The fair value of leasehold improvements, property, and plant and equipment (excluding ROU assets) is assessed at market value or current replacement cost as determined by an independent valuer and is subject to management assessment between formal valuations
- Annually, ASIC undertakes a review of the future economic benefit of assets and updates the useful life accordingly. During the 2022–23 financial year, the updates to the useful lives resulted in an increase in software amortisation. Refer to Note 3.2.

3.3 Payables

	2023 $'000	2022 $'000
3.3A: Suppliers		
Trade creditors and accruals	**20,768**	29,510
Total suppliers	**20,768**	29,510

Supplier payables are settled in accordance with the terms of the purchase order or contract and are expected to be settled within 12 months.

	2023 $'000	2022 $'000
3.3B: Other payables		
Prepayments received/unearned income	**12,836**	12,045
Salaries and bonuses	**24,448**	21,335
Separations and redundancies	**8,587**	1,346
Other	**510**	619
Total other payables	**46,381**	35,345

3.4 Interest-bearing liabilities

	2023 $'000	2022 $'000
Lease liabilities	**168,823**	185,524
Total leases	**168,823**	185,524

Total cash outflow for leases for the period ended 30 June 2023 was $22.526 million (2022: $20.759 million).

	2023 $'000	2022 $'000
Maturity analysis – contractual undiscounted cash flows		
Within 1 year	**23,182**	17,174
Between 1 to 5 years	**107,209**	103,862
More than 5 years	**47,944**	71,233
Total leases	**178,335**	192,269

Accounting Policy

For all new contracts entered into, ASIC considers whether the contract is, or contains, a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'.

Once it has been determined that a contract is, or contains, a lease, the lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, if that rate is readily determinable, or at the Department of Finance's incremental borrowing rate.

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification to the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the ROU asset, or profit and loss, depending on the nature of the reassessment or modification.

3.5 Other provisions

	Provision for restructuring $'000	Provision for restoration costs $'000	Provision for settlement costs $'000	Total other provisions $'000
As at 1 July 2022	159	2,730	2,242	**5,131**
Additional provisions made	240	383	6,020	**6,643**
Amounts used	–	–	(37)	**(37)**
Amounts reversed	(60)	(365)	(740)	**(1,165)**
Amortisation of restoration provision discount	–	82	–	**82**
Total as at 30 June 2023	**339**	**2,830**	**7,485**	**10,654**

Accounting Policy

Restoration costs

ASIC currently has one lease agreement (2022: two) for the leasing of premises that have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. The provision reflects the current best estimate of these future restoration costs discounted to reflect the present value of the future payments.

Settlement costs

ASIC recognises a provision for the estimated costs that will be paid on settlement of current legal proceedings based on past history of settlement costs.

The accounting policy for the provision for restructuring is contained in Note 6 'People and relationships'.

Note 4. Assets and liabilities administered on behalf of the Government

This section analyses assets used to conduct operations and the operating liabilities incurred as a result of activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those for departmental reporting.

4.1 Administered – financial assets

	2023 $'000	2022 $'000
4.1A: Supervisory cost recovery levies receivables		
Supervisory cost recovery levies receivables – taxation	**61,483**	73,497
Supervisory cost recovery levies receivables – non-taxation	**305,859**	244,739
Total supervisory cost recovery levies receivables (gross)	**367,342**	318,236
Less expected credit loss allowance		
Supervisory cost recovery levies	**7,365**	6,361
Total supervisory cost recovery levies receivables (net)	**359,977**	311,875
4.1B: Other taxation receivables		
Fees and fines receivable	**372,596**	232,778
Total other taxation receivables (gross)	**372,596**	232,778
Less expected credit loss allowance		
Fees and fines	**133,498**	82,375
Total other taxation receivables (net)	**239,098**	150,403

Taxation receivables are due from entities that are not part of the Australian Government. Credit terms for goods and services were within 30 days (2022: 30 days).

	2023 $'000	2022 $'000
4.1C: Trade and other receivables		
Information brokers' fees	**10,034**	13,284
GST receivable	**393**	448
Total trade and other receivables (gross)	**10,427**	13,732

Accounting Policy

Receivables

Administered receivables are recognised at their nominal value less an impairment allowance. The Finance Minister has determined that statutory receivables are not financial instruments and accordingly ASIC has assessed administered receivables for impairment under AASB 136 *Impairment of Assets (FRR 26.3)*.

The impairment allowance is raised against receivables for any doubtful debts and any probable credit amendments and is based on a review of outstanding debts at balance date. This includes an examination of individual large debts and disputed amounts with reference to historic collection patterns.

The impairment allowance expense is calculated using estimation techniques to determine an estimate of current receivables that are unlikely to be collected in the future.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under Rule 11 of the PGPA Act.

4.2 Administered – payables

	2023 $'000	2022 $'000
4.2A: Suppliers and other payables		
Supplier payables	–	118
Refund of fees payable	**30,568**	25,694
Unallocated monies[1]	**11,142**	10,394
Grants payable[2]	**3,318**	4,196
Other non-current payables[3]	**8,242**	7,958
Total payables	**53,270**	48,360

All payables are for entities that are not part of the Australian Government.
All payables, with the exception of Other non-current payables, are expected to be settled within 12 months. Settlement is usually made within 30 days.

1 Unallocated monies are credits on debtor accounts less than 120 days old. The credits are either allocated or refunded.

2 Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.

3 Other non-current payables are over payments of fees where payments are made to ASIC in error. The settlement period is expected to be greater than 12 months as these are unidentified payments.

	2023 $'000	2022 $'000
4.2B: Unclaimed monies provisions		
Banking Act 1959 claims	**266,198**	215,046
Corporations Act 2001 claims	**219,497**	207,535
Life Insurance Act 1995 claims	**33,268**	36,372
Total other provisions	**518,963**	458,953

Accounting Policy

Provisions

The provisions recognised in the Administered Schedule of Assets and Liabilities are for estimated claims payable from collections of unclaimed monies administered by ASIC as at balance date. ASIC adopts a provision for future claims based on an independent valuation as at 30 June annually, calculated by a registered actuary, under *AASB 137 Provisions, Contingent Liabilities and Contingent Assets.*

Accounting judgements and estimates

The provision has been estimated considering the historic claims pattern experienced since 2002 and lodgements not claimed at balance date. The estimate reflects the volatility of unclaimed monies lodgements and claims from year to year, which are impacted by factors including economic events, legislative change, media exposure and the behaviour of claimants, each differing significantly from year to year and over time. The assumptions applied for the claims rate have changed from the previous valuation period, resulting in a net reduction of $10.516 million. The reduction was mostly driven by a lower-than-expected five-year average claims rate in the 2–12 year period from lodgement date.

The estimated future flow of claims over time has been discounted to present value at a risk-free rate of interest based on government bond rates with similar terms to the expected claims. This is consistent with standard actuarial practice and required under *AASB 137 Provisions, Contingent Liabilities and Contingent Assets.*

The cash flows have been discounted to present values using the yield curve of the market rates for Australian government securities at 30 June 2023. The use of a risk-free discount rate based on Australian government securities is consistent with standard actuarial practice in Australia for valuing claim liabilities which will be settled over a number of years. Applying these discount rates to the projected payments translates to a single equivalent rate of 4.2% p.a. (2021–22: 3.7%).

Allowance has been made for payment of compounding interest for all claims from 1 July 2013 on unclaimed balances in accordance with actual legislated interest rates and estimated future interest rates based on economist expectations for inflation in the medium to longer term, noting legislated interest rates are linked to movements in the consumer price index (CPI). The relevant CPI rate is March–March CPI from the previous year to be applied on 1 July each year.

Note 5. Funding

This section identifies ASIC's funding structure.

5.1 Appropriations

5.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2023	Annual appropriation $'000	Adjustments to appropriation[1] $'000	Total appropriation $'000	Appropriation applied in 2023 (current and prior years) $'000	Variance[2] $'000
Departmental					
Ordinary annual services	426,323	30,135	**456,458**	486,802	**(30,344)**
Capital budget[3]	21,058	–	**21,058**	–	**21,058**
Other services					
Equity injections	5,824	–	**5,824**	2,358	**3,466**
Total departmental	453,205	30,135	**483,340**	489,160	**(5,820)**
Administered					
Ordinary annual services	7,925	–	7,925	8,403	(478)
Total administered	7,925	–	**7,925**	**8,403**	**(478)**

1 s74 receipts.

2 The variance in departmental expenses is due to higher employee costs and the internal review of software assets which led to prior year adjustment as listed in the overview and Note 3.2.

3 Departmental capital budgets are appropriated through Supply Acts and Appropriation Acts (Nos.1,3 and 5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

Accounting Policy

Equity injections

Amounts appropriated that are designated as 'equity injections' for a year (less any formal reductions) and departmental capital budgets (DCB) are recognised directly in contributed equity in that year.

Annual appropriations for 2022	Annual appropriation $'000	Adjustments to appropriation[1,2] $'000	Total appropriation $'000	Appropriation applied in 2022 (current and prior years) $'000	Variance[3] $'000
Departmental					
Ordinary annual services	426,670	103,394	530,064	512,877	17,187
Capital budget[4]	25,544	–	25,544	23,588	1,956
Other services					
Equity injections	3,530	–	3,530	5,518	(1,988)
Total departmental	455,744	103,394	559,138	541,983	17,155
Administered					
Ordinary annual services	9,952	–	9,952	6,833	3,119
Total administered	9,952	–	9,952	6,833	3,119

1 s51 quarantine of $4.669 million reappropriated as Capital through Act 3.

2 s74 receipts ($108.063 million).

3 The variance in departmental expenses is due an underspend in operating activities, particularly in relation to the ESA.

4 Departmental capital budgets are appropriated through Supply Acts and Appropriation Acts (Nos.1,3 and 5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

5.1B: Unspent annual appropriations ('recoverable GST exclusive')

	2023 $'000	2022 $'000
Departmental		
Appropriation Act (No. 2) 2020–2021[1]	**71**	376
Supply Act (No. 2) 2020–2021[2]	**211**	219
Appropriation Act (No. 1) 2021–2022[3]	**4,669**	128,223
Appropriation Act (No. 3) 2021–2022	**–**	3,636
Appropriation Act (No. 1) DCB 2021–2022[4]	**22**	–
Appropriation Act (No. 3) DCB 2021–2022	**2,392**	2,392
Appropriation Act (No. 4) 2021–2022	**1,778**	1,778
Supply Act (No. 1) 2022–2023	**–**	–
Supply Act (No. 3) 2022–2023	**96,846**	–
Supply Act (No. 1) DCB 2022–2023	**8,774**	–
Supply Act (No. 3) DCB 2022–2023	**12,284**	–
Supply Act (No. 2) 2022–2023	**501**	–
Supply Act (No. 4) 2022–2023	**701**	–
Appropriation Act (No. 1) 2022–2023	**–**	–
Appropriation Act (No. 2) 2022–2023	**2,578**	–
Total Departmental	**130,827**	136,624

Unspent departmental appropriations include cash balances of $2.241 million (2022: $1.606 million).

1 $0.071 million unspent appropriation will lapse on 1 July 2023.

2 $0.211 million unspent appropriation will lapse on 1 July 2023.

3 Includes $4.669 million withheld under s51 of the PGPA Act or quarantined for administrative reasons. The funds were transferred to Capital and were reappropriated through *Appropriation Act (No. 3) 2021–2022*.

4 Adjustment to 2021–2022 DCB as a result of the transfer of software expenses from the WIP accounts to employee and supplier expenses.

	2023 $'000	2022 $'000
Administered		
Appropriation Act (No. 1) 2019–2020[1]	–	1,521
Supply Act (No. 1) 2019–2020[2]	–	1,087
Appropriation Act (No. 1) 2020–2021[3]	**527**	3,560
Supply Act (No. 1) 2020–2021	–	1,728
Appropriation Act (No. 1) 2021–2022	**5,358**	7,445
Appropriation Act (No. 1) 2022–2023	**379**	–
Supply Act (No. 1) 2022–2023	**2,327**	–
Supply Act (No. 3) 2022–2023	**3,663**	–
Total Administered	**12,254**	15,341

Unspent administered appropriations include cash balances of $0.382 million (2022: $0.165 million).

1 $1.521 million unspent appropriation lapsed on 1 July 2022.

2 $1.087 million unspent appropriation lapsed on 1 July 2022.

3 $0.527 million unspent appropriation will lapse on 1 July 2023.

5.1C: Special appropriations ('recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied 2023 $'000	Appropriation applied 2022 $'000
s69 *Banking Act 1959*, Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. ASIC receives special appropriations from the OPA (69 *Banking Act 1959*) to refund amounts to banking and deposit taking institution account holders.	**77,517**	65,944
s216 *Life Insurance Act 1995*, Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. ASIC receives special appropriations from the OPA (s216 *Life Insurance Act 1995*) to refund amounts to life insurance policy holders.	**12,954**	9,424
s77 PGPA Act, *Corporations Act 2001*, *National Consumer Credit Protection Act 2009*, Business Names Registration (Fees) Regulations 2010 and *Superannuation Industry (Supervision) Act 1993*. (Refunds of overpaid Corporations Act fees and charges), Administered	Unlimited	ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the OPA as received. Refunds of overpayments are appropriated under s 77 of the PGPA Act.	**4,558**	5,055
s77 PGPA Act, *Corporations Act 2001* (Refunds of unclaimed money held under s1341 *Corporations Act 2001*), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies under s1341 of the *Corporations Act 2001*.	**32,382**	33,185
Total			**127,411**	113,608

5.2 Special Accounts

[Recoverable GST exclusive]	Enforcement Special Account[1]		ASIC Trust and Other Moneys Special Account 2018[2]	
	2023 $'000	2022 $'000	2023 $'000	2022 $'000
Balance brought forward from previous period	**71,137**	45,174	**19,897**	11,724
Increases				
Appropriation for the reporting period	**55,246**	64,811	**–**	–
Other increases	**6,727**	20,643	**23,994**	10,696
Available for payments	**133,110**	130,628	**43,891**	22,420
Decreases				
Departmental				
Cash payments from the Special Account	**(54,485)**	(59,491)	**–**	–
Total departmental	**(54,485)**	(59,491)	**–**	–
Administered				
Cash payments from the Special Account	**–**	–	**(5,795)**	(2,523)
Total administered	**–**	–	**(5,795)**	(2,523)
Balance carried forward to the next period	**78,625**	71,137	**38,096**	19,897
Balance represented by:				
Cash held in entity bank accounts	**–**	–	**38,096**	19,897
Cash held in the Official Public Account	**78,625**	71,137	**–**	–
	78,625	71,137	**38,096**	19,897

1 Appropriation: s78 of the PGPA Act.

Establishing Instrument: s78 of the PGPA Act.

Purpose: the ESA is a departmental special account that was established by a determination of the Finance Minister on 23 August 2016 to fund ASIC's costs arising from the investigation and litigation of matters of significant public interest.

2 Appropriation: s78 of the PGPA Act.
Establishing Instrument: s78 of the PGPA Act.
Purpose: the ASIC Trust and Other Moneys Special Account was established by a determination of the Finance Minister on 30 June 2018,

(a) to perform duties or exercise powers for and on behalf of the Commonwealth in relation to money and other property vested in or held on behalf of the Commonwealth as a trustee, including:

(i) by making payments in relation to deregistered companies and property vested in the Commonwealth under Part 5A.1 of the Corporations Act

(ii) by making payments in relation to liabilities imposed on property vested in the Commonwealth under Part 5A.1 of the Corporations Act, or

(iii) by making payments in relation to expenses incurred by or on behalf of the Commonwealth as a trustee.

(b) to perform functions or exercise powers in relation to money or other property held on behalf of or for the benefit of a person other than the Commonwealth, including:

- (i) in relation to money or other property held temporarily by ASIC as a consequence of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC
- (ii) by making payments to or for the benefit of a person for whose benefit the money was held by ASIC
- (iii) making payments of amounts required or contemplated to be paid by ASIC in the course of an investigation
- (iv) making payments to give effect to court orders, enforceable undertakings, settlements, transfers of assets, or other disbursements of monies held by ASIC on behalf of a person other than the Commonwealth, or
- (v) making payments in relation to expenses incurred in relation to holding and realising third party assets, or locating and identifying any person for whose benefit an amount is held

(c) to perform functions and to exercise powers in relation to security bonds and security deposits lodged by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees, including security bonds and security deposits lodged under s912B of the Corporations Act, and regulations 7.6.02AAA and 7.6.02AA of the Corporations Regulations, including by:

- (i) discharging, returning or releasing a security bond or security deposit lodged with ASIC in whole or in part, or
- (ii) making payments from security bonds or security deposits to compensate a person other than the Commonwealth who has suffered a pecuniary loss

(d) to repay an amount where a court order, Act or other law requires or permits the repayment of an amount received under clause 7, or

(e) to reduce the balance of the special account (and, therefore, the available appropriation for the special account) without making a real or notional payment.

ASIC also has a Services for Other Entities and Trust Moneys Special (SOETM) Account – Australian Securities and Investments Commission SOETM Special Account 2022. This account was established under s78 of the PGPA Act. The SOETM combines the purposes of the Other Trust Moneys and the Services for other Government and Non-agency Bodies special accounts into a single standard-purpose Special Account. The SOETM enables ASIC to continue to hold and expend amounts on behalf of persons or entities other than the Commonwealth. The SOETM will typically be used to accommodate small amounts of miscellaneous monies, for example, amounts received in connection with services performed for or on behalf of any persons or entities that are not agencies as prescribed under the PGPA Act, such as other governments. For the year ended 30 June 2023, the account had a nil balance and there were no transactions debited or credited to it during the current or prior reporting period.

The closing balance of the ASIC Trust and Other Moneys Special Account 2018 includes amounts held in trust: $19.897 million in 2022 and $38.096 million in 2023.

5.3 Regulatory charging summary

	2023 $'000	2022 $'000
Amounts applied		
Departmental		
Appropriation applied	**368,499**	320,070
Total amounts applied	**368,499**	320,070
Expenses		
Departmental	**368,499**	320,070
Total expenses	**368,499**	320,070
External revenue		
Administered		
Fees for services	**11,498**	12,886
ASIC Supervisory Cost Recovery Levy	**357,001**	307,184
Total external revenue	**368,499**	320,070

The increase in the regulatory charging amount reflects the cessation of Financial Advisers levy relief.

Regulatory charging activities

On 20 April 2016, the Australian Government announced the introduction of an industry funding model for ASIC. Under this model, ASIC's regulatory costs are partially recovered from the industry sectors we regulate, through a combination of:

(a) general industry levies (cost recovery levies)

(b) statutory industry levies

(c) cost recovery fees (fees for service) for user-initiated, transaction-based activities where we provide a specific service to individual entities.

ASIC's costs associated with regulatory activities are recovered from industry as outlined in our Cost Recovery Implementation Statement. Activities include:

- supervision and surveillance
- enforcement
- stakeholder engagement
- education
- guidance
- policy advice.

The cost recovery implementation statement for the above activities is available at:

23-173MR Industry funding: 2022–23 Cost Recovery Implementation Statement | ASIC[1]

1 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-173mr-industry-funding-2022-23-cost-recovery-implementation-statement#!page=1&type=media%20releases&search=cris

5.4 Net cash appropriation arrangements

	2023 $'000	2022 (Restated) $'000
Total comprehensive income/(loss) – as per the Statement of Comprehensive Income	**(84,034)**	1,535
Plus: depreciation/amortisation expenses previously funded through appropriations (departmental capital budget funding and/or equity appropriations)[1]	**56,525**	43,441
Plus: depreciation ROU assets[2]	**20,798**	21,248
Less: lease principal repayments[2]	**20,904**	19,070
Net cash operating surplus/(deficit)	**(27,615)**	47,154

1 From 2010–11, the Government introduced net cash appropriation arrangements where revenue appropriations for depreciation/amortisation expenses of non-corporate Commonwealth entities and selected corporate Commonwealth entities were replaced with a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

2 The inclusion of depreciation/amortisation expenses related to ROU leased assets and the lease liability principal repayment amount reflects the impact of AASB 16 Leases, which does not directly reflect a change in appropriation arrangements.

Note 6. People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

6.1 Employee provisions

	2023 $'000	2022 $'000
Annual leave entitlement	**25,421**	29,588
Long service leave entitlement	**46,181**	45,413
Separation and redundancy provision	**2,214**	2,489
Total employee provisions	**73,816**	77,490

Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within 12 months of the end of the reporting period are measured at their nominal amounts.

Other long term employee benefits are measured as net total of the present value of the defined benefit obligations at the end of the reporting period minus the fair value at the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time leave is taken. This includes ASIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an independent actuary dated 7 June 2022. Actuarial reviews of long service leave are undertaken at least every five years. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it develops a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

ASIC employees are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined-benefit schemes of the Australian Government. The PSSap is a defined-contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedule and notes.

ASIC makes employer contributions to its employees' defined-benefit superannuation schemes at rates determined by an actuary to be sufficient to meet the current cost to the Government, and ASIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

Accounting Policy (continued)

Restructuring

ASIC recognises a provision for restructuring when strategic and operational priorities change or when the Government announces a funding measure that will result in a future reduction in functions, resources and staff and the costs associated with these future reductions can be reliably estimated.

Accounting judgements and estimates

In the process of applying the accounting policies listed in this note, ASIC made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

› Leave provisions involve assumptions based on the expected tenure of existing staff, patterns of leave claims and payouts, future salary movements and future discount rate.

6.2 Key management personnel remuneration

Key management personnel (KMP) are those people who have direct or indirect authority and responsibility for planning, directing and controlling the activities of ASIC. ASIC determined the KMP to be commission members, the Chief Operating Officer, the Portfolio Minister and the Minister for Financial Services.

KMP remuneration is reported in the following table.

	2023 $'000	2022 $'000
Short-term employee benefits	**3,182**	6,597
Post-employment benefits	**334**	737
Other long-term benefits	**70**	161
Total key management personnel remuneration expenses[1]	**3,586**	7,495

The total number of KMP who are included in the above table is 6[2] (2022: 15).

1 The above KMP remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by ASIC.

2 From 1 July 2022, ASIC's governance structure was updated, where Executive Directors are no longer directly responsible for planning, directing and controlling the activities of ASIC. This resulted in the reduction of KMP from 15 to 6.

6.3 Related party disclosures

Related party relationships

ASIC is an Australian Government controlled entity. Related parties to ASIC are key management personnel, including the commission members and ASIC's Chief Operating Officer, who are responsible for planning, directing and controlling ASIC's resources.

Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

ASIC transacts with other Australian Government-controlled entities consistent with normal day-to-day business operations provided under normal terms and conditions, including the payment of workers' compensation and insurance premiums, sub-leasing of office space and payment of superannuation contributions. These are not considered individually significant to warrant separate disclosure as related party transactions.

Note 7. Managing uncertainties

This section describes how ASIC manages financial risks within its operating environment.

7.1 Contingent assets and liabilities

	2023 $'000	2022 $'000
7.1A: Departmental contingent assets and liabilities		
Contingent assets		
Balance from previous period	**7,858**	11,539
New contingent assets	**2,821**	2,763
Re-measurement	**(1,770)**	1,175
Assets realised	**(2,189)**	(7,499)
Assets relinquished	**(1,410)**	(120)
Total contingent assets	**5,310**	7,858
Contingent liabilities		
Balance from previous period	**(150)**	(1,200)
Re-measurement	**(250)**	–
New contingent liabilities	**–**	(150)
Obligations expired	**–**	1,200
Total contingent liabilities	**(400)**	(150)
Net contingent assets	**4,910**	7,708

Quantifiable contingencies (ASIC Departmental)

The above table contains 20 matters (2022: 20 matters) where a contingent asset is disclosed in respect of cases where ASIC has received an award of costs in its favour; however agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated that these matters represent a combined receivable of $5.310 million (2022: $7.858 million), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

The above table contains one matter (2022: one matter) where a contingent liability is disclosed in respect of a case where ASIC had costs awarded against it; however agreement with respect to the quantum payable by ASIC has not been reached. ASIC has estimated that this matter represents a payable of $0.400 million (2022: $0.150 million), which is disclosed as a contingent liability because realisation of this payable is not virtually certain.

Unquantifiable contingencies (ASIC Departmental)

ASIC is party to many civil litigation matters arising out of its statutory duty to administer and enforce laws for which it is responsible.

Like any organisation, ASIC may, from time to time, be the subject of legal proceedings for damages brought against it or may receive notice indicating that such proceedings may be brought. In either case, ASIC, like any other party to civil litigation, may be required to pay the other party's costs if it is unsuccessful.

Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There are, at the date of this report, five matters (2022: seven matters) of this type where proceedings are current. In these matters, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that it will:

- successfully defend the actions instituted
- not be required to pay any damages.

Conversely, ASIC, like any other party to civil litigation, may be entitled to recover costs arising out of such litigation if it is successful. In addition to the matters specifically referred to in this note, ASIC has legal action pending in a number of other matters; however, due to the uncertainty over the outcome of outstanding and pending court cases, the duration of court cases and the legal costs of the opposing party, ASIC is unable to reliably estimate either its potential payments to, or potential cost recoveries from, opposing litigants. There may also be other matters where ASIC has received an award of costs in its favour; however, no contingent asset has been disclosed as recovery of the debt is not probable. There may also be other matters where no contingency has been quantified because the costs awarded for or against ASIC are estimated to be less than $20,000 each.

Accounting Policy

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position but are reported in this note. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than unlikely.

Quantifiable administered contingencies – Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the number of claims that are likely to be lodged with ASIC in respect of unclaimed monies was conducted by a registered actuary. ASIC adopted the registered actuary's calculation for the likely claims payable, reported in Note 4.2B.

The contingent liability represents an estimate of the principal unclaimed monies that have been lodged with ASIC but where the likelihood of a successful claim is regarded as unlikely. No allowance has been made for the compounding interest, which is payable for a successful claim lodged from 1 July 2013 in accordance with legislated interest rates. The contingent liability has been calculated by deducting from the total principal balance, excluding interest, of unclaimed monies lodged but not yet claimed, the undiscounted amount of the provision for future refunds excluding any interest.

	2023 $'000	2022 $'000
7.1B: Administered contingent liabilities		
Banking Act 1959	**778,341**	683,083
Corporations Act 2001	**560,240**	491,812
Life Insurance Act 1995	**124,330**	121,499

Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

Accounting Policy

Administered contingent liabilities represent a repayment estimate of unclaimed monies that are considered unlikely to be paid. There are no administered contingent assets as at 30 June 2023 (2022: nil).

7.2 Financial instruments

	Notes	2023 $'000	2022 $'000
7.2A: Financial instruments			
Financial assets			
Cash and cash equivalents	3.1A	**80,866**	72,743
Trade receivables	3.1B	**3,114**	7,395
Total financial assets		**83,980**	80,138
Financial liabilities			
Trade creditors	3.3A	**20,768**	29,510
Total financial liabilities		**20,768**	29,510

Accounting Policy

Financial assets

In accordance with AASB 9 *Financial Instruments*, ASIC classifies its financial assets in the following categories:

› cash and cash equivalents measured at nominal amounts
› trade receivables measured at amortised cost.

The classification depends on both ASIC's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive, or a legal obligation to pay, cash and are derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Financial assets at amortised cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows
2. the cash flows are solely payments of principal and interest on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

Effective interest method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

Accounting Policy (continued)

Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on the simplified approach.

The simplified approach for trade debtors is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where it directly reduces the gross carrying amount of the financial asset.

Financial liabilities at amortised cost

Supplier payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

	2023 $'000	2022 $'000
7.2B: Impairment loss on financial instruments		
Financial assets at amortised cost		
Impairment	**486**	–
Net loss on financial assets at amortised cost	**486**	–

7.3 Administered financial instruments

	Notes	2023 $'000	2022 $'000
Financial assets			
Cash and cash equivalents		**1,646**	1,379
Trade receivables	4.1C	**10,034**	13,284
Total financial assets		**11,680**	14,663
Financial liabilities			
Grants payable	4.2A	**3,318**	4,196
Supplier payables	4.2A	**–**	118
Total financial liabilities		**3,318**	4,314

Note 8. Other information

8.1 Current/non-current distinction for assets and liabilities

	2023 $'000	2022 (Restated) $'000
8.1A: Current/non-current distinction for assets and liabilities		
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	**80,866**	72,743
Trade and other receivables	**130,047**	142,066
Prepayments	**17,369**	14,332
Total no more than 12 months	**228,282**	229,141
More than 12 months		
Buildings	**169,242**	190,642
Plant and equipment	**15,957**	23,671
Computer software	**29,896**	69,914
Total more than 12 months	**215,095**	284,227
Total assets	**443,377**	513,368
Liabilities expected to be settled in:		
No more than 12 months		
Suppliers	**20,768**	29,510
Other payables	**46,381**	35,345
Leases	**25,586**	21,422
Employee provisions	**22,306**	24,506
Other provisions	**7,485**	2,242
Total no more than 12 months	**122,526**	113,025
More than 12 months		
Leases	**143,237**	164,103
Employee provisions	**51,510**	52,983
Other provisions	**3,169**	2,889
Total more than 12 months	**197,916**	219,975
Total liabilities	**320,442**	333,000

	2023 $'000	2022 $'000
8.1B: Administered – current/non-current distinction for assets and liabilities		
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	**1,646**	1,380
Supervisory cost recovery levies receivable	**359,977**	311,875
Fees and fines receivable	**239,098**	150,403
Trade and other receivables	**10,427**	13,732
Total no more than 12 months	**611,148**	477,390
Total assets	**611,148**	477,390
Liabilities expected to be settled in:		
No more than 12 months		
Supplier and other payables	**45,028**	40,402
Unclaimed monies provisions	**118,741**	102,104
Total no more than 12 months	**163,769**	142,506
More than 12 months		
Supplier and other payables	**8,242**	7,958
Unclaimed monies provisions	**400,222**	356,849
Total more than 12 months	**408,464**	364,807
Total liabilities	**572,233**	507,313

8.2 Expenditure relating to statutory board and tribunal

The Superannuation Complaints Tribunal wound up in December 2020. Residual expenses in the process were incurred in 2022.

	2023 $'000	2022 $'000
Companies Auditors Disciplinary Board	**206**	338
Superannuation Complaints Tribunal	**–**	19

Accounting Policy

ASIC is required to support the Companies Auditors Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of the board and the tribunal are included in ASIC's Statement of Comprehensive Income.

8.3 Identified assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. ASIC takes a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

Vested assets are not available to ASIC and are not recognised in the financial statements. The table below represents only those known assets that have been identified.

	2023 Quantity	2022 Quantity
Class of asset		
Land	**554**	529
Shares	**208**	190
Other	**179**	132
Closing balance	**941**	851

Land is comprised of real property as described in the relevant Land Titles Registry. Shares are comprised of parcels of shares in both private and publicly listed companies and include those parcels held by the company as trustee. Other assets include property such as intellectual property (e.g. trademarks) and mortgages.

8.4 Security deposits from dealers, investment advisers and liquidators

The Corporations Act 2001 and the Corporations Regulations 2001 require applicants for a dealer's or investment adviser's licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	2023 $'000	2022 $'000
Security deposits under Corporations Regulations 2001 regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	**83**	83
Inscribed stock	**20**	20
Bank guarantees	**8,410**	8,510
Closing balance	**8,513**	8,613
Security deposits under the *Corporations Act 2001* s1284(1) (liquidators)		
Insurance bond	**1,800**	1,800
Closing balance	**1,800**	1,800

8.5 Budgetary reports and explanations of major variances

8.5A: Departmental Budgetary Reports

The following tables provide a comparison of the original budget as presented in the 2022–23 October Portfolio Budget Statement to the 2022–23 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/– 10% and greater than +/– $5 million are provided.

Statement of Comprehensive Income

	Actual 2023 $'000	Original Budget 2023 $'000	Variance 2023 $'000
NET COST OF SERVICES			
Expenses			
Employee benefits	313,333	288,772	24,561
Suppliers	144,837	127,088	17,749
Depreciation and amortisation	77,323	61,183	16,140
Finance costs – unwinding of restoration provision	1,703	1,684	19
Impairment loss on financial instruments	486	–	486
Write-down and impairment of assets	4,728	–	4,728
Total expenses	542,410	478,727	63,683
LESS:			
Own-source revenue			
Sale of goods and rendering of services	2,343	2,000	343
Revenue from other Australian Government entities	18,321	22,367	(4,046)
Other revenue	11,702	3,395	8,307
Total own-source revenue	32,366	27,762	4,604
Gains			
Reversal of write-downs and impairment	70	–	70
Total gains	70	–	70
Net (cost) of services	(509,974)	(450,965)	(59,009)
Total revenue from Government	426,323	426,323	–
Surplus/(Deficit)	(83,651)	(24,642)	(59,009)

	Actual 2023 $'000	Original Budget 2023 $'000	Variance 2023 $'000
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Asset revaluation	–	–	–
Movement in makegood provision	(383)	–	(383)
Loss on disposal of previously revalued assets	–	–	–
Total comprehensive income/(loss)	(84,034)	(24,642)	(59,392)

Explanations of major variances	Affected line items
Expenses	
The increase in both employee and supplier costs primarily relates to costs previously budgeted as an intangible on the balance sheet being recognised in the statement of comprehensive income following an internally led review of ASIC's end-to-end processes for accounting and management of software assets.	Employee benefits/ Suppliers
The increase in depreciation and amortisation expense is driven by an increase in amortisation expenses for software assets following a change in useful life identified during a significant asset and work-in-progress review undertaken during 2022–23.	Depreciation and amortisation
Own-source revenue	
Revenue from other Australian Government entities was lower than budget mainly due to the timing of revenue recognised from the ATO relating to the Modernising Business Registers Program, as well as lower than budgeted revenue received from Department of Home Affairs for the data centre due to this project being completed in the prior year.	Revenue from other Australian Government entities
The increase mainly relates to higher than budgeted court cost recovery revenue, in addition to revenue received from the Australian Banking Association for Breach Reporting that wasn't included in the budget.	Other revenue
The increased deficit compared to Budget has primarily arisen due to an internally led review of ASIC's end-to-end processes for accounting and management of software assets. This resulted in a decrease in the useful life of software assets and the transfer of a number of costs previously budgeted as assets being moved to the Statement of Comprehensive Income.	Surplus/(Deficit)

Statement of Financial Position

	Actual 2023 $'000	Original Budget 2023 $'000	Variance 2023 $'000
ASSETS			
Financial assets			
Cash and cash equivalents	80,866	72,743	8,123
Trade and other receivables	130,047	135,259	(5,212)
Total financial assets	210,913	208,002	2,911
Non-financial assets			
Buildings	169,242	166,611	2,631
Plant and equipment	15,957	19,379	(3,422)
Computer software	29,896	120,318	(90,422)
Other non-financial assets	17,369	14,332	3,037
Total non-financial assets	232,464	320,640	(88,176)
Total assets	443,377	528,642	(85,265)
LIABILITIES			
Payables			
Suppliers	20,768	29,178	(8,410)
Other payables	46,381	35,345	11,036
Total payables	67,149	64,523	2,626
Interest-bearing liabilities			
Leases	168,823	162,661	6,162
Total interest-bearing liabilities	168,823	162,661	6,162
Provisions			
Employee provisions	73,816	77,490	(3,674)
Other provisions	10,654	5,156	5,498
Total provisions	84,470	82,646	1,824
Total liabilities	320,442	309,830	10,612
Net assets	122,935	218,812	(95,877)
EQUITY			
Contributed equity	551,969	552,250	(281)
Reserves	25,797	26,180	(383)
Accumulated deficits	(454,831)	(359,618)	(95,213)
Total equity	122,935	218,812	(95,877)

Explanations of major variances	Affected line items
Financial assets	
The variance is mainly due to unbudgeted court cost recoveries related to ESA matters.	Cash and cash equivalents
Non-financial assets	
The decrease is attributable to the prior year adjustments of $35.5m, and to the transfer of current year costs previously budgeted as an intangible on the balance sheet to the statement of comprehensive income. In addition, the review of the useful lives of software assets has resulted in higher depreciation estimates than provided for in the budget assumptions. These movements are a result of an internally led review of ASIC's end-to-end processes for accounting and management of software assets and a review of the future economic value of previously capitalised assets.	Software
Payables	
The decrease is due to the reduction in the number of high value IT payables in 2023 compared to 2022. In addition, the Suppliers balance is impacted by the timing of the final payment run for the year.	Suppliers
Separation and redundancy payables have increased as a result of ASIC's organisational redesign.	Other payables
Provisions	
The increase relates to additional provisions made for the estimated costs that will be paid on settlement of current legal proceedings.	Other provisions

Statement of Changes in Equity

	Actual 2023 $'000	Original Budget 2023 $'000	Variance 2023 $'000
CONTRIBUTED EQUITY			
Opening balance	525,368	525,368	–
Transactions with owners			
Distributions to owners			
Returns of capital			
Return of equity	(281)	–	(281)
Contributions by owners			
Equity injections – appropriations	5,824	5,824	–
Departmental capital budget	21,058	21,058	–
Total transactions with owners	26,601	26,882	(281)
Closing balance as at 30 June	551,969	552,250	(281)

	Actual 2023 $'000	Original Budget 2023 $'000	Variance 2023 $'000
RETAINED EARNINGS			
Opening balance			
Balance carried forward from previous period	(371,180)	(334,976)	(36,204)
Comprehensive income			
Surplus/(Deficit) for the period	(83,651)	(24,642)	(59,009)
Total comprehensive income/(loss)	(83,651)	(24,642)	(59,009)
Closing balance as at 30 June	(454,831)	(359,618)	(95,213)
ASSET REVALUATION RESERVE			
Opening balance	26,180	26,180	–
Comprehensive income			
Other comprehensive income	(383)	–	(383)
Total comprehensive income	(383)	–	(383)
Closing balance as at 30 June	25,797	26,180	(383)
TOTAL EQUITY			
Opening balance			
Balance carried forward from previous period	180,368	216,572	(36,204)
Comprehensive income			
Surplus/(Deficit) for the period	(83,651)	(24,642)	(59,009)
Other comprehensive income	(383)	–	(383)
Total comprehensive income/(loss)	(84,034)	(24,642)	(59,392)
Transactions with owners			
Distributions to owners			
Returns of capital			
Return of equity	(281)	–	(281)
Contributions by owners			
Equity injections – appropriations	5,824	5,824	–
Departmental capital budget	21,058	21,058	–
Total transactions with owners	26,601	26,882	(281)
Closing balance as at 30 June	122,935	218,812	(95,877)

Explanations of major variances

The variances are supported by the explanations provided above in the Statement of Comprehensive Income and the Statement of Financial Position portions of this note.

Cash Flow Statement

	Actual 2023 $'000	Original Budget 2023 $'000	Variance 2023 $'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	487,437	433,130	54,307
Operating cash received	2,343	2,000	343
Net GST received	17,621	15,323	2,298
Cost recoveries	8,097	3,230	4,867
Other cash received	26,423	22,178	4,245
Total cash received	541,921	475,861	66,060
Cash used			
Employees	306,655	288,762	17,893
Suppliers	165,053	142,399	22,654
Interest payments on lease liabilities	1,621	1,659	(38)
s74 receipts transferred to OPA	30,135	–	30,135
Total cash used	(503,463)	(432,820)	(70,643)
Net cash from operating activities	38,458	43,041	(4,583)
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles	11,767	47,060	(35,293)
Net cash (used by) investing activities	(11,767)	(47,060)	35,293
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity	2,336	26,882	(24,546)
Total cash received	2,336	26,882	(24,546)
Cash used			
Principal payments of lease liabilities	20,904	22,863	(1,959)
Total cash used	(20,904)	(22,863)	1,959
Net cash from financing activities	(18,568)	4,019	(22,587)
Net increase/(decrease) in cash held	8,123	–	8,123
Cash at the beginning of the reporting period	72,743	72,743	–
Cash at the end of the reporting period	80,866	72,743	8,123

Explanations of major variances	Affected line items
Investing Activities	
ASIC undertook an internal review of end-to-end processes for accounting and management of software assets. This resulted in a decrease in cash used for investing activities and a corresponding increase in cash used for operating activities.	Purchase of leasehold improvements, plant and equipment and intangibles

The other variances are supported by the explanations provided above in the Statement of Comprehensive Income and the Statement of Financial Position portions of this note.

8.5B: Administered budgetary reports

The following tables provide a comparison of the original budget as presented in the October 2022–23 Portfolio Budget Statement to the 2022–23 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/– 10% and greater than +/– $5 million are provided.

Administered Schedule of Comprehensive Income

	Actual	Original Budget	Variance
	2023 $'000	2023 $'000	2023 $'000
EXPENSES			
Grants	4,880	4,668	212
Impairment loss allowance on other assets	91,967	67,186	24,781
Claims for unclaimed monies	184,337	143,546	40,791
Promotional costs for Moneysmart initiatives	583	580	3
Suppliers – other administered	645	379	266
Total expenses	282,412	216,359	66,053
LESS:			
Own-source revenue			
Taxation revenue			
Fees	1,014,253	957,393	56,860
Supervisory cost recovery levies	61,483	72,016	(10,533)
Total taxation revenue	1,075,736	1,029,409	46,327
Non-taxation revenue			
Supervisory cost recovery levies	298,735	281,131	17,604
Fees and fines	460,079	217,257	242,822
Unclaimed monies	341,841	218,000	123,841
Total non-taxation revenue	1,100,655	716,388	384,267
Total revenue	2,176,391	1,745,797	430,594
Net contribution by services	1,893,979	1,529,438	364,541

Explanations of major variances	Affected line items
Expenses	
The increase in the impairment allowance recognises additional court penalties that are unlikely to be paid.	Impairment loss allowance on other assets
The increase is primarily due to the revaluation of the unclaimed monies provisions, based on the 2022–23 actuarial valuation. The main driver for the provision increase is the large lodgements made in the Banking portfolio.	Claims for unclaimed monies
Revenue	
Fees revenue has increased due to higher than budgeted number of regulated entities and indexation. Indexation was budgeted at 2% but actual indexation was 5.1%.	Taxation revenue – Fees
The decrease in statutory levies (taxation revenue) is due primarily to a reduction in ESA funding for Government savings measures.	Taxation revenue – Supervisory cost recovery levies
Fees revenue is impacted by indexation and an increase in late fees. Fines revenue is Court awarded costs which were unbudgeted as they are highly unpredictable, cross multiple financial years and subject to appeal.	Non-taxation revenue – Fees and fines
The increase mostly relates to Banking Unclaimed Monies, where there has been a 62% increase in lodgements compared to 2022. Overall lodgements have increased in both volume and average amount per lodgement record.	Non-taxation revenue – Unclaimed monies

Administered Schedule of Assets and Liabilities

	Actual	Original Budget	Variance
	2023 $'000	2023 $'000	2023 $'000
ASSETS			
Financial assets			
Cash and cash equivalents	1,646	1,380	266
Supervisory cost recovery levies receivable	359,977	302,137	57,840
Fees and fines receivable	239,098	183,934	55,164
Trade and other receivables	10,427	14,024	(3,597)
Total assets administered on behalf of Government	611,148	501,475	109,673
LIABILITIES			
Payables and provisions			
Suppliers and other payables	53,270	49,742	3,528
Unclaimed monies provisions	518,963	473,342	45,621
Total liabilities administered on behalf of Government	572,233	523,084	49,149
Net assets/(liabilities)	38,915	(21,609)	60,524

Explanations of major variances	Affected line items
The original budget includes the Financial Advisers levy relief of $45.538 million, recorded on a cash basis. The actual receivable is recorded on an accrual basis.	Supervisory cost recovery levies receivable
This increase is mostly due to unbudgeted Court awarded costs.	Fees and fines receivable

6

Appendices

Appendix 1: ASIC–APRA engagement

Public Statement on ASIC-APRA Engagement 2022–23

Often referred to as the "twin peak" regulators for the Australian financial system, APRA and ASIC have a longstanding commitment to work together to promote the financial interests of Australians, in line with their respective mandates.

ASIC and APRA have complementary and mutually reinforcing roles. As Australia's financial markets conduct regulator, ASIC is responsible for promoting a fair, transparent and efficient financial system. As Australia's prudential regulator, APRA is responsible for the safety of regulated institutions and financial system stability, ultimately to protect the interests of depositors, insurance policyholders and superannuation fund members.

Under the 2019 Memorandum of Understanding (MoU), ASIC and APRA commit to:

› facilitate cooperation and collaboration between the regulators;
› contribute to effective and efficient regulatory outcomes across the financial sector; and
› promote a whole-of-system perspective in meeting each regulator's responsibilities.

To support these objectives, the APRA-ASIC Committee (AAC) comprising ASIC Commissioners and APRA Members meets through the year to provide strategic oversight of APRA-ASIC cooperation. Below the AAC, five Standing Committees specifically consider credit, banking and payment providers, insurance, superannuation, enforcement and internal capabilities. Outside of these formal committees, extensive engagement occurs at all levels across the regulators.

Some examples of recent cooperation and collaboration, focusing on public matters, are as follows:

› In superannuation, the regulators are jointly focused on supporting member outcomes and rectifying substandard industry practices. For example, following the commencement of the Retirement Income Covenant in July 2022, ASIC and APRA in July 2023 released a joint thematic review highlighting the need for trustees to make more progress to enhance retirement outcomes as more members approach retirement.

- In relation to banking and credit, the regulators are conscious of potential consumer and prudential risks in the current economic environment. APRA and ASIC have been jointly monitoring impacts on credit portfolios and individual borrowers, as well as the effectiveness and consistency of hardship support provided to customers in need. APRA and ASIC also jointly oversighted an orderly exit by Volt Bank Limited following its commercial decision to return its banking licence.
- In insurance, a key focus for regulators is addressing the underlying drivers of insurance affordability, sustainability and availability. For example, in December 2022, the regulators issued a joint letter to CEOs of life insurers and friendly societies about premium increases. ASIC and APRA also participate as observers at the Hazards Insurance Partnership between the Australian Government and the insurance industry.
- APRA and ASIC continue to prepare for joint administration of the Financial Accountability Regime (FAR). In July 2023, the regulators released for consultation Regulator rules and Transitional rules to support FAR implementation by industry. The regulators continue to work closely to ensure implementation readiness through the development of guidance, engaging with industry and building modernised processes to ensure efficient and effective operation of the regime.
- The regulators – as part of a broader whole-of-government approach – have a joint focus in promoting cyber resilience and responding promptly and effectively to cyber incidents, such as for Medibank Private.
- The regulators have cooperated on a broad range of enforcement matters during the year, such as the imposition in January 2023 of additional licence conditions on Diversa Trustees Limited by APRA.
- APRA and ASIC have jointly engaged industry through CEO roundtables. This year, the superannuation CEO roundtable focused on cyber resilience and the Retirement Income Covenant, and the life insurance CEO roundtable focused on future opportunities for the Australian life insurance market.
- Finally, the regulators continue to collaborate on data and digital transformation initiatives, with a view to developing recurrent data collections that provide richer insights while reducing industry burden.

APRA and ASIC will continue to work together to deliver coordinated and efficient regulatory outcomes, and to support the ongoing safety, stability, fairness and efficiency of the financial system for all Australians.

Appendix 2: ASIC's governance and operations

Parliamentary oversight

Responsible Ministers

At 30 June 2022, the Minister responsible for ASIC was the Treasurer, the Hon. Jim Chalmers, MP.

Parliamentary committees

ASIC is accountable to Parliament through the following parliamentary committees:

- Parliamentary Joint Committee on Corporations and Financial Services
- Senate Standing Committee on Economics
- House of Representatives Standing Committee on Economics
- other parliamentary committees and inquiries as required.

In October 2022, the Senate referred an inquiry into the capacity and capability of ASIC to undertake proportionate investigation and enforcement action arising from reports of alleged misconduct to the Senate Economics References Committee for reporting back in 2024.

Correspondence with members of Parliament

ASIC receives correspondence from members of Parliament both directly and indirectly through requests from Treasury.

We aim to respond to 100% of correspondence within 28 days of receiving it. In 2022–23, we responded to 136 letters and emails from members of Parliament. We responded to 67% of this correspondence within 14 days and 96% within 28 days.

Financial and operational oversight

ASIC is a non-corporate Commonwealth entity under the PGPA Act, which primarily governs our use and management of public resources.

The PGPA Act also requires ASIC to prepare a corporate plan covering our purpose, environment, performance, capability, and risk oversight and management for the budget forward estimates period.

ASIC's Corporate Plan for 2022–26 was published in August 2022.

The Auditor-General audits our annual financial statements on behalf of Parliament.

External scrutiny of our agency

Financial Regulator Assessment Authority: First assessment of ASIC

The Financial Regulator Assessment Authority (FRAA), established under the Financial Regulator Assessment Authority Act 2021, adds to ASIC's governance mechanisms. Its role is to assess and report on the effectiveness and capability of ASIC and APRA. The FRAA is part of a comprehensive framework of independent oversight of ASIC.

The first FRAA assessment of ASIC focused on ASIC's effectiveness and capability in strategic prioritisation, planning and decision making, and ASIC's surveillance and licensing functions. The FRAA also examined ASIC's use of data and technology in each of these focus areas. The ASIC Chair, Deputy Chairs, Commissioners, Senior Executive Leaders (SELs) and staff assisted and engaged with the FRAA during the review.

The first FRAA assessment of ASIC: Recommendations

The FRAA made four recommendations:

- Data and technology: ASIC requires a substantial uplift in its data and technology capability, which will involve cultural change.
- Stakeholder engagement: ASIC should increase its focus on enhancing the quality of its engagement with stakeholders across the organisation.
- Performance measurement: ASIC should enhance its ability to measure its own effectiveness and capabilities, and communicate the outcomes of any such assessments transparently, both internally and externally.
- People: ASIC should continue to broaden its mix of skill sets to ensure it can meet the current and future needs of the organisation.

The report detailing the FRAA's first assessment was released in August 2022. In the report, the FRAA acknowledged ASIC's crucial contribution to Australia's financial system and found that ASIC is effective and capable in the areas reviewed. ASIC has implemented several initiatives that align with the FRAA's recommendations, as noted in the FRAA's report.

ASIC initiatives that align with the FRAA's recommendations

Our initiatives include the following:

- ASIC is implementing multi-year data and digital strategies that focus on uplifting our technology systems and data capabilities to increase efficiency and effectiveness, support innovation and improve user experience for stakeholders. This work will begin with the upgrade of ASIC's licensing systems to speed up the processing of licence applications. ASIC will continue to engage with government in relation to our data and digital strategies.
- We are implementing a multi-year people strategy to help meet ASIC's organisational priorities. This includes defining ASIC's workforce strategy to identify future demands and build a future-fit workforce that is equipped with a broad skill set, including skills to harness the benefits of ASIC's technology and data commitments.
- ASIC is implementing regulatory efficiency initiatives to make changes to the ways in which we administer the law and to make it easier for stakeholders to interact with us. One initiative will consider the ways ASIC can enhance and leverage engagement with stakeholders clearly and consistently. This initiative will also include a case study focused on how ASIC engages with licensing applicants and their advisers.
- We are taking steps to enhance how ASIC measures and reports on our effectiveness and capability. For example, ASIC is measuring the outcomes of surveillance regulatory interventions using an impact assessment methodology. Further work is underway to pilot efficiency measures for ongoing regulatory work. ASIC will continue to monitor these approaches and refine them over the following years.

We will continue to implement the FRAA's findings in our future work.

Joint committees

During 2022–23, ASIC provided written submissions and testified before the following joint Parliamentary committees and provided answers to Questions on Notice:

- Parliamentary Joint Committee on Corporations and Financial Services – Inquiry into corporate insolvency
- Parliamentary Joint Committee on Corporations and Financial Services – Oversight of ASIC, the Takeovers Panel and the Corporations Legislation, including the inquiry into the CHESS replacement project.

Senate committees

During 2022–23, ASIC testified before the following Senate committees and provided answers to Questions on Notice:

- Senate Economics Legislation Committee – Senate Estimates Senate Economics Legislation Committee – Inquiry into the Financial Accountability Regime Bill 2021 [Provisions] and Financial Services Compensation Scheme of Last Resort Levy Bill 2021 [Provisions] and related bills
- Senate Economics References Committee – Investigation into Australian Securities and Investments Commission investigation and enforcement.

ASIC provided written submissions to the following Senate Committee inquiries:

- Senate Economics References Committee – Investigation into Australian Securities and Investments Commission investigation and enforcement
- Senate Standing Committee on Rural and Regional Affairs and Transport – Inquiry into bank closures in regional Australia
- Senate References Committee on Environment and Communications – Inquiry into greenwashing.

House of Representatives committees

During 2022–23, ASIC testified before the following House of Representatives Committee and provided answers to Questions on Notice:

- House of Representatives Standing Committee on Economics – Review of the Australian Securities and Investments Commission Annual Report 2021.

Other external oversight

Until 30 June 2023, ASIC was subject to the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI). ACLEI was responsible for investigating corruption issues involving staff members and former staff members of organisations that fell under ASIC's jurisdiction. On 1 July 2023, ACLEI was subsumed into the National Anti-Corruption Commission under whose jurisdiction ASIC now falls.

In 2022–23, there were no judicial review decisions, administrative decisions or decisions by the Office of the Australian Information Commissioner that have had, or may have, a significant impact on ASIC's operations.

Corporate governance

The role of the Chair and the Commission

In line with the PGPA Act, the Chair, as the Accountable Authority, will govern ASIC in a way that is not inconsistent with the policies of the Australian Government. Our Chair has sole executive management responsibility and relies on and uses our key senior executives to carry out day-to-day management activities and deal with operational issues. The Chair delegates functions where they consider that this would benefit the executive management of ASIC.

The Commission acts as a strategic non-executive body, focusing on high-level regulatory and statutory decision making and stakeholder management. It provides support to the Chair on organisational oversight.

In 2022–23, as set out in Chapter 1, we carried out a review of our internal organisational structure to assess our decision-making processes and make recommendations to improve the speed and efficiency of decisions to improve the overall outcomes of ASIC's core regulatory and enforcement work. The new organisational structure came into effect on 3 July 2023.

The Commission uses a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles. Details of these committees are set out in Chapter 1. Commission meetings are held weekly and may be convened more regularly as required.

The Commission appoints and evaluates the performance of its executive directors and SELs and approves budgets and business plans for each team. Commissioners are appointed by the Governor-General, on the nomination of the Treasurer. The Treasurer may nominate only those people who are qualified by knowledge of or experience in business, the administration of companies, financial markets, financial products and financial services, law, economics or accounting. Commissioners are appointed on fixed terms that may be terminated only for the reasons set out in section 111 of the ASIC Act. The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance. Under the ASIC Act, Commissioners are required to disclose to the Minister any direct or indirect pecuniary interests in corporations carrying on business or businesses in Australia; interests regulated by ASIC; or expectations, understandings, arrangements or agreements for future business relationships.

ASIC's Legal Services Group, led by Chris Savundra, General Counsel, is the primary source of legal advice to the Commission, providing legal counsel on governance and on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission delegates various powers and functions to executive directors, SELs, Regional Commissioners and employees reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly, and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission. In 2022–23, the Commission held 43 meetings, the Commission Enforcement Committee met 34 times, the Commission Regulatory Committee met 21 times, and the Commission Risk Committee met four times.

Additional information on ASIC's internal governance is published on our website.

Audit and Risk Committee and audit services

The Audit and Risk Committee operates independently of management, in accordance with the Terms of Reference approved by the Accountable Authority. The Committee provides independent assurance to the ASIC Chair on ASIC's financial and performance reporting responsibilities, risk oversight and management, and system of internal control.

ASIC's **Audit and Risk Committee Terms of Reference**,[1] which are available on our website, set out the Committee's role, authority, membership and functions, as well as procedural, reporting and administrative arrangements.

The Audit and Risk Committee met seven times during the year, at six regular meetings and one special meeting. Table 6.2.1 sets out details of the Audit and Risk Committee's membership in 2022–23. Table 6.2.2 sets out the remuneration of Audit and Risk Committee members.

Table 6.2.1 Membership of the Audit and Risk Committee, 2022–23

Member	Member experience	No. of regular meetings	No. of special meetings
Peter Achterstraat AM (Chair)	Peter holds a Bachelor of Economics (Hons), a Bachelor of Laws and a Bachelor of Commerce from the Australian National University (ANU) and has been inducted into the ANU College of Business and Economics Hall of Fame. He was appointed a Member of the Order of Australia for significant service to public administration through his financial management and governance roles. Peter currently holds the following positions: › NSW Commissioner for Productivity › Chairman of Bankstown Airport Limited › Chair of the Australian Taxation Office Audit and Risk Committee › Chair of the Audit and Risk Committee of the Department of Agriculture, Forestry and Fisheries. His former roles include NSW President of the Australian Institute of Company Directors, Adjunct Professor at the Graduate School of Government at the University of Sydney, Auditor-General of NSW and Chief Commissioner of State Revenue NSW.	6	1

1 https://download.asic.gov.au/media/lqjh54fz/audit-and-risk-committee-terms-of-reference-published-10-september-2021.pdf

Member	Member experience	No. of regular meetings	No. of special meetings
Lisa Woolmer (Deputy Chair)	Lisa holds a Bachelor of Economics and a Postgraduate Diploma in Japanese Business Communication from Monash University, and a Postgraduate Diploma of Employment Relations from the University of Canberra. She is a member of both the Australian Institute of Company Directors and Chartered Accountants Australia and New Zealand. Lisa currently holds the following positions: › Independent Chair of the Audit and Risk Committee of the Adult, Community and Further Education Board › Independent Chair of the Audit and Risk Committee of the Glen Eira City Council › Independent Member of the Audit and Risk Committee of the Whitehorse City Council › Independent Member of the Orygen Audit and Risk Committee › Director of the Yarra Yarra Golf Club Ltd. Lisa's former roles include Principal at PwC Melbourne, and Independent Chair of the Audit and Risk Committees of Comcare, Bayside City Council and Mornington Peninsula Shire.	6	1

Member	Member experience	No. of regular meetings	No. of special meetings
Jon Webster AM	Jon holds a Bachelor of Commerce, Bachelor of Law (Hons) and Master of Laws from the University of Melbourne, where he was also a Senior Fellow of the Law School for more than 20 years. His former roles include Partner at Allens, practising in the area of mergers and acquisitions, Chairman of the Corporations Committee of the Law Council of Australia, Director of the Human Rights Law Centre, member of ASX's Listings Advisory Panel and of the Australian Government's Consultative Group to the Corporations Law Simplification Task Force, and Chairman of the Audit Committee of the Northern Land Council. Jon is an independent non-executive director and member of the Audit and Investment Committee for AMCIL Limited, a Trustee of the R E Ross Trust, and a Director of Hillview Quarries Pty Ltd. He was appointed a Member of the Order of Australia for his significant service to the law, education and the community.	6	1

Member	Member experience	No. of regular meetings	No. of special meetings
Jenny Telford[1]	Jenny is a Senior Executive at the Australian Bureau of Statistics (ABS) with over 20 years experience in the public sector across a range of senior roles focused on technology, communications and data. Jenny has led large-scale digital transformation projects at the ABS, including the successful delivery of a range of new and innovative solutions designed to make it easier to produce, discover, access and use statistical data and information. In her current role as Program Manager, Customer Experience and Communications, Jenny is responsible for digital product development, media and citizen engagement, and a range of strategic communication initiatives. Jenny holds a degree in information technology and business management from Southern Cross University.	6	1

1 Jenny Telford commenced as a Committee member on 22 July 2022.

Table 6.2.2 Remuneration of Audit and Risk Committee members, 2022–23

Member	Remuneration (net of GST where applicable)		
	ARC meetings	Other meetings	Total remuneration
Peter Achterstraat AM	55,909	9,432	65,341
Lisa Woolmer	41,932	3,625	45,557
Jon Webster AM	41,932	–	41,932
Jenny Telford[1]	–	–	–

1 Audit and Risk Committee services were provided free of charge in accordance with an MOU between ASIC and the ABS.

Peter Achterstraat AM
Chair
Audit and Risk Committee
August 2023

Disciplinary or peer review panels

The following panels and committees have disciplinary or peer review functions and assist in our regulatory decision making:

- Markets Disciplinary Panel (MDP) (more information is available on **our website**[2])
- Financial Services and Credit Panel (more information is available on **our website**[3])
- liquidator registration and disciplinary committees.

Markets Disciplinary Panel

The MDP is a peer review panel engaged by ASIC to make decisions about whether infringement notices should be issued to market participants for alleged contraventions of the market integrity rules. It consists of part-time members with extensive market or professional experience. Matters are referred to the MDP by ASIC as an alternative to bringing civil proceedings.

The MDP issued five infringement notices to the following market participants during 2022–23:

- **ABN AMRO Clearing Sydney Pty Ltd**[4] (ABN AMRO) paid a penalty of $222,000 to comply with an infringement notice.

2 https://asic.gov.au/regulatory-resources/markets/markets-disciplinary-panel/
3 https://asic.gov.au/regulatory-resources/financial-services/financial-advice/financial-services-and-credit-panel-fscp/
4 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-245mr-abn-amro-clearing-sydney-pty-ltd-pays-222-000-infringement-notice/

The MDP had reasonable grounds to believe that ABN AMRO registered block trades on the ASX 24 Market in the SPI 200 Futures contract on three occasions (7 January 2021, and 14 and 15 April 2021), where each of the block trades included split allocations below the minimum value threshold of 200 lots.

- **Wilsons Advisory and Stockbroking Limited**[5] (Wilsons) paid a penalty of $548,328 to comply with an infringement notice. The MDP had reasonable grounds to believe that between 1 January 2020 and 31 March 2022, Wilsons reported trades without price improvement on 2,306 occasions when it was not permitted to do so, as the trades did not provide price improvement over the best available bid price and the best available offer price.
- **Ord Minnett Limited**[6] (Ord Minnett) paid a penalty of $888,000 to comply with an infringement notice. On 1 September 2021, Ord Minnett received instructions to commence a buyback on behalf of its client. The MDP had reasonable grounds to believe that Ord Minnett contravened the market integrity rules:
  - on 1 September 2021, by purchasing shares in its client at a price above the maximum limit allowable for a buyback, which was contrary to the client's instructions and the ASX Listing Rules
  - on 27 September 2021, by executing crossings that were prearranged, which resulted in the market for its client's shares not being fair and orderly.
- **Morrison Securities Pty Limited**[7] (Morrison) paid a penalty of $333,000 to comply with an infringement notice. The MDP had reasonable grounds to believe that Morrison authorised client orders on six occasions on 27 October 2021 and on one occasion on 2 November 2021, which resulted in the market for the relevant securities not being fair and orderly.
- **Openmarkets Australia Limited**[8] (Openmarkets) paid a penalty of $4.5 million and entered into an enforceable undertaking to appoint an independent expert to assess, report on and identify any necessary remedial actions relevant to the adequacy of Openmarkets' organisational and technical resources and the design and operational effectiveness of its arrangements relating to trade surveillance, client on-boarding and client money.

  This occurred after the MDP found that it had reasonable grounds to believe that Openmarkets contravened the market integrity rules due to the following:
  - An Openmarkets' client had placed simultaneous bid-and-ask orders in the same security and at the same price on 2,011 occasions (same-price

5 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-016mr-wilsons-advisory-and-stockbroking-ltd-acn-010-529-665-pays-548-328-infringement-notice/

6 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-114mr-ord-minnett-limited-ltd-acn-002-733-048-pays-888-000-infringement-notice/

7 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-165mr-morrison-securities-pty-ltd-acn-001-430-342-pays-333-000-infringement-notice/

8 https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-184mr-openmarkets-pays-record-4-5-million-penalty-enters-enforceable-undertaking-former-head-of-trading-banned/

orders). Many of these suspicious orders formed part of an unusual series of orders involving the rapid cancellation or amendment away from priority of large-volume orders.

- Openmarkets had reasonable grounds to suspect that the same-price orders were likely to have the effect of creating an artificial trading price or a false or misleading appearance of active trading.
- Openmarkets had not appropriately calibrated its post-trade surveillance system (the Nasdaq Trade Surveillance & Market Abuse Software [SMARTS] system). This resulted in an unmanageable volume of alerts, most of which were not reviewed.
- Openmarkets did not have appropriate supervisory procedures in place to ensure compliance with requirements under the market integrity rules dealing with suspicious trading.
- Openmarkets had insufficient staff with the appropriate skills, knowledge and experience to carry out effective trade surveillance.
- Openmarkets failed to engage the anti-wash trade filter. Further, Openmarkets failed to conduct any sufficient review of the appropriateness of its automated order processing filter settings until several years after they were established.
- Openmarkets failed to prevent unprofessional conduct by senior staff. This included a senior staff member warning a client in relation to SMARTS alerts that they triggered rather than escalating the matter to compliance.
- Openmarkets failed to submit suspicious activity reports to ASIC in relation to other clients engaging in suspicious trading.
- A back-office system transition inadvertently resulted in trust account deficiencies of up to approximately $20,000,000 on 35 consecutive business days from 18 August to 5 October 2021.

ASIC has referred three additional matters to the MDP for which the outcomes were pending as at 30 June 2023.

The infringement notices issued by the MDP are published on the MDP Outcomes Register on the ASIC website. Compliance with an infringement notice is not an admission of guilt or liability, and the market participant is not taken to have contravened subsection 798H(1) of the Corporations Act.

Financial Services and Credit Panel

The *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021* expanded the operation of ASIC's Financial Services and Credit Panel (FSCP). The FSCP acts separately from, but alongside, ASIC's own administrative decision-making processes and has a range of powers to enable it to consider and respond to a range of misconduct by financial advisers, including lower-level misconduct. Each sitting panel of the FSCP comprises an ASIC staff member and at least two industry participants who are drawn from a pool of ministerial appointees.

ASIC convened the first sitting panel of the FSCP in February 2023, and to date, a total of nine panels have been convened. To date, the FSCP has made a decision in relation to two matters, and a summary of the concerns and the decision of the FSCP have been published on the FSCP Outcomes Register on ASIC's website.

> For more information about the principles and processes of the FSCP, please see **Regulatory Guide 263**[9] *Financial Services and Credit Panel*.

Warnings and reprimands

No warnings were issued by ASIC during 2022–23.

Three reprimands were issued by ASIC during 2022–23.

More information on warnings and reprimands is available on our **website**.[10]

Financial adviser examination

ASIC continues to support the professional standards reforms introduced in 2017 to encourage higher standards of behaviour and professionalism for financial advisers. The examination is a key component of the education and training standards that all financial advisers must complete to provide personal advice on relevant financial products to retail clients.

In August 2022, ASIC released a public tender for a provider to deliver the financial adviser examination for 2023–25. The Australian Council of Educational Research (ACER) was the successful tenderer. In November 2022, ACER was contracted to deliver the examination from 1 February 2023 to 1 February 2025.

ACER also delivered all previous financial adviser examinations, including those under ASIC's administration in 2022.

ASIC successfully administered four cycles of the examination from 1 July 2022 to 30 June 2023. The 18th and 19th cycles of the examinations were held from 28 July to 1 August and on 3 November 2022, respectively. The 20th and 21st cycles of the examination were held on 16 February and 11 May 2023, respectively.

We released the results of the July–August examination on 1 September 2022 and the results of the November examination on 8 December 2022.

We released the results of the February 2023 examination on 27 March 2023 and the results of the May examination on 16 June 2023.

The following statistics relate to the examinations:

- 1,297 candidates sat the examination between 1 July 2022 and 30 June 2023, 628 sat the July–August 2022 examination, 282 sat the November 2022 examination, 192 sat the February 2023 examination and 195 sat the May 2023 examination.
- The pass rate was 52% in the July–August 2022 examination, 57% in the November 2022 examination, 67% in the February 2023 examination and 63% in the May 2023 examination.

9 https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-263-financial-services-and-credit-panel/

10 https://asic.gov.au/regulatory-resources/financial-services/financial-advice/how-asic-regulates-financial-advice/warnings-and-reprimands/

- All examinations had a high number of resitters (76% in the July–August 2022 examination, 57% in the November 2022 examination, 60% in the February 2023 examination and 74% in the May 2023 examination).
- More than 20,500 candidates have sat the examination since it was first administered in June 2019.
- Of the candidates who have sat the examination since it was first administered in June 2019, approximately 92% passed.

Liquidator registration and disciplinary committees

Applications for registration as a liquidator, or to vary or remove conditions imposed on a liquidator's registration, and potential disciplinary actions against registered liquidators are referred to committees convened by ASIC.

Each committee consists of an ASIC delegate who chairs the committee, a registered liquidator chosen by the Australian Restructuring, Insolvency and Turnaround Association, and a person appointed by the Minister as set out in sections 20–10, 20–45 and 40–45 of Schedule 2 of the Corporations Act. The Minister's power to appoint committee members has been delegated to ASIC under subsection 50-10(4) of **Schedule 2 of the Corporations Act**.[11]

During 2022–23, ASIC convened 36 committees to consider applications for registration as a liquidator, and registered 29 liquidators (see Table 6.2.3).

Table 6.2.3 Committees convened, 2022–23

Results of committees convened in 2022–23	Notes	Convened	Registered
Applicants should be registered (no conditions)		21	20
Applicants should be registered (with conditions)		7	7
Applicants – not registered	1	3	1
Committee decision pending		5	0
Prior year convened committee registered during the year	2,3	–	1
Total		**36**	**29**

Note 1: A committee convened during the year determined three applicants should not be registered; however, one of these applicants was subsequently registered (with conditions) after an application for review to the Administrative Appeals Tribunal.

Note 2: One applicant, which a committee convened in the previous year had determined should not be registered, was subsequently registered (with conditions) after an application for review to the Administrative Appeals Tribunal.

Note 3: One applicant, for which a committee was convened during the previous year and for which the decision was pending at 30 June 2022, subsequently withdrew their application.

11 http://www5.austlii.edu.au/au/legis/cth/consol_act/ca2001172/sch2.html

During 2022–23, ASIC received six applications from liquidators to remove conditions attached to their registration. The applications were referred to committees convened by ASIC for consideration. Of those six applications, one application was subsequently withdrawn and the outcome of one application was pending at 30 June 2023. The other four committees decided to remove the conditions attached to the relevant liquidators' registrations. ASIC implemented those four decisions.

Additionally, during 2022–23, four disciplinary committees were convened to consider matters referred by ASIC. Two committees determined that the registration of the respective registered liquidators should be cancelled. The decisions of the other two committees convened were pending at the end of the financial year. A summary of disciplinary actions can be found on the ASIC website.

Table 6.2.4 Registered liquidator outcomes, 2022–23

Outcome	Total 2022–23	Total 2021–22
Registered liquidators		
Liquidators registered by ASIC	29	21
Registration committees convened during the year	36	25
Outcome of registration committees convened during the year		
Applications for registration approved by committees	28	17
Applications for registration refused by committees	3	7
Committee matters in progress – registration application yet to be determined	5	1

Appendix 3: Entity resource statement and expenses by outcome

Portfolio Budget Statement outcomes

Table 6.3.1 Agency resource statement, 2022–23

	Actual available appropriation for 2022–23 $'000	Payments made 2022–23 $'000	Balance remaining 2022–23 $'000
	(a)	(b)	(a)-(b)
Departmental			
Annual appropriations – ordinary annual services[1,4]	607,099	486,780	120,317
Annual appropriations – other services – non-operating[2]	8,197	2,358	5,839
Total departmental annual appropriations	615,296	489,138	126,158
Special accounts[3]	133,110	54,485	78,625
Total special accounts	133,110	54,485	78,625
Less departmental appropriations drawn from annual appropriations and credited to special accounts	(55,246)		
Total departmental resourcing	**693,160**	**543,623**	**204,782**
Administered			
Annual appropriations – ordinary annual services[1]	20,658	8,403	12,254
Total administered annual appropriations	20,658	8,403	12,254
Administered special appropriations[3]	143,830	127,411	
Total administered special appropriations	143,830	127,411	
Total administered resourcing	**164,488**	**135,815**	**12,254**
Total resourcing and payments for ASIC	**857,648**	**679,438**	**217,037**

1 *Supply Act (No. 1) 2022–2023*, *Supply Act (No. 3) 2022–2023*, *Appropriation Act (No. 1) 2022–2023*, prior year appropriation and section 74 relevant agency receipts.

2 *Supply Act (No. 2) 2022–2023*, *Supply Act (No. 4) 2022–2023* and *Appropriation Act (No. 2) 2022–2023*.

3 Excludes trust moneys held in Services for Other Entities and Trust Moneys (SOETM) and other special accounts.

4 Includes $21.058 million for the Departmental Capital Budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

Table 6.3.2 Expenses by outcome

Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.	Budget* 2022–23 $'000	Actual expenses 2022–23 $'000	Variance $'000
	(a)	(b)	(a)–(b)
Program 1.1: Australian Securities and Investments Commission			
Administered expenses			
Ordinary annual services (Supply Act 1 and Act 3)	5,627	6,108	(481)
Expenses not requiring appropriation in the Budget year[2]	67,186	91,967	(24,781)
Administered total	72,813	98,075	(25,262)
Departmental expenses			
Ordinary annual services (Supply Act 1 and Act 3 and Appropriation Act 1)	389,782	434,952	(45,170)
s74 External revenue[1]	27,762	30,135	(2,373)
Expenses not requiring appropriation in the Budget year[3]	61,183	77,323	(16,140)
Departmental total	478,727	542,410	(63,683)
Total expenses for Program 1.1	551,540	640,485	(88,945)
Program 1.2: *Banking Act 1959, Life Insurance Act 1995*, unclaimed monies and special accounts			
Administered expenses			
Ordinary annual services (Appropriation Act 1)	2,298	1,415	883
Special appropriations	141,248	182,923	(41,675)
Administered total	143,546	184,337	(40,791)
Total expenses for Program 1.2	**143,546**	**184,337**	**(40,791)**

Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.	Budget* 2022–23 $'000	Actual expenses 2022–23 $'000	Variance $'000
	(a)	(b)	(a)–(b)
Outcome 1 totals by appropriation type			
Administered expenses			
Ordinary annual services (Appropriation Act 1)	7,925	7,523	402
Expenses not requiring appropriation in the Budget year[2]	67,186	91,967	(24,781)
Special appropriations	141,248	182,923	(41,675)
Administered total	216,359	282,412	(66,053)
Departmental expenses			
Ordinary annual services (Appropriation Act 1 and Act 3)	389,782	434,952	(45,170)
s74 External revenue[1]	27,762	30,135	(2,373)
Expenses not requiring appropriation in the Budget year[3]	61,183	77,323	(16,140)
Departmental total	478,727	542,410	(63,683)
Total expenses for Outcome 1	**695,086**	**824,822**	**(129,736)**
Average staffing level (number)	1,998	1,831	167

* Full year budget, including any subsequent adjustments made to the 2022-23 October budget at Additional Estimates.

1. Estimated expenses incurred in relation to receipts retained under s74 of the PGPA Act.
2. Expenses not requiring appropriation in the budget year are made up of doubtful debts.
3. Expenses not requiring appropriation in the budget year are made up of depreciation and amortisation expenses.

Appendix 4: Staffing

ASIC continues to attract and retain highly skilled employees who are instrumental in ensuring that we carry out our regulatory functions and achieve our regulatory goals.

As at 30 June 2023, ASIC had a total of 1,831 full-time equivalent (FTE) employees. Tables 6.4.1 and 6.4.2 show a breakdown by location for each role in 2022–23 and 2021–22, respectively. Tables 6.4.3 and 6.4.4 provide a detailed picture of the gender breakdown of our people in 2022–23 and 2021–22, respectively.

Table 6.4.1 ASIC employees (FTE), by location, 2022–23[1,2,3]

Role	Vic	NSW	Qld	WA	SA	Tas	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	**1**
Deputy Chair	1	–	–	–	1	–	–	–	**2**
Member	2	–	–	–	–	–	–	–	**2**
SES	21	30	2	1	2	–	1	–	**57**
ELS	5	8	1	–	–	–	1	–	**15**
Exec 2	216	338	62	30	13	15	9	–	**683**
Exec 1	134	243	45	28	13	2	4	1	**470**
ASIC 4	118	169	42	18	8	8	2	–	**365**
ASIC 3	75	69	20	4	5	1	1	–	**175**
ASIC 2	32	12	8	2	–	–	–	–	**54**
ASIC 1	7	–	–	–	–	–	–	–	**7**
Total	**612**	**869**	**180**	**83**	**42**	**26**	**18**	**1**	**1,831**

1 Average FTE staff for FY2022–23 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).
2 No staff at the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondees from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 6.4.2 ASIC employees (FTE), by location, 2021–22[1,2,3]

Role	Vic	NSW	Qld	WA	SA	Tas	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	**1**
Deputy Chair	1	–	–	–	1	–	–	–	**2**
Member	2	1	–	–	–	–	–	–	**3**
SES	20	32	1	1	2	–	2	–	**58**
ELS	3	8	1	–	–	–	–	–	**12**
Exec 2	223	359	60	35	15	13	9	–	**714**
Exec 1	131	257	44	31	13	2	5	1	**484**
ASIC 4	132	193	42	22	13	6	2	–	**410**
ASIC 3	72	71	27	13	5	1	2	–	**191**
ASIC 2	41	10	10	1	–	–	1	–	**63**
ASIC 1	9	–	–	–	–	–	–	–	**9**
Total	**635**	**931**	**185**	**103**	**49**	**22**	**21**	**1**	**1,947**

1 Average FTE staff for FY2021–22 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).
2 No staff at the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondees from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 6.4.3 Combined totals by gender and employment type, 2022–23[1,2,3]

	Permanent				Temporary				
	Full time		Part time		Full time		Part time		
Role	Female	Male	Female	Male	Female	Male	Female	Male	Total
Chair	–	–	–	–	–	1	–	–	1
Deputy Chair	–	–	–	–	2	–	–	–	2
Member	–	–	–	–	1	1	–	–	2
SES	28	22	1	–	3	3	–	–	57
ELS	8	6	–	–	–	1	–	–	15
Exec 2	231	323	76	13	17	21	2	–	683
Exec 1	165	206	60	4	16	17	2	–	470
ASIC 4	173	124	31	4	21	11	1	–	365
ASIC 3	76	61	10	2	20	5	1	–	175
ASIC 2	25	11	3	1	2	1	6	5	54
ASIC 1	2	1	2	–	1	1	–	–	7
Total	**708**	**754**	**183**	**24**	**83**	**62**	**12**	**5**	**1,831**

1 Average FTE staff for FY2021–22 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).
2 No staff at the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondees from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 6.4.4 Combined totals by gender and employment type, 2021–22[1,2,3]

	Permanent				Temporary					
	Full time		Part time		Full time			Part time		
Role	Female	Male	Female	Male	Female	Male	Uses a different term	Female	Male	Total
Chair	–	–	–	–	–	1	–	–	–	1
Deputy Chair	–	–	–	–	2	–	–	–	–	2
Member	–	–	–	–	2	1	–	–	–	3
SES	28	20	1	1	3	5	–	–	–	58
ELS	7	5	–	–	–	–	–	–	–	13
Exec 2	231	336	76	12	22	32	–	4	1	714
Exec 1	167	207	61	6	16	24	1	2	–	484
ASIC 4	188	149	30	4	21	15	–	3	–	410
ASIC 3	89	62	12	2	16	7	–	2	1	191
ASIC 2	31	13	4	1	9	3	–	1	1	62
ASIC 1	3	2	2	–	1	1	–	–	–	9
Total	**744**	**794**	**186**	**26**	**92**	**89**	**1**	**12**	**3**	**1,947**

1 Average FTE staff for FY2021–22 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).
2 No staff at the Companies Auditors Disciplinary Board.
3 Excludes contractors and secondees from other agencies.
Note: Data rounded – some totals and subtotals may vary.

Table 6.4.5 shows ASIC employees by regulatory and enforcement team. Most of our staff are employed under the ASIC Enterprise Agreement 2019–22, which is ongoing. Table 6.4.6 shows the industrial arrangements for all ASIC employees.

We continued to provide our people with the opportunity to receive an annual performance bonus. Table 6.4.7 shows the performance payments we made in 2022–23.

Table 6.4.5 ASIC employees (FTE) by regulatory and enforcement team, 2022–23

Team	Total net FTE
Markets[1]	
Corporations	45
Financial Reporting and Auditing	21
Insolvency Practitioners	24
Market Infrastructure	30
Market Supervision	70
Markets Operations	10
Financial Services and Wealth	
Financial Advisers	51
Investment Managers	35
Superannuation	35
Credit, Retail Banking and Payments	50
Insurers	33
Licensing	34
Institutional Supervision	25
Consumer Insights and Communications	**21**
Misconduct and Breach Reporting	**82**
Small Business Engagement and Compliance	**36**
Office of Enforcement[2]	
Financial Services Enforcement	
Financial Services Enforcement	194
Small Business, Engagement and Compliance[3]	36
Markets Enforcement	
Corporations and Corporate Governance	56
Enforcement WA	45
Markets Enforcement	52
Total net FTE	**949**

1 The Governance team merged with the Corporations team under the Markets Group in FY2022–23. It was reported as a separate team in the Markets Group in the FY2021–22 FTE report.

2 Plus an additional 115 FTE staff providing enforcement support services and legal counsel.

3 The Small Business, Engagement and Compliance team was moved to the Office of Enforcement in FY2022–23. It was reported as one separate line in the FY2021–22 FTE report.

Table 6.4.6 Industrial arrangements for ASIC employees as at 30 June 2023[1]

Classification	ASIC Act s120(3)	EA[2]	Total
ASIC 1		7	7
ASIC 2		66	66
ASIC 3		174	174
ASIC 4		371	371
Exec 1		487	487
Exec 2		697	697
ELS	15		15
SES	54		54
Total	**69**	**1,802**	**1,871**

1 The number of industrial arrangements for ASIC team members is calculated based on the total headcount as at 30 June rather than FTE. This is because each industrial instrument belongs to an individual, regardless of their work pattern, and our obligations against those instruments related to a number of people, not FTE.

2 Enterprise Agreement.

Table 6.4.7 Performance payments by classification, 2021–22

Classification	No. of recipients	Aggregate ($)	Minimum ($)	Maximum ($)	Average ($)
ASIC 4	349	1,307,499	613	17,146	3,746
Exec 1	504	3,072,567	906	15,401	6,096
Exec 2	748	6,974,730	1,305	34,602	9,325

This table includes payments for the 2021–22 performance year, which were paid in 2022–23, plus any pro-rata payments for the 2022–23 performance year for staff who left ASIC in 2022–23.

Executive remuneration

ASIC's executive remuneration is determined by:

- the *Remuneration Tribunal Act 1973*
- the ASIC Act
- the ASIC Enterprise Agreement 2019–2022
- remuneration policies and procedures.

Commission remuneration is set according to the *Remuneration Tribunal Act 1973* and the Remuneration Tribunal determinations.

Senior executive remuneration is determined under section 120 of the ASIC Act. Remuneration and conditions are consistent across the cohort, and jobs are evaluated under the Mercer International Position Evaluation methodology. Senior executive remuneration is based on a fixed total remuneration package that comprises base salary and superannuation.

In October 2022, the Chair awarded salary increases of 3% to Senior Executives under the ASIC Act and the ASIC Enterprise Agreement 2019–2022, in line with the Australian Government's *Public Sector Workplace Relations Interim Arrangements 2022*.

Table 6.4.8 Information about remuneration for key management personnel, 2022–23

Remuneration paid to Key Management Personnel in 2022–23		2023							
		Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
Name	Position title	Base salary $	Bonuses $	Other benefits and allowances $	Superannuation contributions	Long service leave[1]	Other long-term benefits	Termination benefits $	$
Joseph Longo	Chair[2]	798,863	–	–	25,292	8,681	–	–	832,836
Sarah Court	Deputy Chair[2]	573,614	–	–	83,677	16,407	–	–	673,698
Karen Chester	Deputy Chair[2]	534,695	–	–	80,756	14,275	–	–	629,726
Danielle Press	Commissioner[2]	548,541	–	–	25,292	8,944	–	–	582,777
Sean Hughes	Commissioner[2,3]	293,246	–	–	45,347	9,124	–	–	347,717
Warren Day	Chief Operating Officer	433,065	–	–	73,141	12,846	–	–	519,052

1 This table is prepared on an accrual basis. This includes accrued long service leave, which can only be realised when the vesting requirements have been met.

2 The remuneration for these positions is set by the Remuneration Tribunal. This is outlined in Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2022

3 Part-year remuneration disclosure – ceased as a KMP on 3 February 2023.

Table 6.4.9 Information about remuneration for senior executives, 2022–23

		Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
Remuneration band ($)[2]	Number of senior executives	Average base salary ($)	Average bonuses ($)[2]	Average other benefits and allowances ($)	Average superannuation contributions ($)	Average long service leave[1] ($)	Average other long-term benefits ($)	Average termination benefits ($)	Average total remuneration ($)
0–$220,000	9	125,685	4,202	–	12,567	(117)	–	–	142,337
245,001–270,000	2	214,497	–	–	39,873	6,864	–	–	261,234
270,001–295,000	5	240,865	–	–	38,120	6,135	–	–	285,120
295,001–320,000	13	267,711	–	–	34,948	6,492	–	–	309,151
320,001–345,000	7	256,897	1,633	–	41,734	6,305	–	25,948	332,517
345,001–370,000	8	304,626	–	–	41,548	8,118	–	–	354,292
370,001–395,000	3	311,714	–	–	58,816	9,021	–	–	379,551
395,001–420,000	1	326,129	–	–	60,251	9,608	–	–	395,988
420,001–445,000	5	345,291	–	–	33,764	8,501	–	43,875	431,431
470,001–495,000	1	226,266	–	–	42,739	6,785	–	197,966	473,756
495,001–520,000	1	158,246	–	–	45,778	6,028	–	304,173	514,225
520,001–545,000	2	240,683	–	–	35,427	7,894	–	245,485	529,489
545,001–570,000	2	271,187	–	–	50,303	7,831	–	228,492	557,813

		Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
Remuneration band ($)[2]	Number of senior executives	Average base salary ($)	Average bonuses ($)[2]	Average other benefits and allowances ($)	Average superannuation contributions ($)	Average long service leave[1] ($)	Average other long-term benefits ($)	Average termination benefits ($)	Average total remuneration ($)
570,001–595,000	2	291,115	–	–	37,461	8,154	–	238,996	575,726
595,001–620,000	1	295,901	–	–	55,065	8,594	–	250,348	609,908
720,001–745,000	1	347,092	–	–	66,370	10,524	–	307,063	731,049

1 This table is prepared on an accrual basis. This includes accrued long service leave, which can only be realised when the vesting requirements have been met.
2 Where no information exists for a remuneration band, the band has been removed.

Table 6.4.10 Information about remuneration for other highly paid staff, 2022– 23

		Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
Remuneration band ($)[2]	Number of other highly paid staff	Average base salary ($)	Average bonuses ($)	Average other benefits and allowances ($)	Average superannuation contributions ($)	Average long service leave[1] ($)	Average other long-term benefits ($)	Average termination benefits ($)	Average total remuneration ($)
240,001–245,000	5	195,356	10,656	–	32,255	4,235	–	–	242,502
245,001–270,000	23	183,341	10,232	–	27,010	4,309	–	31,347	256,239
270,001–295,000	13	173,624	8,727	–	25,102	4,075	–	68,360	279,888
295,001–320,000	8	176,580	9,241	–	24,304	3,699	–	89,664	303,488
320,001–345,000	8	142,873	8,413	–	23,804	4,157	–	154,037	333,284
345,001–370,000	8	158,117	8,300	–	26,802	4,529	–	162,580	360,328
370,001–395,000	7	168,777	10,112	–	28,847	4,858	–	173,133	385,727
395,001–420,000	8	176,679	13,322	–	32,376	4,985	–	185,142	412,504
445,001–470,000	1	202,549	8,042	–	37,727	4,231	–	214,751	467,300
470,001–495,000	2	205,001	8,488	–	34,487	5,956	–	227,994	481,926
520,001–545,000	1	214,286	12,906	–	42,996	6,420	–	261,951	538,559

1 This table is prepared on an accrual basis. This includes accrued long service leave, which can only be realised when the vesting requirements have been met.

2 Where no information exists for a remuneration band, the band has been removed.

Governance arrangements

Senior executive remuneration reviews are conducted by the Remuneration advisory group around June–July each year. The Remuneration advisory group comprises the Accountable Authority, Chief Executive Officer, and the Senior Executive Leader, People and Development.

Remuneration decisions are based on:

- the duties, responsibilities and accountabilities required by the position
- the performance and behaviours of the relevant executive
- managing internal consistency and recognising the different skills, experience and capabilities of executives in comparable level roles.

Appendix 5: Information relating to assessments of misconduct and other reports

Misconduct assessments and other reports

Misconduct reports from the public

We record and assess reports of alleged misconduct that we receive, and we use this information to identify and respond to misconduct. In 2022–23, we responded to 8,149 reports of alleged misconduct. Table 6.5.1 shows the outcomes of the misconduct reports received by ASIC during the 2022–23 financial year.

Table 6.5.1 Misconduct issues by category, 2022–23

Category	2022–23 (%)
Corporations and corporate governance	
Governance issues	13
Failure to provide books and records or reports as to affairs to registered liquidator	12
Fraud allegations	3
Registered liquidator misconduct	3
Insolvency matters	3
Other (e.g. shareholder issues and reporting issues)	9
Subtotal	**43**
Financial services and retail investors	
Credit issues	11
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	14
General licence obligations	8

Category	2022–23 (%)
Other (e.g. insurance, advice, misleading or deceptive conduct, and unconscionable conduct)	8
Subtotal	**41**
Market integrity – including insider trading, continuous disclosure, misleading statements and market manipulation	5
Registry integrity – including incorrect address recorded on ASIC's register, lodging false documents with ASIC and issues with business name	3
Issues outside ASIC's jurisdiction	8
Total	**100**

Table 6.5.2 Misconduct issues by outcome, 2022–23 and 2021–22

	2022–23 Number	2021–22 Number
Misconduct reports		
Total misconduct reports finalised[1]	8,149	8,688
Outcome	**Percentage**	**Percentage**
Referred for action by ASIC[2]	**14**	**13**
Resolved[3]	**8**	**11**
Compliance achieved	1	1
Warning letter issued	4	6
Referred to internal or external dispute resolution	3	4
Formal information release made under s127 of the ASIC Act	<0.5	<0.5
Analysed and assessed for no further action[4]	**63**	**66**
Insufficient evidence	29	43
No action	34	23

	2022–23 Number	2021–22 Number
No jurisdiction[5]	**14**	**9**
No breach or offence	**1**	**1**
Total	**100**	**100**

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

Reportable situations from licensees and auditors

The Corporations Act requires AFS licensees and, since 1 October 2021, Australian credit licensees to submit notifications to ASIC about reportable situations (previously called breach reports). Reportable situations include significant or likely significant breaches of core obligations and investigations into such matters, or conduct of gross negligence or serious fraud. Licensees can also report situations about other licensees. We also receive reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by a company, managed investment scheme, AFS licensee or Australian credit licensee they are appointed to audit. ASIC uses the reports to undertake both immediate assessments of particular concerns and a broader consideration of the trends and issues arising from the analysis of the collective information. In 2022–23, ASIC received 28,493 reportable situation form lodgements from licensees and 160 reportable situation form lodgements from licensees reporting another licensee.

ASIC publishes information about reportable situations lodged with us each financial year (via reports published on our website).

Table 6.5.3 provides a breakdown of the reportable situations and reports by type and outcome in which an immediate assessment was completed by ASIC's Misconduct and Breach Reporting team in 2022–23. ASIC's regulatory and enforcement teams also consider reportable situations.

Table 6.5.3 Reportable situations by type and outcome, 2022–23 and 2021–22

	2022–23	2021–22
Type	**Number**	**Number**
Auditor breach reports	1,968	1,393
AFS licence notifications/updates	11	1,151
AFS licence and ACL licensee notifications	1,208	765
Another licensee notification	67	53
Dual APRA/ASIC reports	27	N/A
Total breach reports finalised	**3,281**	**3,362**
Outcome	**Percentage**	**Percentage**
Referred for action by ASIC	**7**	**10**
Referred for compliance, investigation or surveillance	7	10
Analysed and assessed for no further action	**93**	**90**
No further action	93	87
Awaiting update	0	3
Total	**100**	**100**

For more information on the matters that require an auditor to report a breach of the law to ASIC, see sections 311, 601HG and 990K of the Corporations Act.

Statutory reports from registered liquidators

The Corporations Act requires liquidators, administrators and receivers (i.e. external administrators) to report to ASIC if they suspect that company officers are guilty of an offence. Liquidators must also report if the return to unsecured creditors may be less than 50 cents in the dollar.

We received 5,775 initial reports from external administrators. Of these, 5,084 reported suspected offences by company officers, and the remainder were lodged because the return to unsecured creditors may be less than 50 cents in the dollar.

Of the 5,084 that reported misconduct, we requested supplementary reports from the external administrators in 778 cases.

Supplementary reports typically set out the results of the external administrator's inquiries and the evidence to support the alleged offences. We referred 34% of the supplementary reports assessed in 2022–23 for compliance, investigation or surveillance action, compared to 20% in 2021–22.

Table 6.5.4 provides details of the statutory reports we assessed in 2022–23 and 2021–22 by type and outcome.

Table 6.5.4 Statutory reports from registered liquidators, 2022–23 and 2021–22

	2022–23	2021–22
Type	**Number**	**Number**
Initial reports from registered liquidators[1]	**5,775**	**4,313**
Reports alleging misconduct	5,084	3,767
Reports not alleging misconduct	691	546
Supplementary reports finalised	**298**	**332**
Total statutory reports finalised (initial and supplementary)	**6,073**	**4,645**
Outcome	**Percentage**	**Percentage**
Supplementary report analysed and assessed – no further information required[2]	**66**	**80**
Supplementary reports referred	**34**	**20**
Total	**100**	**100**

1 We requested a further report (supplementary report) from the external administrator in 15% of cases.

2 There was insufficient evidence to warrant commencing a formal investigation in 66% of the cases where a supplementary report was requested, and subsequently, it was determined that no further information was required. We retain these reports for intelligence purposes for possible future use.

Whistleblowing

ASIC's Office of the Whistleblower ensures that we record and assess the disclosures we receive from whistleblowers and that we communicate with whistleblowers as we undertake our inquiries. We also engage with stakeholders about the implementation of Australia's corporate sector whistleblower protection regime.

From 1 January 2020, public companies, large proprietary companies and corporate trustees of APRA-regulated superannuation entities must have a whistleblower policy.

In 2022–23, we dealt with 793 disclosures by whistleblowers, a decrease from the previous year. Around 70% of these disclosures related to corporations and corporate governance, including internal company disputes. We also dealt with matters relating to credit and financial services, and the conduct of licensees (22%), markets (6%) and other issues (2%).

ASIC is unable to comment on our assessments of, or investigation into, whistleblower disclosures, due to the strong confidentiality protections provided to whistleblowers. Following our preliminary inquiries, we assessed approximately 90% of disclosures as requiring no further action by ASIC due to insufficient evidence, no actionable breach being disclosed, or the breach being in the jurisdiction or remit of other regulators. In a number of cases, we referred the matter to another agency, law enforcement body, or third party (such as a liquidator) that was better placed to deal with the issue or was already taking action.

Appendix 6: Statements required by law

Reports required under statute and other reporting requirements

ASIC Act

As required by section 136(1)(a) of the ASIC Act, ASIC reports that during 2022–23 we issued one individual instrument under section 328 of Part 29 of the SIS Act. We did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997.*

As required by section 136(1)(c) of the ASIC Act, ASIC reports that during 2022–23, we conducted one joint inspection with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations.

We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de Surveillance du Secteur Financier, or share any information with them under relevant provisions of the ASIC Act during 2022–23.

As required by subsection 136(1)(cb) of the ASIC Act, ASIC reports that there were no instances during the period where ASIC failed to consult before making a product intervention order, as required by section 1023F of the Corporations Act or section 301F of the National Credit Act.

Commonwealth fraud control guidelines

ASIC has a fraud control policy and plan in place, which is reviewed every two years and approved by the Commission Risk Committee.

We have appropriate fraud prevention, detection, investigation and reporting mechanisms in place, considering the nature of ASIC's activities.

ASIC conducts fraud risk assessments as part of our enterprise risk management protocols for each business unit. Results are contained in the operations risk registers.

We have taken all reasonable measures to deal appropriately with fraud.

Auditor-General reports

This financial year, there were two reports by the Auditor-General on ASIC's operations.

On 14 December 2022, the Auditor-General released a report on the Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2022. The Australian National Audit Office (ANAO) did not identify any significant or moderate audit findings arising from ASIC's 2020–21 or 2021–22 financial statements.

On 13 June 2023, the Auditor-General released a report on Probity Management in Financial Regulators – Australian Competition and Consumer Commission. The ANAO concluded that ASIC's probity management arrangements, including arrangements to manage probity risks and to promote compliance – a framework and arrangements to monitor, report on and provide assurance on probity requirements – were largely effective, and that ASIC fully or largely complied with most of the probity-related requirements examined by the ANAO. The Auditor-General made one recommendation to review the financial thresholds for declaring hospitality in ASIC policies in relation to gifts, benefits and hospitality. ASIC is in the process of implementing this recommendation.

Commonwealth Ombudsman reports

ASIC was examined in the Commonwealth Ombudsman's investigation report, *Monitoring Agency Access to Stored Communications and Telecommunications Data* under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979, released on 7 March 2023.

Other reports

In 2022–23, there were no:

- instances of fraud reported to the Minister
- capability reviews of ASIC.

Freedom of Information Act 1982

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

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

ASIC remains committed to, and devotes substantial resources to, complying with its freedom of information obligations.

Requests by email should be sent to:

foirequest@asic.gov.au

Or you may lodge a mail request to:
Senior Manager
Freedom of Information Team
GPO Box 9827
Brisbane QLD 4001.

For further information on how to lodge an application, visit our website at **www.asic.gov.au**.

For operational matters, categories of documents in ASIC's possession include:

- licence and professional registration applications
- applications from businesses, correspondence, internal working papers, policy proposals and submissions
- administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers.

For other matters, categories of documents in ASIC's possession include:

- law reform, including submissions and proposal papers
- correspondence with members of the public, government entities, parliamentary committees, business entities and other bodies
- administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and employee management, delegation and authorisation
- reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory documents, media releases, information releases, pamphlets and annual reports
- other documents held as public information.

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, legislative instruments and other regulatory publications on our website.

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

ASIC Digest is available by subscription from **Thomson Reuters**.[12]

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

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

ASIC's Information Publication Scheme Plan, showing what information is published in accordance with the scheme requirements, can be found at:

https://asic.gov.au/about-asic/freedom-of-information-foi/information-publication-scheme/.

ASIC's use of compulsory information-gathering powers

Since 2010–11, ASIC has reported the use of significant compulsory information-gathering powers under statute.

This appendix discloses data by number of instances in 2022–23, with comparative data for 2021–22.

12 https://legal.thomsonreuters.com.au/products/asic/

Table 6.6.1 Use of significant compulsory information-gathering powers

Use of significant compulsory information-gathering powers		Number of notices 2022–23[1]	Number of notices 2021–22
Appear for examination			
s19 ASIC Act[2]	Requirement to appear for examination	**793**	895
s58 ASIC Act	Power to summons a witness and take evidence	**0**	0
s253 National Credit Act[3]	Requirement to provide reasonable assistance	**58**	73
Give reasonable assistance			
s1317R Corporations Act	Power to require assistance in prosecutions	**35**	19
s49(3) ASIC Act	Power to require reasonable assistance in proceedings and prosecutions	**67**	45
s51 National Credit Act	Requirement to provide reasonable assistance	**1**	0
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	**0**	0
s274(4) National Credit Act	Requirement to provide reasonable assistance	**0**	0
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	**46**	71
Produce documents			
s266 National Credit Act	Requirement to produce books (credit activities)	**9**	70
s267 National Credit Act	Requirement to produce books	**75**	79
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	**703**	761
s31 ASIC Act	Notice to produce books about financial products	**11**	34

Use of significant compulsory information-gathering powers		Number of notices 2022–23[1]	Number of notices 2021–22
s32A ASIC Act	Notice to produce books about financial services	**1**	0
s33 ASIC Act	Notice to produce books in person's possession	**1,544**	1,930
s1213P	Power to provide a register of members of a foreign passport fund	**0**	0
Provide access			
s29 ASIC Act	Power to inspect books	**0**	0
s821D Corporations Act	Power to require access to a clearing and settlement facility	**0**	0
Provide information			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	**0**	0
s37(9)(a) ASIC Act	Power requiring explanation of books	**0**	0
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	**0**	0
s49(1) National Credit Act	Requirement to provide information (statement)	**50**	46
s912C Corporations Act	Power to require information from an AFS licensee	**457**	431
Item 17 Sch 2 National Credit Act	Power to require information (obtain statement or audit report)	**0**	0
s672A Corporations Act	Power to require disclosure of relevant interests	**10**	3
s672B Corporations Act	Power to require disclosure of relevant interests	**0**	0
s37(4) National Credit Act	Power to request information or audit report from licence applicant	**0**	0
s792D Corporations Act	Power to require reasonable assistance from a market licensee	**10**	11

Use of significant compulsory information-gathering powers		Number of notices 2022–23[1]	Number of notices 2021–22
S1226C Corporations Act	Power to request information about a compliance plan of a retail corporate collective investment vehicle	**0**	0
Provide information and produce books			
s30A ASIC Act	Notice to auditors requiring information or books	**15**	65
s30B ASIC Act	Notice to registered liquidators requiring information or books	**3**	5
Search warrants executed			
s3E Crimes Act 1914	Warrants to search premises/conveyance or person	**0**	0
s36 ASIC Act	Warrant to search premises/conveyance or person	**24**	79

1 There has been a decrease in the number of notices issued compared to last year.
2 These notices may include directions to provide reasonable assistance or produce documents.
3 These notices may include directions to provide reasonable assistance or produce documents.

Table 6.6.2 Use of other powers

Use of other powers		Number of notices 2022–23	Number of notices 2021–22
Obligations of carriers and carriage service providers			
s313 *Telecommunications Act 1997*	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	**0**	0
Provide documents, information or evidence			
s10(2) Mutual *Assistance in Business Regulation Act 1992*	Requirement to produce documents, to give information or to appear to give evidence and produce documents	**34**	23

Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Australian Government and administered by ASIC to address illegal phoenix activity or other serious misconduct. The scheme may fund:

- further investigations and reports by liquidators into the failure of companies with few or no assets, where it appears that a director may be banned, or other enforcement action may result from the investigations and reports
- liquidator recovery actions to undertake legal action to recover assets when misconduct has occurred that resulted in the dissipation of company assets
- the appointment of reviewing liquidators to companies under external administration where ASIC suspects misconduct of either the director, the pre-insolvency adviser or the registered liquidator
- the appointment of liquidators to abandoned companies pursuant to Part 5.4C of the Corporations Act.

On 1 July 2022, ASIC was allocated $4.668 million, which, together with an amount of $10.197 million rolled over from the previous financial year, resulted in total available funds of $14.865 million. ASIC paid and committed the amount of $8.695 million to liquidators in 2022–23. Applications in progress and grants approved comprised approximately 70% of the remaining balance of the allocated funds.

In 2022–23, the number of liquidations increased by 44.96% and the number of AA Fund applications increased by 16%, compared to 2021–22. The 550 applications for funding comprised:

- 445 director banning reports (18% increase)
- 49 matters other than section 206F director banning reports (9% decrease)
- 56 asset recovery actions (27% increase).

ASIC approved grant funding for:

- 141 director banning reports
- 40 matters other than section 206F director banning reports
- 26 asset recovery actions.

An additional 20 requests for increased funding were approved.

ASIC also funded the appointment by ASIC of one reviewing liquidator and six liquidators to abandoned companies.

The AA Fund assisted in:

- the banning of 24 directors, representing 75% of the total 32 directors banned – the average banning period for funded matters was 42 months
- one criminal conviction/prosecution.

AA Fund agreements relating to 20 applications that were entered into in 2022–23 were to undertake public examinations of an estimated 40 parties.

Information on grants by ASIC under the AA Fund can be found at **Assetless Administration Fund**.[13]

13 https://asic.gov.au/for-finance-professionals/registered-liquidators/your-ongoing-obligations-as-a-registered-liquidator/assetless-administration-fund/

Managing property vested in ASIC or the Commonwealth

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

ASIC accounts for any proceeds on realisation of property vested in it by transferring such proceeds, less the expenses incurred in dealing with the property, to the Official Public Account in accordance with our statutory duties. The proceeds are treated like any other unclaimed money for which ASIC is responsible.

In 2022–23, the number of new cases received increased to 1,787 and the number of cases finalised increased to 1,804.

Table 6.6.3 shows vested properties of deregistered companies by number of cases.

Identified assets of deregistered companies vesting in ASIC or the Commonwealth

Section 601AD of the Corporations Act provides that when a company is deregistered, all of its property vests in ASIC or, in the case of trust property, the Commonwealth. Any identified vested property is accounted for and recorded in a register maintained by ASIC in accordance with section 601AE(5) of the Corporations Act.

We generally only deal with vested property once an application is made by a third party for us to exercise powers under section 601AE or section 601AF of the Corporations Act. We do not consider it practical to value any identified vested property and, consequently, such property is not recorded or disclosed in these financial statements.

Table 6.6.3 Deregistered company activities and property disposals (by number of cases)

Claims by type	2022–23	2021–22
Total new cases	**1,787**	1,648
Total finalised cases	**1,804**	1,701
Property disposals		
Transferred	**39**	53
Sold	**9**	5
No longer vested[1]	**623**	768
Other[2]	**50**	61
Total property disposals	**721**	**887**

1 Property is removed from ASIC's records when the company is reinstated, a third party lawfully deals with the asset, or evidence is provided that the property no longer vests in ASIC.

2 Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

Appendix 7: Ecologically sustainable development

ASIC continues to focus on our environmental performance in accordance with government policy. In 2022–23, we continued to mitigate our impact on the environment through the initiatives discussed below. These initiatives were consistent with the *Environmental Protection and Biodiversity Conservation Act 1999* principles of ecologically sustainable development. The progress and results of these initiatives are reported and reviewed by our Executive on a twice-yearly basis.

Energy efficiency

We continue to monitor our offices to minimise our electricity consumption, including closing office spaces to reflect staffing numbers in the hybrid working model. This space efficiency is complemented by ongoing energy minimisation initiatives, including programmable motion sensor-controlled lighting, LED lighting and default power-saving modes for equipment. These approaches ensure we reduce our associated environmental impacts. We continue to review and report on our energy consumption results against the Energy Efficiency in Government Operations Policy targets. The increase in electricity consumption compared to the previous financial year reflects staff returning to the office under our hybrid working model.

Table 6.7.1 Consumption of office energy

Indicator	2021–22	2022–23
Light and power – ASIC tenancies (kWh)	1,355,863	**1,816,608**

Resource efficiency and waste

We have continued our strategy of using Australian-made copy paper and consumables supplied from state-based warehouses to minimise the environmental impacts of freight shipping. We engage with our landlords on extending waste streams to minimise the amount of waste going to landfill. We have replaced disposable batteries with rechargeable batteries across all our offices to limit the environmental impact of toxic chemicals from disposed batteries entering the ecosystem.

We continue to use a desk booking system to identify which desks have been used and need end-of-day cleaning, helping to reduce the use of chemicals and the associated environmental impact. This has also enabled us to best use and monitor our space requirements, and given us insights to help us reduce our property footprint by subleasing unused space.

We have continued with our zero IT waste policy through e-waste recycling.

Table 6.7.2 Resource efficiency and waste

Indicator	2021–22	2022–23
Office paper purchased by FTE (A4 reams/FTE)	0.1*	**0.8**
Percentage of purchased office paper with recycled content	100%	**100%**

* Government target 4.5.

Travel

In 2022–23, the amount of business-related air travel undertaken increased, but was lower than pre-Covid travel. This is due to an ASIC policy to limit travel to strictly essential business purposes and our adoption of technology solutions to minimise the need to travel.

Table 6.7.3 Travel undertaken by ASIC employees

Indicator	2021–22	2022–23
Air travel		
Total distance of flights (km)	1,374,195	**6,394,708**

CO_2 emissions

ASIC's electricity emissions are reported below using the location-based approach and the market approach. The market-based method accounts for activities such as Greenpower, purchased LGCs and/or being located in the ACT.

Table 6.7.4 Location-based approach

Emission source	Scope 1 kg CO_2-e	Scope 2 kg CO_2-e	Scope 3 kg CO_2-e	Total kg CO_2-e
Electricity (location-based approach)	N/A	1,326,787	122,835	1,449,622
Natural gas	–	N/A	–	–
Fleet vehicles	154	N/A	38	192
Domestic flights	N/A	N/A	764,725	764,725
Other energy	–	N/A	–	–
Total kg CO_2-e	**154**	**1,326,787**	**887,598**	**2,214,539**

Table 6.7.5 Market-based approach

Emission source	Scope 1 kg CO_2-e	Scope 2 kg CO_2-e	Scope 3 kg CO_2-e	Total kg CO_2-e
Electricity (market-based approach)	N/A	1,244,053	164,654	1,408,707
Natural gas	–	N/A	–	–
Fleet vehicles*	154	N/A	38	192
Domestic flights	N/A	N/A	764,725	764,725
Other energy	–	N/A	–	–
Total kg CO_2-e	**154**	**1,244,053**	**929,416**	**2,173,623**

* ASIC has now divested all fleet vehicles with the last of these being returned to the leasing company in August 2022.

Information and engagement

We have continued our engagement with key stakeholders in relation to sustainability initiatives and seek to trial and implement new initiatives. We continue to encourage our staff to be mindful of their environmental impact and educate our staff to utilise the different waste streams available in each of our offices.

Appendix 8: Procurement, contracts and expenditure on advertising

During 2022–23, ASIC conducted the advertising campaigns set out in Table 6.8.1.

Further information on ASIC's advertising campaigns is available on our website at **www.asic.gov.au**. Information on advertising campaign expenditure greater than $250,000 is available in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available at **www.finance.gov.au**.

Table 6.8.1 Expenditure on advertising agency services, 2022–23[14]

Agency	ABN	Expenditure ($) (inc. GST)	Purpose
Mediabrands Australia Pty Ltd	190 029 660 01	132,000.00	Moneysmart scams campaign
Mediabrands Australia Pty Ltd	190 029 660 01	132,000.00	Moneysmart investing campaign
Mediabrands Australia Pty Ltd	190 029 660 01	132,000.00	Moneysmart cost-of-living campaign
Total		**396,000.00**	

Procurement

ASIC's use of Commonwealth resources and expenditure of public money is primarily governed by the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule).

Responsibility for compliance with the Commonwealth Procurement Rules (CPRs) lies with the appropriate financial delegates.

14 The data contained in this table reflects the reported contract commitment value and not the amount spent in the reporting period.

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

- develop and maintain our procurement processes, guidance and systems to promote compliance with the PGPA Act, the PGPA Rule and the CPRs for all levels of procurement
- manage, in partnership with the business, complex and high-risk procurement activities, enabling procurement compliance with the CPRs
- advise on all procurement activities.

Our procurement framework aims to facilitate compliance with the core principles, policies and spirit of the CPRs to achieve value for money. This is done by encouraging competition; efficient, effective, ethical and economical use of resources; accountability and transparency; and appropriate engagement with risk through a process that is commensurate with the scale and scope of the business requirement.

We undertake regular audits of procurement, and any instances of non-compliance are reported through a central compliance incident management system and addressed, as required, through process improvement initiatives.

98.6% of major contracts entered into during 2022-23 contained the provision allowing the Auditor General access to premises held by contractors relating to performance of the contract. Seven contracts, or 1.4% of all new contracts in the period, have been identified as not containing the clause providing Auditor-General access which is due to the contracts being subject to supplier's terms (see Table 6.8.2). ASIC continues working with vendors to standardise contract terms where possible.

Table 6.8.2 Contracts that did not allow Auditor-General access

Supplier	ABN	Expenditure ($) (inc. GST)	Purpose
Thomson Reuters (Professional) Australia Limited	640 589 146 68	1,800,809.51	Thomson Reuters Electronic Agreement 2022–2025
CCH Australia Limited	950 969 033 65	347,126.22	CCH Electronic Agreement 2022– 2023
Visual Analysis Pty Ltd	240 759 600 75	184,800.00	Supply, configuration and deployment of Analyst's Notebook Premium
Optimizely North America Inc	117 887 871 31	107,882.58	Renewal Episerver content management system and 24x7 support coverage
VMware Australia Pty Ltd	771 226 770 89	694,548.17	Support and maintenance of VMware perpetual licences

Supplier	ABN	Expenditure ($) (inc. GST)	Purpose
REMASYS Pty Ltd	990 853 297 19	278,330.98	Managed services for EUE monitoring support
Pluralsight LLC	N/A	114,726.24	Business Enterprise licences and support – cyber security
Total		**3,528,223.70**	

Using AusTender

This annual report contains information about actual expenditure on contracts. Information on the committed value of contracts is available through AusTender at **www.tenders.gov.au**.

During 2022–23, ASIC awarded 515 contracts valued at $10,000 (GST inclusive) or more, with a total value of $47.107 million. Of these procurements, 179 were valued in excess of $80,000 (GST inclusive), with a total value of $98.996 million.

Contracts of $100,000 (GST inclusive) or more were reported on AusTender, in accordance with the Senate Order on Departmental and Agency Contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2022 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

Table 6.8.3 Expenditure on non-consultancy contracts

Business data	2022–23
Number of new non-consultancy contracts	**496**
Expenditure on new non-consultancy contracts ($ millions)	**42.131**
Number of ongoing non-consultancy contracts	**887**
Expenditure on ongoing non-consultancy contracts ($ millions)	**85.842**

Note: The above figures are GST inclusive. Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the committed value of reportable non-consultancy contracts is available on the AusTender website at www.tenders.gov.au.

Consultancy contracts

During 2022–23, ASIC entered into 19 new consultancy contracts, involving total expenditure of around $4.975 million (GST inclusive). In addition, 36 ongoing consultancy contracts were active during the year, involving total expenditure of $7.346 million (GST inclusive).

Table 6.8.4 Consultancy trend data

Business data	2022–23	2021–22
Number of new consultancies	**19**	38
Expenditure on new consultancies ($ millions)	**4.975**	8.970
Number of ongoing consultancies	**36**	42
Expenditure on ongoing consultancies ($ millions)	**7.346**	3.888

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

Additional contracts information

Table 6.8.5 shows the five suppliers that received the largest share of ASIC's total expenditure on contracts in 2022–23, and the total amounts.

In 2022–23, Deloitte Touche Tohmatsu Limited received a total of $8,721,171.62 (GST inclusive), which accounted for at least 5% of ASIC's expenditure on such contracts during the period.

Table 6.8.5 Top 5 suppliers' reportable contract expenditure

Supplier	ABN	Expenditure ($) (inc. GST)
Deloitte Touche Tohmatsu Limited	744 901 210 60	8,721,171.62
Amazon Web Services Australia Pty Ltd	636 053 458 91	6,303,364.13
Australian Government Solicitor	694 059 376 39	5,670,659.36
Norton Rose Fulbright Australia	327 208 680 49	4,840,266.56
Data#3 Limited	310 105 452 67	4,107,410.63

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally, and business units seeking to engage consultants must prepare a business case for funding. Requests to engage consultants must be linked to outcomes in business plans and must contribute to ASIC's decision making. Once the engagement of a consultant is approved, the procurement method used must accord with the CPRs and ASIC's procurement policies.

Of the 19 consultants that ASIC engaged during 2022–23:

- 3 were engaged to conduct independent research or assessments
- 2 were engaged to provide skills currently unavailable within the agency
- 14 were engaged to provide specialised or professional skills.

The method of procurement used was open tender for 16 engagements (including engagements from panels) and limited tender for 3 engagements.

The consultants were engaged for the following main service categories:

- information technology consultation services
- management advisory services
- organisational structure consultation
- risk management consultation services
- strategic planning consultation services.

Procurement initiatives to support small business

ASIC supports small business participation in the Australian Government procurement market. Small to medium enterprise (SME) and small enterprise participation statistics are available on the Department of Finance website at **www.finance.gov.au**.

ASIC recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury website at **www.treasury.gov.au**.

ASIC's procurement practices support small businesses by:

- using the Commonwealth Contracting Suite for low-risk procurements valued under $200,000 (GST inclusive) where applicable
- encouraging the use of the SME exemption under the Commonwealth Procurement Rules
- using the coordinated and cooperative panels, such as the Digital Transformation Agency's digital marketplace, which is accessible to SMEs, and panels that clearly identify their SME status.

Appendix 9: Australian Financial Complaints Authority

The Australian Financial Complaints Authority (AFCA) is the single external dispute resolution (EDR) scheme for consumers and small businesses unable to resolve complaints that a financial firm did not resolve directly with the customer.

Financial firms must have internal dispute resolution (IDR) procedures that meet the standards or requirements made or approved by ASIC, as well as membership of AFCA. AFCA deals with complaints about financial services, credit and superannuation made by consumers, small businesses and primary producers that have not been resolved by IDR.

In 2022–23, AFCA received 96,987 complaints and secured $253.81 million in compensation for consumers and small businesses. This was a 34% increase in the number of complaints and a 22% increase in the amount of compensation and refunds compared to the previous year. AFCA has reported record complaint volumes, particularly in general insurance (up 50%), banking and finance (up 27%) and superannuation (up 32%).

As an authorised EDR scheme, AFCA is governed by an independent board responsible for ensuring the scheme's ongoing compliance with the authorisation requirements, ministerial conditions and ASIC regulatory requirements. In April 2023, AFCA announced the reappointment of David Locke as Chief Ombudsman and CEO for a second five-year term.

Under the legislative requirements, AFCA reported 105 systemic issues and 14 serious contraventions to ASIC in 2022–23. AFCA's systemic issues work resulted in remediation for more than 378,000 consumers and $100.5 million in refunds.

AFCA is progressing a significant three-year program of work responding to the recommendations of the inaugural Independent Review of AFCA. This review included public consultation on a consolidated suite of proposed rule changes in May 2023.

ASIC will continue to work closely with AFCA on its implementation of the Independent Review recommendations, noting interactions with ASIC's work on IDR data reporting, remediation and breach reporting reforms.

Other areas of shared priority and focus in 2022–23 included:

- an increasing volume of complaints and consumer losses from scams, as reflected in ASIC **Report 761**,[15] which called for improvements in approaches to scam handling by financial institutions
- performance of superannuation trustees responding to member complaints at IDR (see **Report 751**)[16]
- the passage of legislation through Parliament to establish a Compensation Scheme of Last Resort, a recommendation of the Financial Services Royal Commission and the final missing piece in the consumer protection redress framework
- ASIC enforcement action responding to licensees who fail to cooperate with AFCA processes or comply with AFCA determinations.

15 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-761-scam-prevention-detection-and-response-by-the-four-major-banks/

16 https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-751-disputes-and-deficiencies-a-review-of-complaints-handling-by-superannuation-trustees/

Appendix 10: Five-year summary of key stakeholder data

Table 6.10.1 Five-year summary of key business and stakeholder data, 2018–23

Business data	2022–23	2021–22	2020–21	2019–20	2018–19
Registry services					
Companies (total)	**3.2m**	3.1m	2.9m	2.8m	2.7m
New companies registered	**274,964**	292,166	279,853	222,048	223,661
Business names (total)	**2.7m**	2.5m	2.4m	2.3m	2.3m
New business names registered	**387,629**	421,607	460,409	387,827	375,052
% companies data lodged on time	**95%**	95%	94%	93%	95%
Total searches of ASIC databases	**317.8m**	265.8m	219.2m	243.7m	142.6m
Regulated entities					
AFS licensees	**6,311**	6,288	6,179	6,127	6,159
Credit licensees	**4,665**	4,720	4,777	4,930	5,188
Authorised market infrastructure providers	**86**	72	67	64	64
Registered SMSF auditors	**4,423**	5,173	5,540	5,699	5,919
Registered company auditors	**3,290**	3,441	3,553	3,781	3,962
Registered liquidators	**654**	646	649	633	651
Registered managed investment schemes	**3,605**	3,656	3,612	3,650	3,712
Fundraising and takeovers					
Fundraising documents lodged	**676**	908	884	711	794
Fundraising where ASIC required additional disclosure	**$1.1bn**	$4.6bn	$3.8bn	$2.3bn	$3.2bn

Business data	2022–23	2021–22	2020–21	2019–20	2018–19
Control transactions – schemes and bids	**59**	77	85	55	73
Control transactions – schemes and bids implied target size	**$24.67bn**	$120.96bn	$40.5bn	$23.5bn	$34.3bn
Enforcement outcomes					
Criminal and civil litigation completed[17]	**96**	99	75	72	108
% successful criminal and civil litigations[18]	**93%**	95%	97%	93%	94%
Criminals imprisoned[19]	**6**	6	7	7	10
Recoveries, costs, compensation or fines[20]	**$8.4m**	$3.3m	$10.2m	$1.5m	$77.7m
Reports of misconduct					
Reports of crime or misconduct finalised	**8,149**	8,688	10,711	12,355	10,249
Other key statistics					
Fees and charges collected for the Commonwealth	**$1,835m**	$1,676m	$1,513m	$1,358m	$1,273m
Staff (average FTEs)[21]	**1,831**	1,947	2,008	1,940	1,701

17 This excludes summary prosecutions for strict liability offences.
18 This excludes summary prosecutions for strict liability offences.
19 This excludes custodial sentences served by way of an Intensive Correction Order or where the defendant is released on recognisance to be of good behaviour.
20 Compensation or remediation programs monitored by ASIC are not included in this statistic. The amount includes compensation or remediation agreed in court enforceable undertakings accepted by ASIC, fines and costs ordered by the Courts and infringement notices paid. The decrease compared to previous years is attributed to fewer court enforceable undertakings being accepted by ASIC, where there is a component of compensation or remediation.
21 Data rounded. This data excludes contractors and secondees from other agencies.

Surveillance and supervisory teams

ASIC's surveillance and supervisory teams and who they regulate are outlined below.

Markets

Greg Yanco – Executive Director

Chief Accountant

Doug Niven – Chief Accountant

Corporations

Claire LaBouchardiere and Rachel Howitt – Senior Executive Leaders

- Unlisted public companies: 27,384
- Listed companies (excluding listed schemes): 2,155

Registered Liquidators
Financial Reporting
Audit

Thea Eszenyi – Senior Executive Leader

- Registered company auditors: 3,290
- Entities required to produce financial reports: 29,424
- Registered SMSF auditors: 4,423
- Registered liquidators: 654
- External administrations and controllerships: 7,942

Market Infrastructure

Nathan Bourne – Senior Executive Leader

- Licensed domestic and overseas financial markets: 61
- Exempt markets: 4
- Licensed domestic and overseas clearing and settlement facilities: 7
- Exempt clearing and settlement facilities: 4
- Derivative trade repositories: 1
- Credit rating agencies: 7
- Benchmark administrators: 2

Market Supervision

Calissa Aldridge – Senior Executive Leader

- Large securities exchange participants: 65
- Large futures exchange participants: 34
- Securities dealers: 1,174
- Corporate advisers: 553
- OTC traders: 322
- Retail OTC derivative issuers: 106
- Wholesale electricity dealers: 1,694

Financial Services and Wealth

Joanna Bird – Executive Director

Credit and Banking

Tim Gough – Senior Executive Leader

- Authorised deposit-taking institutions: 139
- Australian credit licensees: 4,665
- Credit representative: 41,905
- Non-cash payment facility providers: 606
- Trustee companies: 11

Financial Advisers

Leah Sciacca – Senior Executive Leader

- Financial advisers: 15,905
- AFS licensees licensed to provide personal advice: 4,095
- AFS licensees licensed to provide general advice only: 1,075

Insurers

Rhys Bollen – Senior Executive Leader

- General insurers: 50
- Life insurers: 24
- Friendly societies: 10

Investment Managers

Kate Metz – Senior Executive Leader

- Responsible entities: 409
- Registered managed investment schemes: 3,605
- Wholesale trustees: 1,849
- MDA operators: 235
- Investor Directed Portfolio Services operators: 73
- Custodial service providers: 1,333
- Foreign financial services providers: 1,022
- Total assets: $2,684.4 billion

Licensing

Peng Lee – Senior Executive Leader

- AFS licence: 6,311
- Australian credit licence: 4,665
- Registered company auditors: 3,290
- Registered SMSF auditors: 4,423

Superannuation

Jane Eccleston – Senior Executive Leader

- Superannuation trustees: 82
- Total assets: $2,484 billion

Institutional Supervision

Suneeta Sidhu – Chief Supervisory Officer

Entities subject to supervision:

- Australia and New Zealand Banking Group Limited
- Commonwealth Bank of Australia
- National Australia Bank Limited
- Westpac Banking Corporation

Office of Enforcement

Financial Services Enforcement

Tim Mullaly – Executive Director

Financial Services Enforcement

Melissa Smith – Senior Executive Leader

Wealth Management Enforcement – Major Financial Institutions

David McGuinness – Senior Executive Leader

Wealth Management Enforcement

Marita Hogan – Senior Executive Leader

Markets Enforcement

Sharon Concisom – Executive Director

Corporations and Corporate Governance

Brendan Caridi – Senior Executive Leader

Enforcement Western Australia and Criminal Intelligence Unit

Wendy Endebrock-Brown – Senior Executive Leader

Markets Enforcement

Molly Choucair – Senior Executive Leader

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Glossary

Glossary

Term	Definition
AA Fund	Assetless Administration Fund
ABRS	Australian Business Registry Services
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACCP	ASIC Consumer Consultative Panel
ACER	Australian Council of Educational Research
AFCA	Australian Financial Complaints Authority
AFP	Australian Federal Police
AFS licence	Australian financial services licence
ANZ	Australia and New Zealand Banking Group Limited
APRA	Australian Prudential Regulation Authority
APRC	Asia-Pacific Regional Committee
APS	Australian Public Service
ASIC Act	*Australian Securities and Investments Commission Act 2001*
ASX	ASX Limited or the exchange market operated by ASX Limited
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
Better Advice Act	*Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021*
BRII	Business Research and Innovation Initiative
CBA	Commonwealth Bank of Australia
CCIV	Corporate collective investment vehicle
CDPP	Commonwealth Director of Public Prosecutions
CHESS	ASX Clearing House Electronic Subregister System
COO	Chief Operating Officer
Corporate Plan	*Corporate Plan 2022–26 (Focus 2022–23)*
Corporations Act	*Corporations Act 2001*
CPRs	Commonwealth Procurement Rules
DIRRI	Declaration of independence, relevant relationships and indemnities
EDR	External dispute resolution

Term	Definition
ERS	Enhanced regulatory sandbox
ESA	Enforcement Special Account
ESG	Environmental, social and governance
FAR	Financial Accountability Regime
Financial Services Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
FOI Act	*Freedom of Information Act 1982*
FRAA	Financial Regulator Assessment Authority
FSCP	Financial Services and Credit Panel
FTE	Full-time equivalent
GST	Goods and services tax
IDPS	Investor-directed portfolio service
IDR	Internal dispute resolution
IOSCO	International Organization of Securities Commissions
kWh	Kilowatt-hour, a measure of energy
LED	Light-emitting diode, a semiconductor device that converts electricity into light.
LGBTIQ+	Lesbian, gay, bisexual, transgender, intersex and queer
MBR	Modernising Business Registers
MDA	Managed discretionary account
MDP	Markets Disciplinary Panel
MJ	Megajoule, a unit of energy measurement
MoG	Machinery of government
MOU	Memorandum of understanding
NAB	National Australia Bank
National Credit Act	*National Consumer Credit Protection Act 2009*
NICS	National Indigenous Consumer Strategy
OTC	Over-the-counter
PACE	Positive Action towards Career Engagement
PDS	Product disclosure statement
PGPA Act	*Public Governance, Performance and Accountability Act 2013*
PGPA Rule	Public Governance, Performance and Accountability Rule 2014
RAP	Reconciliation Action Plan

Term	Definition
RG	Regulatory Guide
SES	Senior Executive Service
SIS Act	*Superannuation Industry (Supervision) Act 1993*
SME	Small to medium enterprise
SMSF	Self-managed superannuation fund
TMD	Target market determination
WBC	Westpac Banking Corporation

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Compliance index

8.1 Reporting requirements under the *Public Governance, Performance and Accountability Act 2013*

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AD(g)	**Letter of transmittal**		
17AI	A copy of the letter of transmittal signed and dated by the accountable authority on the date the final text is approved, with a statement that the report has been prepared in accordance with section 46 of the PGPA Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	1
17AD(h)	**Aids to access**		
17AJ(a)	Table of contents	Mandatory	2–3
17AJ(b)	Alphabetical index	Mandatory	257
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	235
17AJ(d)	List of requirements	Mandatory	239
17AJ(e)	Details of contact officer	Mandatory	268
17AJ(f)	Entity's website address	Mandatory	268
17AJ(g)	Electronic address of report	Mandatory	268
17AD(a)	**Review by accountable authority**		
17AD(a)	A review by the accountable authority of the entity	Mandatory	6
17AD(b)	**Overview of the entity**		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	9
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	11–12, 95

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	17–92
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	9–10
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority	Mandatory	94
17AE(1)(aa)(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	94
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	94
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – mandatory	N/A
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, details of variation and reasons for change	If applicable, mandatory	N/A
17AD(c)	**Report on the performance of the entity**		
	Annual performance statements		
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the PGPA Act and section 16F of the PGPA Rule	Mandatory	17–92
17AD(c)(ii)	**Report on financial performance**		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	14–15, 109–172
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	191–193

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, mandatory	N/A
17AD(d)	**Management and accountability**		
	Corporate governance		
17AG(2)(a)	Information on compliance with section 10 (fraud systems) of the PGPA Rule	Mandatory	212
17AG(2)(b)(i)	A certification by the accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	212
17AG(2)(b)(ii)	A certification by the accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place	Mandatory	212
17AG(2)(b)(iii)	A certification by the accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	212
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	93–99, 179–180
17AG(2)(d)–(e)	A statement of significant issues reported to the Minister under paragraph 19(1)(e) of the PGPA Act that relate to non-compliance with finance law and action taken to remedy non-compliance	If applicable, mandatory	213

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
	Audit Committee		
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee	Mandatory	181
17AG(2A)(b)	The name of each member of the entity's audit committee	Mandatory	181–184
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee	Mandatory	181–184
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings	Mandatory	181–184
17AG(2A)(e)	The remuneration of each member of the entity's audit committee	Mandatory	185
	External scrutiny		
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	177–179
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, mandatory	179
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than reports under section 43 of the Act), a Parliamentary Committee or the Commonwealth Ombudsman	If applicable, mandatory	212–213
17AG(3)(c)	Information on any capability review on the entity that was released during the period	If applicable, mandatory	N/A
	Management of human resources		
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	102–104

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, at the end of that and the previous reporting period, including the following: (a) statistics on full-time employees (b) statistics on part-time employees (c) statistics on gender (d) statistics on staff location	Mandatory	194–197
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following: › statistics on staffing classification level › statistics on full-time employees › statistics on part-time employees › statistics on gender › statistics on staff location › statistics on employees who identify as Indigenous	No longer mandatory[1]	N/A
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the *Public Service Act 1999*	If applicable, mandatory	199
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the *Public Service Act 1999* during this period	If applicable, mandatory	199
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	No longer mandatory[2]	N/A

1 On 1 July 2019, ASIC moved out of the APS. The *Treasury Laws Amendment (Enhancing ASIC's Capabilities) Act 2018* amended the ASIC Act to remove the requirement for ASIC to engage employees under the *Public Service Act 1999*. Instead, it engages employees under section 120 of the ASIC Act.

2 As above.

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	If applicable, mandatory	103, 199
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	No longer mandatory[3]	199
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	No longer mandatory	199
17AG(4)(d)(iii)	Information on the average amount of performance payment, and the range of such payments, at each classification level	No longer mandatory	199
17AG(4)(d)(iv)	Information on the aggregate amount of performance payments	No longer mandatory	199
	Assets management		
17AG(5)	An assessment of the effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	218–219
	Purchasing		
17AG(6)	An assessment of the entity performance against the Commonwealth Procurement Rules	Mandatory	224–225
	Reportable consultancy contracts		
17AG(7)(a)	A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contacts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on those ongoing contracts (inclusive of GST)	Mandatory	227

3 While this content is no longer mandatory for ASIC to report, we have included it because it is data we record, and it may be of interest to the public.

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AG(7)(b)	A statement that 'During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of $[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of $[specified million].'	Mandatory	227
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	228
17AG(7)(d)	A statement that 'Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website.'	Mandatory	227
	Reportable non-consultancy contracts		
17AG(7A)(a)	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST)	Mandatory	226
17AG(7A)(b)	A statement that 'Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.'	Mandatory	226

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AD(daa)	**Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts**		
17AGA	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts	Mandatory	227
	Australian National Audit Office access clauses		
17AG(8)	If an entity entered into a contract with a value of more than $100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, the purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, mandatory	225–226
	Exempt contracts		
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than $10,000 (inclusive of GST) that has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, mandatory	N/A

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
	Small business		
17AG(10)(a)	A statement that '[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and medium enterprises (SME) and small enterprise participation statistics are available on the Department of Finance's website.'	Mandatory	228
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	228
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature – a statement that '[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website.'	If applicable, mandatory	228
	Financial statements		
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the PGPA Act	Mandatory	Chapter 5
	Executive remuneration		
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule	Mandatory	200–205
17AD(f)	**Other mandatory information**		

PGPA rule reference	Part of report/description	Requirement	Location (page(s))
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that 'During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website.'	If applicable, mandatory	224
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, mandatory	N/A
17AH(1)(b)	A statement that 'Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].'	If applicable, mandatory	218
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	108
17AH(1)(d)	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of the FOI Act can be found	Mandatory	214
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	255
17AH(2)	Information required by other legislation	Mandatory	250–254

Note: N/A means not applicable.
Source: Public Governance, Performance and Accountability Rule 2014, Schedule 2.

8.2 Additional compliance reporting requirements

Description	Requirement	Source of requirement	Location (page(s))
Exercise of ASIC's powers under Part 15 of the *Retirement Savings Accounts Act 1997* and under Part 29 of the *Superannuation Industry (Supervision) Act 1993*	Mandatory	ASIC Act, s136(1)(a)	212
ASIC's monitoring and promotion of market integrity and consumer protection in relation to the Australian financial system and the provision of financial services	Mandatory	ASIC Act, s136(1)(b)	21–88
ASIC's activities in accordance with each agreement or arrangement entered into by ASIC under s11(14) of the ASIC Act	Mandatory	ASIC Act, s136(1)(c)	212
Information about the activities that ASIC has undertaken during the period in exercise of its powers, and performance of its functions, under Chapter 5 of, or Schedule 2 to, the Corporations Act and any provisions of that Act that relate to that Chapter or Schedule	Mandatory	ASIC Act, s136(1)(ca)	21–27, 54–58
Information about any instances during the period where ASIC failed to consult as required by section 1023F of the Corporations Act or section 301F of the National Credit Act	Mandatory	ASIC Act, s136(1)(cb)	212

Description	Requirement	Source of requirement	Location (page(s))
The operation of the *Business Names Registration Act 2011*, including details of the level of access to the Business Names Register using the internet and other facilities, the timeliness with which ASIC carries out its duties, functions and powers under the Act, and the cost of registration of a business name under the Act	Mandatory	ASIC Act, s136(1)(d)	76–77, 231
Information, for the relevant period, about the activities undertaken by each Financial Services and Credit Panel during the period, any exams administered by ASIC under subs 921B(3) Corporations Act, any warnings given by ASIC under s912S Corporations Act, any decisions by ASIC not to follow a recommendation under subs 921Q(1) Corporations Act	Mandatory	ASIC Act, s136(1)(da)	187–189
The number of times ASIC used an information-gathering power, the provision of the Corporations Act, the ASIC Act, or another law that conferred the power, and the number of times in the previous financial year ASIC used the power	Mandatory	ASIC Act, s136(1)(e), reg 8AAA(1)	215–217
ASIC's regional administration in referring states and the Northern Territory, including a statement on ASIC's performance against service-level performance indicators during the relevant period	Mandatory	Corporations Agreement, s603(3)	84–85, 89–91

Description	Requirement	Source of requirement	Location (page(s))
A report on the activities of each state and Northern Territory Regional Liaison Committee maintained by the Regional Commissioners	Mandatory	Corporations Agreement, s604(4)	84–85
A report on the work of the financial services and consumer credit external dispute resolution schemes, and ASIC's assessment of the systemic and significant issues the schemes have raised in their reports to ASIC, including information on any action taken in response to the matters raised in these reports	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 4	229–230
Commentary on ASIC's activities related to monitoring compliance with court enforceable undertakings, and on how court enforceable undertakings have led to improved compliance with the law	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 27	60
Accountable authority must state, in the annual financial statements, whether, in the authority's opinion, the statements comply with subsection 42(2)	Mandatory	PGPA Act, s42(3)	Chapter 5
Work health and safety			
(a) initiatives taken during the year to ensure the health, safety and welfare of workers who carry out work for the entity	Mandatory	*Work Health and Safety Act 2011*, s4(2) Sch 2	105
(b) health and safety outcomes (including the impact on injury rates of workers) achieved as a result of initiatives mentioned under paragraph (a) or previous initiatives	Mandatory	*Work Health and Safety Act 2011*, s4(2) Sch 2	105

Description	Requirement	Source of requirement	Location (page(s))
(c) statistics of any notifiable incidents of which the entity becomes aware during the year that arose out of the conduct of businesses or undertakings by the entity	Mandatory	*Work Health and Safety Act 2011*, s4(2) Sch 2	105
(d) any investigations conducted during the year that relate to businesses or undertakings conducted by the entity, including details of all notices given to the entity during the year under Part 10 of this Act	Mandatory	*Work Health and Safety Act 2011*, s4(2) Sch 2	N/A
(e) such other matters as are required by guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit.	Mandatory	*Work Health and Safety Act 2011*, s4(2) Sch 2	N/A
Environmental performance			
(a) include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development	Mandatory	*Environment Protection and Biodiversity Conservation Act 1999*, s516A(6)	221–223
(b) identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development	Mandatory	*Environment Protection and Biodiversity Conservation Act 1999*, s516A(6)	221–223
(c) document the effect of the reporter's activities on the environment	Mandatory	*Environment Protection and Biodiversity Conservation Act 1999*, s516A(6)	221–223

Description	Requirement	Source of requirement	Location (page(s))
(d) identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment	Mandatory	*Environment Protection and Biodiversity Conservation Act 1999*, s516A(6)	221–223
(e) identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures	Mandatory	*Environment Protection and Biodiversity Conservation Act 1999*, s516A(6)	221–223
Any other Committee recommendations[4]			N/A

4 The Parliamentary Joint Committee on Corporations and Financial Services released a report on ASIC licence transfers as part of its Statutory inquiry into ASIC, the Takeovers Panel, and the corporations legislation on 3 July 2023. The Committee recommended that ASIC include information in its annual report on the numbers of transfers or changes in control that occur each year for each type of ASIC licence, including AFS licences; Australian credit licences; Australian auditor registrations; market licences; benchmark operator licences; and clearing and settlement licences.
ASIC intends to report on these new data sets from the 2023–24 Annual Report onwards.

Annual report 2021–22 errata

ASIC retracts the following statement on page 71 of the 2021–22 ASIC Annual Report:

- On 7 June 2022, ASIC commenced action against SunshineLoans Pty Ltd, which is alleged to have collected $320,000 in prohibited fees from consumers in relation to small amount credit contracts. The National Credit Code limits the fees that may be charged under these loans to an establishment fee, monthly fees and default fees. Sunshine Loans allegedly charged consumers the maximum amount of those fees, and then sought to charge consumers additional fees in the form of repayment amendment or rescheduling fees.

ASIC corrects the statement with the following:

- On 6 June 2022, ASIC commenced action against SunshineLoans Pty Ltd, in which ASIC alleged SunshineLoans had received payment of $327,845.00 in prohibited fees from consumers in relation to small amount credit contracts. The National Consumer Credit Code limits the fees that may be charged under these loans to an establishment fee, monthly fees, a fee or charge that is payable in the event of a default, and a government fee, charge or duty payable in relation to the contract. ASIC alleges that SunshineLoans charged consumers additional fees not permitted by the National Credit Code in the form of an amendment or rescheduled payment fee.

On page 250 of the 2021–22 Annual Report, we inadvertently reported that "All major contracts entered into in 2020–21 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance". Due to contracts using supplier terms instead of standard government contract terms, nine contracts did not provide the Auditor-General access to premises in 2021–2022 and are provided in the table below:

Name of contractors	Purpose of contract	Value inc GST
ONE SMALL STEP COLLECTIVE PTY LTD.	Social Media Monitoring Tool	$182,160.00
BLOOMBERG AUSTRALIA PTY LTD	Renewing two licenses for Bloomberg Anywhere for two years 2022–2024	$183,494.19
INFORMATICA AUSTRALIA PTY LTD	Informatica Support and Maintenance	$134,314.16
PLURALSIGHT, LLC	Pluralsight Training - A Cloud Guru Business Plus	$164,260.75
ONE SMALL STEP COLLECTIVE PTY LTD.	Brandwatch annual subscription	$183,040.00
ONIGROUP PTY LTD	Google reCAPTCHA Enterprise Software 2021 to 2023	$297,907.50

Name of contractors	Purpose of contract	Value inc GST
MORNINGSTAR AUSTRALASIA PTY LTD	Morningstar Subscriptions 1 Nov 2021 - 31 Oct 2024 with 2 Optional contract extensions (1 year each)	$996,600.00
FACTIVA LIMITED	Dow Jones Factiva Electronic Agreement 2022 - 2023	$247,131.00
THOMSON REUTERS (PROFESSIONAL) AUSTRALIA	Thomson Reuters Electronic Agreement 2022 - 2025	$1,800,809.51

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