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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 CHES replacement

Following the ASX's announcement that it would pause the CHES 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

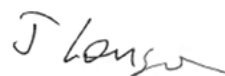
In August 2023, the Treasurer announced the appointment of three new Commissioners – Kate O'Rourke, Alan Kirkland and Simone Constant. Kate, Simone and Alan each have extensive experience in areas relevant to ASIC's strategic priorities, and I look forward to the contributions they will make.

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

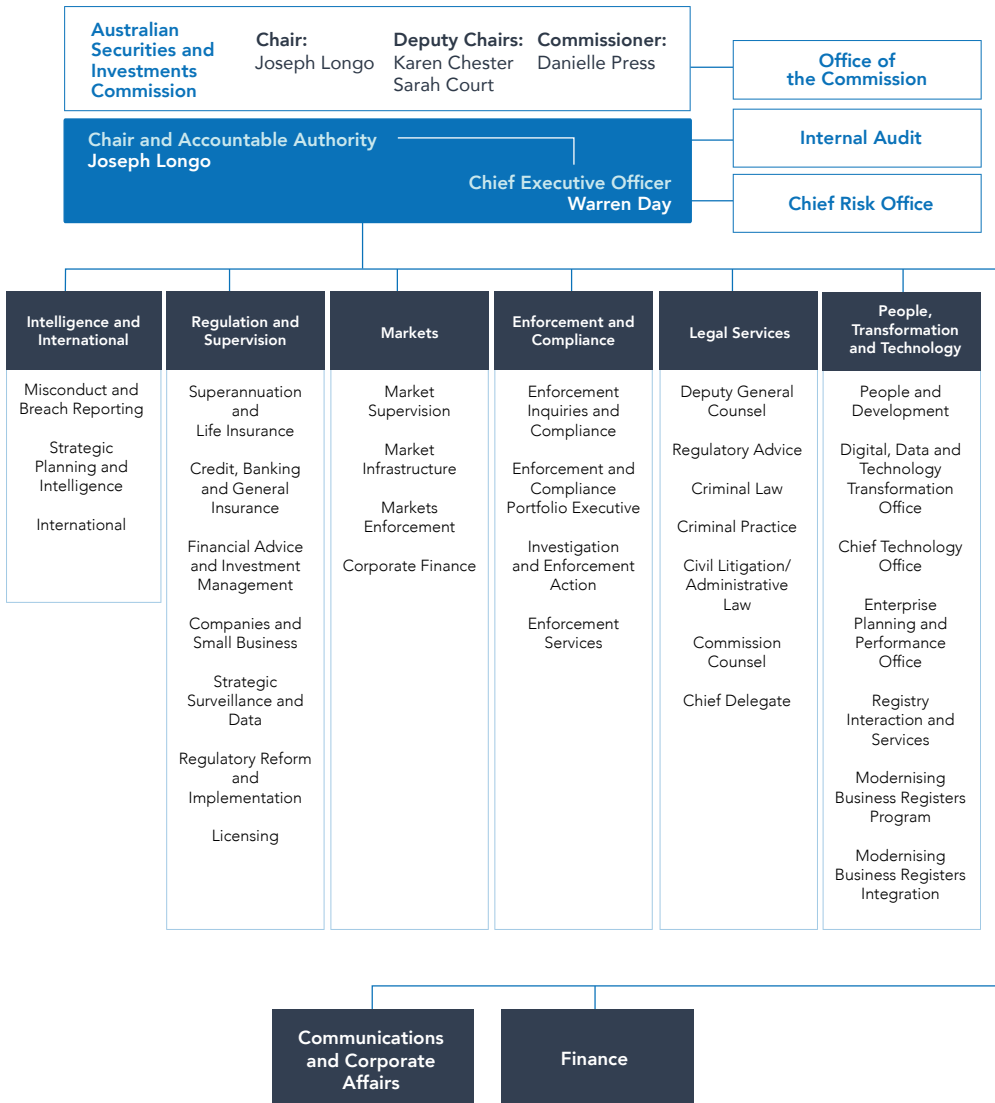
Following an organisational review in 2022–23, ASIC implemented a new structure. For the whole 2022–23 reporting period, ASIC operated under the structure illustrated in Chart 3.1 in Chapter 3. ASIC's new structure came into effect on 3 July 2023 and is illustrated in Chart 1.2.

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 revenue¹ 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.

