



**ASIC**  
Australian Securities &  
Investments Commission

# ASIC enforcement and regulatory update

January to June 2024

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REPORT 794 • SEPTEMBER 2024

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## ABOUT ASIC REGULATORY DOCUMENTS

In administering legislation ASIC issues the following types of regulatory documents: consultation papers, regulatory guides, information sheets and reports.

## DISCLAIMER

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations. Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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ASIC is an active litigator in court nearly every business day of the year pursuing wrongdoing. In the 6 months to June 2024, our enforcement action resulted in 9 criminal convictions and \$32 million in civil penalties imposed by courts.



*Joseph Longo*  
Chair, ASIC

ASIC remains committed to supporting a fair, strong and efficient financial system for all Australians. We act against misconduct, pursuing court-based outcomes and substantial penalties. We hold to account those who contravene the law and we deter similar misconduct from happening in the future.

Our objective will always be to ensure the safety and integrity of the financial system and to drive positive outcomes for consumers and investors. The stress of continued cost-of-living pressures makes Australians increasingly vulnerable to financial exploitation and harm.

We have seen firsthand, through our work on financial hardship, the impacts on Australians when lenders fail to appropriately support their customers. In the wake of our financial hardship review we took decisive action to address poor practices – and we have also seen the lenders included in the review swiftly address our feedback to improve their support for customers as cost-of-living pressures increase. We are actively considering further regulatory and enforcement action related to the issues our review identified. Through our 'Just Ask' consumer campaign, we are also working to educate customers on how to seek help and break down the administrative and emotional barriers that stand in their way.

In June, ASIC approved the Australian Banking Association's new Banking Code of Practice. This followed a period of extensive consultation, through which we ensured critical consumer protections were strengthened. Importantly, the Code includes enhanced definitions of 'vulnerability' and 'financial difficulty' – ensuring more people who need help will get it.

Superannuation is one of the most important, if not the most important, investment held by most Australians. As more Australians approach retirement and need to access their hard-earned retirement income, we expect the superannuation and financial advice industries to do everything possible to promote informed and confident investment decision making by members and, in particular, address conduct that inappropriately erodes members' retirement savings. We expect funds to communicate proactively and transparently with members, be accountable and deal responsibly with their money and deliver value and services to consistently meet fair standards.

In February, we called out the risk to retirement outcomes for Australians whose superannuation remains in persistently underperforming investment options. We called on trustees, financial advisers, and advice licensees to more consistently focus on the performance of choice superannuation investment options.

In May, we released the findings of our review into cold calling operators, who use high-pressure tactics to encourage inappropriate superannuation switching.

Amid evidence of adverse consumer outcomes, we put the superannuation and financial advice sectors on notice to do more to protect members from these unscrupulous actors.

As a regulator, we are continually faced with decisions about where to focus our resources – when it is preferable to provide guidance and when it is appropriate to take enforcement action. We pursue court-based outcomes in cases of serious misconduct – and where it sends a strong message of deterrence to others. We welcome reports of misconduct from the public, which provide valuable intelligence to help us direct our resources.

ASIC is one of the most active law enforcement agencies in Australia. In the first half of this year, we secured \$32.2 million in civil penalties and 9 criminal convictions. These included the substantial penalties imposed by the Federal Court on Macquarie Bank Ltd (\$10 million) for failing to properly monitor third-party fee withdrawals from customer accounts and the maximum available penalty being imposed on Westpac Banking Corporation for unconscionable conduct relating to a significant interest rate swap transaction.

We also pursue difficult cases and test existing laws to protect consumers and prevent harm. This includes testing existing legislation on novel financial offerings. As an example, ASIC has taken a number of enforcement actions against crypto-asset businesses to clarify what is a regulated product and when the provider needs an Australian financial services (AFS) licence. This includes the successful outcome in May against BPS Financial Pty Ltd.

# Our 2024 enforcement priorities

These priorities outline our focus areas to industry and stakeholders.



Enforcement action targeting poor distribution of financial products



Misleading conduct in relation to sustainable finance including greenwashing



High-cost credit and predatory lending practices to consumers and small business



Member services failures in the superannuation sector



Misconduct resulting in the systematic erosion of superannuation balances



Insurance claims handling



Compliance with the reportable situation regime



Conduct impacting small business including small business creditors



Enforcement action targeting gatekeepers facilitating misconduct



Misconduct relating to used car financing to vulnerable customers including brokers, car dealers and finance companies



Compliance with financial hardship obligations



Technology and operational resilience for market operators and market participants

# We took action against misconduct involving crypto-assets and blockchain technology to protect consumers from alleged breaches of the law.



Protecting consumers, small businesses and investors



Strengthening financial market integrity



Improving regulatory compliance

In the first half of 2024, we commenced proceedings against a number of crypto-asset businesses. While our primary aim was to protect consumers from harm, we also intended to clarify what a regulated product is and when a provider needs an AFS licence so as to balance our approach to enabling innovation with consumer protection. These cases are a reminder that many crypto-assets are financial products under the current law.

In May, the Court determined the first court proceedings we brought against a non-cash payment facility involving crypto-assets. The Federal Court found that BPS Financial, when offering the 'Qoin Wallet', neither held an AFS licence nor was authorised by an AFS licensee, to issue or provide financial advice about the wallet. The court also found that BPS Financial made false or misleading representations about the wallet, including that it was officially registered or officially approved when it was not.

In another matter, the Federal Court found that from around March 2022 until November 2022, financial technology (fintech) company Block Earner engaged in unlicensed financial services conduct and operated an unregistered managed investment scheme when offering its crypto-backed Earner product. It found Block Earner's contraventions to be serious, but relieved Block Earner from liability to pay a penalty on the basis, among other things, that it acted honestly and not carelessly when it offered the Earner product. ASIC has appealed the decision.

We commenced civil proceedings against NGS Crypto Pty Ltd, NGS Digital Pty Ltd and NGS Group Ltd and their directors, and obtained Federal Court orders appointing receivers over their digital currency assets. We were concerned that the digital assets investors invested in the blockchain mining products of these companies were at risk of dissipation. We considered the appointment of a receiver was the best way to protect the assets.

## Summary of key activity

ASIC wins first court outcome regarding a non-cash payment facility involving crypto-assets ([24-090MR](#))

Court finds Block Earner needed financial services licence to offer Earner crypto product ([24-019MR](#))

Court relieves Block Earner from liability to pay a penalty for offering unlicensed crypto-related product 'Earner' ([24-119MR](#))

ASIC obtains Federal Court orders appointing receivers over digital currency assets of blockchain mining companies ([24-073MR](#))

# We target our investigations and enforcement actions at the most serious misconduct, and where they will have broad public benefit.



Protecting consumers, small businesses and investors



Strengthening financial market integrity



Improving regulatory compliance

ASIC issued its first final stop order under the design and distribution obligations regime, halting Coral Coast Distributors (Cairns) Pty Ltd from providing customers with Centrepay credit arrangements to purchase goods from its Urban Rampage stores.

Coral Coast targeted First Nations consumers who received low incomes through Centrelink payments.

ASIC found that the arrangements were unsuitable for consumers in Coral Coast's target market because they were unlikely to be consistent with their financial situation and placed them at risk of financial hardship.

Addressing harm impacting First Nations peoples is a key priority for ASIC.

Our actions to protect consumers have also resulted in:

- › the Federal Court ordering Members Equity Bank Limited to pay a penalty of \$820,000, after pleading guilty to criminal charges for making false and misleading representations about the minimum repayment amounts for its home loan customers, and for failing to provide required written notices to some of its customers about a change in the interest rate and minimum repayment amount
- › former Ralan Group managing director William O'Dwyer pleading guilty and being sentenced to four years imprisonment for obtaining a financial advantage by deception, and
- › a third individual pleading guilty in the Courtenay House Ponzi scheme. David Sipina pleaded guilty to carrying on an unlicensed

financial services business and dealing with money that was, and that he believed to be, the proceeds of crime.

As part of our ongoing commitment to protect small businesses, we banned four directors during the first quarter of 2024 from managing corporations following their role in the collapse of multiple small proprietary companies that left many creditors unpaid. In the first half of 2024, a total of 19 individuals have been disqualified or removed from directing companies.

## Summary of key activity

ASIC issues Urban Rampage with interim stop order over concerns of financial harm to First Nations consumers ([24-031MR](#))

ASIC orders end to Centrepay credit arrangements in Urban Rampage stores ([24-084MR](#))

ME Bank sentenced after pleading guilty to criminal charges ([24-005MR](#))

Former Ralan Group managing director sentenced to four years in prison ([24-013MR](#))

Third person pleads guilty in relation to Courtenay House Ponzi scheme ([24-050MR](#))

ASIC protects small business by disqualifying four directors for failures relating to the management of small proprietary companies ([24-088MR](#))



# Financial hardship

## ASIC calls for better financial hardship support from lenders

### Case summary

Consumers are increasingly experiencing difficulty in making repayments on their home loans. In the last quarter of 2023, there was a 54% increase in the number of hardship notices about home loans compared with the same period in 2022.

In late 2023, we conducted a review of 10 large home loan lenders to understand their approach to supporting customers in financial hardship. We found that lenders weren't doing enough.

An inadequate focus on customers underlies many of the poor practices we observed, including that:

- › lenders didn't make it easy for customers to give a hardship notice
- › assessment processes were often difficult for customers
- › lenders didn't communicate effectively with customers, and
- › vulnerable customers often weren't well supported.

Some home loan lenders made accessing financial assistance so difficult that more than one in three (35%) customers dropped out of the application process at least once, according to Report 783 *Hardship, hard to get help: Lenders fall short in financial hardship support* ([REP 783](#)).

### Why this is important

New research from ASIC's Moneysmart shows more than half of Australians (55%) are not aware they are entitled to ask their bank or lender for financial hardship assistance. The research also shows that even where customers are aware, there are a range of practical and emotional barriers that might hold them back from asking for help.

Customers in financial hardship are entitled under the law to request assistance. This critical consumer protection provides an opportunity for the customer and their lender to work constructively together to avoid further financial costs, stress and disruption, including the loss of the customer's home.

### ASIC's expectations

We expect all lenders to act on the findings outlined in our report and prioritise improving their approach to supporting customers in financial hardship.

Our work in this area is leading to change. Lenders are preparing action plans in response to individual feedback that we have provided. Further, at least 7 of the 10 lenders had improvement programs in place at the time of our review, including improving consumer communications, providing more tailored solutions for customers in financial hardship, making the approval processes easier and improving staff capability.

We are also considering further regulatory action in relation to some of the issues identified.

*'This report highlights lenders must improve the way they deal with customers experiencing hardship. What we have seen is simply not good enough – struggling customers deserve the right support in their time of need.'*

– Joe Longo,  
Chair, ASIC







### Case summary

ASIC co-led the first fusion cell with the National Anti-Scam Centre (NASC). Fusion cells are time-limited public-private taskforces that focus on identifying actions to target specific scam problems, coordinated through the NASC. The first fusion cell focused on investment scams and was targeted to address imposter bond and term deposit scams and artificial intelligence (AI) trading platform scams. The purpose of this fusion cell was to identify investment scam campaigns and their enablers, to block the use of these enablers, and to identify barriers to better coordinate scam prevention and disruption.

### Why we needed to act

Investment scams account for the biggest losses by Australians compared to other types of scams.

This fusion cell ran from August 2023 to February 2024. The fusion cell members included 43 organisations from across government, law enforcement, banks, digital currency exchanges, telecommunication providers and digital platforms. The fusion cell trialled a referral process to take down scam advertisements and divert calls to confirmed scam phone numbers to a recorded warning.

Investment scam URLs identified through the fusion cell were referred to ASIC for takedown, resulting in approximately 220 investment scam website takedowns. We also added more than 500 new entries to our investor alert list, with more than 200 of them being reported to ASIC by members of the fusion cell. Our investor alert list helps inform consumers about investments that could be fraudulent, could be a scam or are being offered and promoted by unlicensed entities and individuals.

The NASC reported that in 2023, Australians lost \$2.74 billion to scams – down from \$3.15 billion in 2022, a 13% decrease. Overall losses from investment scams amounted to \$1.3 billion in 2023, down from \$1.5 billion in 2022: see [Targeting scams: Report of the National Anti-Scam Centre on scams activity 2023](#).

In a separate report, the NASC said that investment scams losses have continued to fall in the first quarter of 2024, by 10.1% to \$47.1 million (and down by 47% compared to the corresponding quarter in 2023): see [National Anti-Scam Centre in action: Quarterly update – January to March 2024](#), p 21.





## CASE STUDY

# Scams

## ASIC co-leads Investment Scam Fusion Cell; over 7,300 investment scam websites removed

These trends are encouraging, and an early sign that industry and government’s response to scams is beginning to have impact. Initiatives that have contributed to the downward trend include the fusion cell focusing on investment scams, ASIC’s investment scam website takedown capability and new investor alert list, as well as bank-initiated frictions.

We launched ASIC’s investment scam website takedown service in July 2023. Since its launch to 30 June 2024, we have taken down over 7,300 investment scam websites. We will continue to monitor investment scam trends and take a targeted and proactive approach to disrupting scams. We will also provide warnings and scam alerts to consumers to help them make informed investment decisions.

NASC’s first fusion cell was targeted to address imposter bond and term deposit scams and AI trading platform scams. The image below illustrates how website takedowns disrupt imposter bond and term deposit scams.

*Image source: [Investment scam fusion cell: Final report](#), NASC and ASIC May 2024.*

### DISRUPTING SCAM WEBSITES

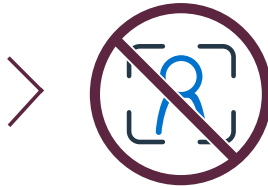
#### How website takedowns disrupts imposter bond and term deposit scams



Scammers create fake websites/email addresses depicting or impersonating a licensed financial services firm’s low-risk investments such as investment bonds and term deposits



Scammers purchase advertisements, often offering a rate comparison service.



**Disrupted by website takedown**  
Scammers prompt consumers to enter contact details through an online form.



**Disrupted by website takedown**  
A ‘financial adviser’ contacts the consumer and provides detailed and professional documentation about potential specific investment products.



**Disrupted by website takedown**  
Consumer completes an application process and transfers funds to scammer account.



**Disrupted by website takedown**  
Consumer’s money is moved to an offshore bank or cryptocurrency



# Greenwashing

Combating greenwashing to prevent investor harm

## Case summary

This year, our first greenwashing case resulted in a landmark \$11.3 million penalty after Mercer Superannuation (Australia) admitted it made misleading statements about the sustainable nature and characteristics of some of its superannuation investment options.

We also won our first greenwashing civil penalty action against Vanguard Investments Australia. Vanguard promised its investors and potential investors that the Vanguard Ethically Conscious Global Aggregate Bond Index Fund would be screened to exclude companies with significant business activities in a range of industries – including those involving fossil fuels. The Federal Court found it failed to do this in a significant proportion of cases.

Separately, Active Super claimed in its marketing that it eliminated investments that posed too great a risk to the environment and the community – including gambling, coal mining and oil tar sands. Following the invasion of Ukraine, Active Super also made representations that Russian investments were ‘out’. However, the Federal Court found that Active Super published representations that were misleading and deceptive about the exclusions applied to gambling, coal mining, Russian entities and oil tar sands investments on its website, reports and disclosure documents.

## Why we needed to act

ASIC is taking a firm stance against misleading conduct involving sustainable finance, and will continue to take action against false environmental, social and governance (ESG) claims.

When companies promote a financial product or service it is important to be able to verify statements they make. This law is not new. ASIC's greenwashing interventions are founded on enforcing well-established legal obligations that prohibit misleading and deceptive conduct. Following an influx of sustainability-related products into the market as entities launched ‘green’ products to satisfy consumer appetite, our enforcement priorities included a focus on greenwashing.

Greenwashing is a serious threat to the integrity of the Australian financial system and to investor confidence. It erodes trust, which is essential for the operation of fair and efficient markets. It is also imperative that we maintain market integrity to attract the capital that will be required to make the transition to net zero and to ensure that climate risk is adequately priced into the market.

We are taking action to prevent investor harm from greenwashing, and to support effective climate and sustainability-related governance and disclosure. With ongoing demand for sustainable products, it's essential that entities avoid misrepresenting the extent to which their products or investment strategies are environmentally friendly, sustainable, or ethical.

*‘Greenwashing is simply misleading and deceptive conduct by another name.’*

*– Sarah Court,  
Deputy Chair, ASIC*



# We continue to uphold the integrity of our markets through proactive and decisive regulatory and enforcement action.



Protecting consumers, small businesses and investors



Strengthening financial market integrity



Improving regulatory compliance

Our actions have helped deter market misconduct and maintain investor confidence.

We secured a \$1.25 million penalty against 'licensee for hire' firm Lanterne Fund Services Pty Ltd for failing to comply with its AFS licence obligations between March 2019 and October 2021 and maintain adequate risk and compliance management systems. Lanterne authorised dozens of representatives to operate under its AFS licence, with a cumulative \$1.6 billion in funds under management. Lanterne admitted to the contraventions.

As a result of an ASIC investigation, Eneco Refresh founder Henry Eng Chye Heng was sentenced to 18 months imprisonment for market manipulation and creating a false or misleading appearance of active trading. The court found Mr Heng used share trading accounts held in the names of his family members to manipulate the share price of the bottled water company. Mr Heng pleaded guilty to the charges.

We successfully sought sequestration orders against social media 'finfluencer' Tyson Scholz, for failing to pay costs ordered by the Federal Court. The court previously found Mr Scholz contravened the Corporations Act by carrying on a financial service business without an AFS licence.

In a related case, the Federal Court ordered former director Adam Blumenthal to pay an \$850,000 penalty and be disqualified from managing corporations for five years.

The court found Mr Blumenthal had engaged in market rigging and breached his directors' duties in relation to two companies, EverBlu Capital Pty Ltd and Creso Pharma Limited, in part due to his financial relationship with Mr Scholz. Mr Blumenthal admitted to various contraventions of the Corporations Act and agreed to the relief the parties proposed to the court.

## Summary of key activity

ASIC action results in \$1.25 million court-imposed penalty against AFS 'licensee for hire' firm ([24-071MR](#))

Henry Eng Chye Heng sentenced to 18 months imprisonment for misleading share trading ([24-082MR](#))

ASIC obtains bankruptcy orders against social media finfluencer Tyson Scholz ([24-032MR](#))

Adam Blumenthal ordered to pay \$850,000 and disqualified for five years for market rigging and directors' duties breaches ([24-076MR](#))

We will continue to promote the integrity of Australia's markets so it remains among the cleanest and most transparent in the world.



Protecting consumers, small businesses and investors



Strengthening financial market integrity



Improving regulatory compliance

Markets cannot operate effectively unless the information they run on is accurate and available to all investors.

In March, we secured a penalty of \$1.8 million against Holista Colltech Ltd for breaching its continuous disclosure obligations and making misleading claims to investors. Holista told the ASX it had received additional orders for its sanitiser product, Natshield, with expected sales revenue of \$3.8 million, when in fact the orders had not been placed. Its revenue was later revised to \$500,000.

We launched Federal Court civil penalty proceedings against Magnis Energy Technologies Limited and its executive chairman Frank Poullas. We allege Magnis failed to update the market when it became aware that key claims about the funding and production ability of its flagship lithium-ion battery manufacturing facility were incorrect. We are suing Mr Poullas for his involvement in Magnis' alleged disclosure failures and for alleged breaches of his director's duties, arguing that he failed to ensure Magnis met its disclosure obligations.

We also issued our first infringement notice to a market operator. An ASIC investigation found ASX Limited breached market integrity rules requiring pre-trade transparency on 8,417 occasions between 4 April 2019 and 22 December 2022. ASIC found that the circumstances giving rise to the system configuration issue were indicative of carelessness rather than recklessness or intentional misconduct. Once aware, ASX took immediate steps to remedy the issue and notify ASIC.

ASX paid a \$1.05 million penalty for failing to detect and respond to the issue, caused by an incorrect system configuration.

Finally, the Markets Disciplinary Panel (MDP) imposed a \$775,000 fine on J.P. Morgan Securities Australia Limited, following an ASIC investigation. The MDP found J.P. Morgan should have suspected client orders placed on the futures market, ASX 24, were intended to manipulate the commodities derivatives market.

*Note: Compliance with the infringement notice is not an admission of guilt or liability. J.P. Morgan cooperated with ASIC's investigation and has complied with the infringement notice and paid the fine.*

## Summary of key activity

Holista Colltech to pay \$1.8 million penalty for breaching continuous disclosure obligations over the sale of its COVID product ([24-053MR](#))

ASIC sues Magnis and Frank Poullas over disclosure failures ([24-087MR](#))

ASX pays \$1,050,000 penalty for order information transparency failure ([24-039MR](#))

J.P. Morgan Securities \$775,000 penalty for market gatekeeper failure ([24-093MR](#))



### Case summary

The Federal Court ordered Macquarie Bank to pay a penalty of \$10 million for failing to have effective controls to prevent and detect unauthorised fee transactions conducted on customer cash management accounts by third parties using Macquarie's bulk transacting tool.

### Why we needed to act

Macquarie's bulk transacting tool made it easier for third parties to simultaneously make multiple withdrawals across multiple customer accounts. While Macquarie implemented effective controls from January 2020, this meant that Ross Hopkins, a financial adviser, was able to fraudulently withdraw around \$2.9 million from his customers' accounts without being detected by Macquarie.

We expect financial institutions to prioritise and invest in systems that protect their customers. Macquarie fell short of its obligation to do all things necessary to provide its financial services efficiently, honestly and fairly.

### What the court found

The Federal Court found Macquarie failed to implement effective controls to monitor whether third-party bulk transactions under the fee authority were actually for fees, between May 2016 and January 2020.

Instead, Macquarie enabled its customers to give third parties, such as financial advisers, stockbrokers and accountants, different levels of authority to transact on their accounts, including a limited authority to withdraw the third party's fees. While Macquarie initially defended the proceeding, it later admitted that it contravened its obligation to provide its financial services efficiently, honestly and fairly.

Macquarie agreed to pay a penalty of \$10 million for its conduct. See [24-080MR](#) for more details.

*'Fraud controls are increasingly important, and this case sends an important message to financial institutions and other AFS licensees that they must have appropriate controls in place.'*

*– Joe Longo,  
Chair, ASIC*





# Unconscionable conduct

## Westpac engaged in unconscionable conduct for interest rate swap

### Case summary

Westpac's unconscionable conduct occurred on 20 October 2016, when it engaged in pre-hedging ahead of an interest rate swap transaction with a consortium. The consortium included AustralianSuper and IFM entities. The interest rate swap related to managing interest rate risk associated with the consortium's purchase from the NSW Government of a majority stake in electricity provider Ausgrid.

### Why we needed to act

ASIC considered the conduct had the potential to negatively impact AustralianSuper and the IFM entities as clients of Westpac and, in turn, each of the unit holders of the funds those entities managed.

It was critical that the transaction was conducted with the utmost probity and integrity given:

- › this transaction involved the NSW Government and the sale of a public utility, and
- › the potential impact to the Australian public more generally.

The transaction was the largest of its kind in Australian financial market history.

### What the court found

Among other things, the court declared Westpac's conduct was unconscionable because:

- › Westpac was aware of its client's concern that trading before the swap transaction (pre-hedging) had the potential to adversely affect the price of the swap transaction. Every basis point increase to the price of the swap transaction would involve a cost to the consortium of about \$4.7 million
- › despite being aware of its client's concerns, Westpac acted on an internal plan to pre-hedge up to 50% of the interest rate risk by trading in significant volumes of interest rate derivatives in the market before the swap transaction was executed
- › Westpac failed to obtain client consent or give clear and full disclosure about the extent of its planned pre-hedging, and
- › once Westpac commenced its on-market pre-hedging trading, the consortium could not protect itself against the risk that Westpac's trading would increase the price of the swap transaction to the consortium.

The Court imposed the maximum available penalty of \$1.8 million, an order for a compliance programme, and an order that Westpac pay a contribution to ASIC's costs. See [24-011MR](#) for more details.

*'This is a significant outcome that clarifies expectations regarding pre-hedging, particularly around disclosure and consent where the pre-hedging can have a detrimental impact on the counterparty to the transaction.'*

– Sarah Court,  
Deputy Chair, ASIC



We provide guidance to industry on how we plan to administer and enforce the law, and what we consider to be good practice.



Protecting consumers, small businesses and investors



Strengthening financial market integrity



Improving regulatory compliance

We administer the Financial Accountability Regime (FAR) with the Australian Prudential Regulation Authority (APRA). We jointly released the final [Financial Accountability Regime Act \(Information for register\) Regulator Rules 2024](#) (Regulator rules) and the [Financial Accountability Regime \(Consequential Amendments\) Transitional Rules 2024](#) (Transitional rules) ahead of the FAR's commencement for banks on 15 March, and published further guidance to help the financial services industry to comply with the new requirements. We also published a consultation package for insurance and superannuation entities and outlined steps they should take before the regime comes into force for them in March 2025.

In light of the severe weather events that took place across Australia in recent years, we issued a letter to general insurers reminding them of their obligations in relation to insurance claims handling. Among other things, insurers are required to communicate transparently with their customers regarding their claims and allocate sufficient resources to their claims handling and dispute resolution functions.

Addressing misconduct in insurance claims handling is a key enforcement priority for ASIC this year.

We are monitoring claims handling through:

- › reports of misconduct made directly to ASIC
- › systemic issues reported by the Australian Financial Complaints Authority (AFCA), and
- › our regular contact with consumer groups assisting people with claims and related disputes.

## Summary of activity

[ASIC and APRA issue joint letter on Financial Accountability Regime commencement and implementation](#) (5 February 2024)

ASIC and APRA issue final rules and further guidance for the Financial Accountability Regime ([24-040MR](#))

ASIC and APRA release a cross-industry information package on the Financial Accountability Regime ([24-044MR](#))

[ASIC letter calls on insurers to improve claims handling practices](#) (6 March 2024)



# We engage with industry to ensure they understand and comply with their new obligations.



Protecting consumers, small businesses and investors



Strengthening financial market integrity



Improving regulatory compliance

Our work to strengthen regulatory compliance by the financial advice industry continued into 2024.

As the requirement for financial advisers to be registered came into effect in February, most financial advisers have been registered with ASIC and are able to legally provide personal advice to retail clients on relevant financial products. We reminded AFS licensees and relevant providers of the importance of complying with their registration obligation on an ongoing basis.

We also released an information sheet to provide guidance to financial advisers and AFS licensees about the experienced provider pathway following changes to the law made by the *Treasury Laws Amendment (2023 Measures No. 3) Act 2023*. The pathway enables financial advisers who have satisfied certain requirements to be deemed as having met the qualifications and professional year standards without needing to undertake further education and training.

Meanwhile, the first financial advisers exam that reflected the amendments in the *Corporations (Relevant Providers—Education and Training Standards) Amendment (2024) Measures No. 1) Determination 2024* took place in March. Of the 298 candidates who sat the exam, 70% passed.

## Summary of activity

[ASIC urges AFS licensees to register their financial advisers and provides a short extension to facilitate compliance](#) (18 January 2024)

[ASIC reaffirms ongoing registration obligation for financial advisers](#) (22 March 2024)

[ASIC releases March 2024 financial adviser exam results](#) (26 April 2024)

[ASIC releases guidance on the experienced provider pathway for financial advisers](#) (22 May 2024)



# Superannuation cold calling

## Deterring cold calling for superannuation switching models

### Case summary

We issued a public warning after a review identified cold calling operators using high-pressure sales tactics and online clickbait advertisements to lure consumers into receiving inappropriate superannuation switching advice.

We published Report 781 *Review of superannuation trustee practices: Protecting members from harmful advice charges* ([REP 781](#)), which set out our key observations from our cross-sector work to deter cold calling for superannuation business models. We called on superannuation trustees to take meaningful steps to protect consumers from harmful advice fee charges, including inappropriate fees originated by cold calling businesses using high-pressure sales tactics.

We also ran a [consumer awareness campaign](#) through ASIC's Moneysmart channels, which encouraged consumers to 'just hang up' when contacted by cold calling operators, and to 'just scroll past' social media clickbait advertisements.

Information Sheet 282 *Unsolicited contact leading to financial advice* ([INFO 282](#)) also outlined how financial services laws apply to unlicensed entities that engage with consumers, leading to financial advice, as well as AFS licensees and financial advisers that receive consumer details obtained through unsolicited contact.

### Why is this important

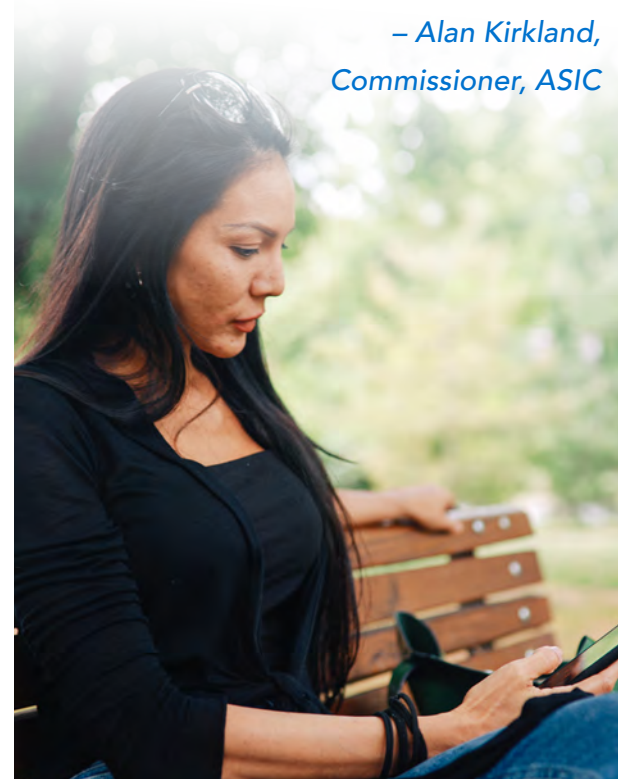
These cold calling operators make unsolicited calls to consumers after obtaining their personal information from third-party data brokers or by using online clickbait. They have lead generation and referral arrangements with a small subset of financial advisers, who typically recommend consumers switch into superannuation products incurring significant fees.

ASIC is concerned some high-pressure, cold calling for superannuation switching business models are providing unnecessary and inappropriate advice leading to poor outcomes for clients. These adverse outcomes range from superannuation erosion due to high fees and charges, to a possible reduction in superannuation savings due to inappropriate investment in high-risk and/or low-quality superannuation investment options.

We are concerned about the fragmented nature of some cold calling business models, particularly deliberate attempts to avoid legal liability or present the illusion of independence to consumers. Our analysis indicates that some business models may be engaging in misleading and deceptive conduct.

*'Deterring cold calling for superannuation switching models is an ASIC priority, and we will continue to take action, including enforcement action, to protect consumers from high pressure, cold calling practices that induce inappropriate superannuation switching.'*

*– Alan Kirkland,  
Commissioner, ASIC*





# Choice superannuation products

ASIC calls on industry to improve oversight of choice product performance and address issues

## Case summary

We called out the risk to retirement outcomes for Australians holding their superannuation in persistently underperforming choice superannuation products in Report 779 *Superannuation and choice products: What focus is there on performance?* ([REP 779](#))

We examined, in relation to performance of choice investment options:

- › the roles of trustees, financial advisers and advice licensees, and
- › product governance practices, including monitoring and decision making about performance issues, disclosures to consumers, and distribution practices.

Specifically, we reviewed these entities' practices in relation to 29 choice investment options and 3 legacy products (products closed to new members) offered by a selection of 10 trustees. Trustees were asked to identify their worst performing options based on performance parameters we provided. These options and legacy products covered both the accumulation and retirement phases. Of the 29 options, 24 options did not meet or exceed the performance benchmark disclosed in the Product Disclosure Statements (PDSs) for five or more years.

We also reviewed 88 advice files across 26 advice licensees, focusing on advice provided about 9 investment options that all persistently failed to meet performance expectations. The review focused on advice related to underperforming options, not overall compliance with the best interests duty and related obligations.

Ultimately, we found there was often insufficient emphasis on and a lack of transparency about choice investment options that failed to meet performance expectations. There was little evidence of trustees communicating to members about investment option performance in a targeted manner, and financial advisers were not always addressing underperformance where relevant.

## Why this is important

Choice products account for over \$1 trillion in superannuation savings held by members, often based on the recommendation of a financial adviser.

Our review confirmed trustees, advice licensees, and advisers should undertake performance-focused due diligence before:

- › offering investment options to members
- › approving options for use by advisers, or
- › recommending options to members.

They also need to take care not to fail in their duties by over-relying on each other or external rating agencies when performing their roles.

*'Australians trust their super funds and financial advisers to ensure they're getting the best possible returns on their super savings. We expect funds and advisers to ensure that trust is not misplaced.'*

*– Simone Constant,  
Commissioner, ASIC*



# Regulatory developments timetable

This timetable outlines proposed timeframes for ASIC regulatory work, such as the publication of draft or final guidance, anticipated making of a legislative instrument or publication of insights arising from thematic surveillances. The timetable excludes enforcement activities.

We publish this timetable every six months. It is a point-in-time summary and is not updated once published. It reflects our best estimation as at the date of publication. These are subject to change and care should be taken in relying on these dates for planning purposes.

As of 12 August 2024

## General

Quarter	Initiative	Expected action
July to September 2024	Remake <a href="#">ASIC Credit (Breach Reporting—Prescribed Commonwealth Legislation) Instrument 2021/801</a> , which expires on 1 October 2024	Remade legislative instrument
July to September 2024	Remake <a href="#">ASIC Corporations and Credit (Breach Reporting—Reportable Situations) Instrument 2021/716</a> , which expires on 5 October 2024	Remade legislative instrument
July to September 2024	Jointly updated with APRA information paper <i>Financial Accountability Regime: Information for accountable entities (RG 279)</i> to provide additional guidance for superannuation and insurance industries	Updated information paper
July to September 2024	Jointly published with APRA the final <a href="#">Regulator rules</a> for the superannuation and insurance industries	Legislative instrument
July to September 2024	Bring ASIC’s relief-related guidance up to date, including: <ul style="list-style-type: none"> <li>› Regulatory Guide 21 <i>How ASIC charges fees for relief applications (RG 21)</i></li> <li>› Regulatory Guide 51 <i>Applications for relief (RG 51)</i></li> <li>› Regulatory Guide 108 <i>No-action letters (RG 108)</i>, and</li> <li>› Regulatory Guide 208 <i>How ASIC charges fees for credit relief applications (RG 208)</i></li> </ul>	Updated regulatory guides
July to September 2024	Publish a report that provides an update on our greenwashing interventions since Report 763 <i>ASIC’s recent greenwashing interventions (REP 763)</i>	Report

Quarter	Initiative	Expected Action
July to September 2024	Publish a report that summarises the findings from our cross-sector surveillance of the reasonable steps obligations under the design and distribution obligations regime	Report
July to September 2024	Update Information Sheet 257 <i>ASIC reference checking and information sharing protocol (INFO 257)</i> to reflect the extension of the reference checking and information sharing protocol for financial advisers and mortgage brokers to licensed mortgage broking intermediaries	Amended legislative instrument and updated information sheet
October to December 2024	Publish findings of the review into the use of AI and advanced data analytics in the financial services and credit industries	Findings
October to December 2024	Publish findings of the review of selected licensees' compliance with the reportable situations obligations	Findings
October to December 2024	<p>Publish new and updated regulatory guides and information sheets in response to the reforms that the <a href="#">Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024</a> makes.</p> <p>This will include a new information sheet on Financial Services Guides (replacing guidance in Section C of Regulatory Guide 175 <i>Licensing: Financial product advisers—Conduct and disclosure (RG 175)</i>), new guidance on ongoing fee arrangements and consents to deduct fees and costs under non-ongoing fee arrangements, and updated guidance in Regulatory Guide 246 <i>Conflicted and other banned remuneration (RG 246)</i></p>	Updated regulatory guides and information sheets
October to December 2024	Publish a report with high-level insights into the trends observed in reports lodged by AFS and credit licensees under the reportable situations regime between 1 July 2023 and 30 June 2024	Report
October to December 2024	Update Information Sheet 225 <i>Crypto-assets (INFO 225)</i> to reflect the evolution of the digital assets landscape	Updated information sheet
October to December 2024	Technical update to Regulatory Guide 274 <i>Product design and distribution obligations (RG 274)</i>	Updated regulatory guide
October to December 2024	<p>Technical updates to:</p> <ul style="list-style-type: none"> <li>› Regulatory Guide 98 <i>ASIC's powers to suspend, cancel and vary AFS licences and make banning orders (RG 98)</i>, and</li> <li>› Regulatory Guide 100 <i>Court enforceable undertakings (RG 100)</i></li> </ul>	Updated regulatory guides
October to December 2024	Update Regulatory Guide 236 <i>Do I need an AFS licence to participate in carbon markets? (RG 236)</i> and Information Sheet 156 <i>Regulated emissions units: Applying for or varying an AFS licence (INFO 156)</i> to reflect the development of safeguard mechanism units	Updated regulatory guide and information sheet

Note: Subject to the passage of legislation, ASIC will provide guidance on:

- › sustainability reporting for large businesses and financial institutions
- › buy now pay later (BNPL) arrangements
- › beneficial ownership, and
- › foreign financial services providers (FFSPs)

## Corporate finance

Nil.

## Credit and banking

Quarter	Initiative	Expected action
July to September 2024	Published Report 785 <i>Better banking for Indigenous consumers</i> ( <a href="#">REP 785</a> ), which summarises the findings from a project that addressed fee harm experienced by low-income customers, including First Nations customers	Report
July to September 2024	Published Report 788 <i>Credit card lending in Australia: Staying in control</i> ( <a href="#">REP 788</a> ), which summarises the findings from our review of credit card lending in Australia, looking at the practices of 13 lenders over 6 years	Report
July to September 2024	Publish a report that summarises the findings from our review of the scam prevention, detection and response practices of a cohort of authorised deposit-taking institutions outside of the four major banks	Report

## Financial advice

Quarter	Initiative	Expected action
July to September 2024	Remake Class Order [ <a href="#">CO 14/923</a> ] <i>Record-keeping obligations for Australian financial services licensees when giving personal advice</i> , which sunsets on 1 October 2024	Remade legislative instrument

## Financial reporting and audit

Quarter	Initiative	Expected action
July to September 2024	<p>Update regulatory guides and information sheets to:</p> <ul style="list-style-type: none"> <li>› include registrable superannuation entities and retail corporate collective investment vehicles (CCIVs) in the classes of entities subject to financial reporting obligations, and</li> <li>› reflect some specific reporting obligations on those entities that have been inserted into corporations and superannuation legislation.</li> </ul> <p>The documents to be updated include:</p> <ul style="list-style-type: none"> <li>› Regulatory Guide 26 <i>Resignation, removal and replacement of auditors</i> (<a href="#">RG 26</a>)</li> <li>› Information Sheet 62 <i>Removal of an auditor of a company</i> (<a href="#">INFO 62</a>)</li> <li>› Information Sheet 64 <i>Resignation and removal of auditors of registered scheme financial report or a compliance plan</i> (<a href="#">INFO 64</a>)</li> <li>› Information Sheet 65 <i>Resignation of an auditor of a public company</i> (<a href="#">INFO 65</a>), and</li> <li>› Information Sheet 136 <i>Complying with your trust account obligations as a credit licensee</i> (<a href="#">INFO 136</a>)</li> </ul>	Updated regulatory guide and information sheets
October to December 2024	Publish a report that sets out the findings from our annual financial reporting and audit surveillance	Report
January 2025 and beyond	<p>Update regulatory guides to include registrable superannuation entities, including:</p> <ul style="list-style-type: none"> <li>› Regulatory Guide 34 <i>Auditor's obligations: Reporting to ASIC</i> (<a href="#">RG 34</a>), and</li> <li>› Regulatory Guide 43 <i>Financial reports and audit relief</i> (<a href="#">RG 43</a>)</li> </ul>	Updated regulatory guides

## Insurance

Quarter	Initiative	Expected action
January 2025 and beyond	Publish a report that sets out the findings from our review of a cohort of general insurers' compliance with selected enforceable paragraphs in Regulatory Guide 271 <i>Internal dispute resolution</i> ( <a href="#">RG 271</a> )	Report

## Investment management

Quarter	Initiative	Expected action
July to September 2024	<p>Made <a href="#">ASIC Corporations (Amendment) Instrument 2024/664</a>, which amended:</p> <ul style="list-style-type: none"> <li>› <a href="#">ASIC Corporations (Periodic Statement Relief for Quoted Securities) Instrument 2024/14</a> to remove the requirement to include specific fund performance information in periodic statements for exchange traded funds and quoted securities, and</li> <li>› <a href="#">ASIC Corporations (Facilitating Electronic Delivery of Financial Service Disclosure) Instrument 2015/647</a> to facilitate the electronic notification of the availability of periodic statements</li> </ul>	Amended legislative instruments

## Market intermediaries and infrastructure

Quarter	Initiative	Expected action
July to September 2024	Publish a report on submissions in response to Consultation Paper 375 <i>Proposed changes to the ASIC Derivative Transaction Rules (Reporting): Third consultation</i> ( <a href="#">CP 375</a> )	Report on submissions
July to September 2024	Update the <a href="#">ASIC Derivative Transaction Rules (Reporting) 2024</a> , after considering the feedback received on <a href="#">CP 375</a>	Updated rules
July to September 2024	Update Regulatory Guide 251 <i>Derivative transaction reporting</i> ( <a href="#">RG 251</a> ), following amendments to the <a href="#">ASIC Derivative Transaction Rules (Reporting) 2024</a>	Updated regulatory guide
July to September 2024	Published Report 787 <i>Review of Australian equity market cleanliness: 1 November 2018 to 30 April 2024</i> ( <a href="#">REP 787</a> ), which sets out the findings of our review of Australian equity market cleanliness between 1 November 2018 and 31 October 2023	Report
July to September 2024	Published Consultation Paper 379 <i>ASIC CS Services Rules</i> ( <a href="#">CP 379</a> ) on proposed clearing and settlement services rules for competition in the clearing and settlement of cash equities (submissions close 10 September 2024)	Consultation paper
October to December 2024	Review, confirm and remake aspects of <a href="#">ASIC Market Integrity Rules (Securities Markets) NSXA and SSX Markets (Operators and Participants) Class Waiver 2022/881</a> , due to expire on 16 November 2024	Remade class waiver



Quarter	Initiative	Expected action
<b>October to December 2024</b>	Consult on proposed amendments to the <a href="#">ASIC Market Integrity Rules (Securities Markets) 2017</a> and <a href="#">ASIC Market Integrity Rules (Futures Markets) 2017</a> to: <ul style="list-style-type: none"> <li>› update rules relating to trading infrastructure, automated order processing (AOP), false or misleading appearances, and</li> <li>› address emerging risks associated with the use of AI and machine learning in algorithmic trading</li> </ul>	Consultation paper
<b>October to December 2024</b>	Subject to consultation, make clearing and settlement services rules for competition in the clearing and settlement of cash equities	Final rules
<b>October to December 2024</b>	Consult on updates to guidance on market operators and participants' arrangements for identifying critical business services and reporting a major event to ASIC. This will involve proposals to update: <ul style="list-style-type: none"> <li>› Regulatory Guide 172 <i>Financial markets: Domestic and overseas operators</i> (<a href="#">RG 172</a>)</li> <li>› Regulatory Guide 265 <i>Guidance on ASIC market integrity rules for participants of securities markets</i> (<a href="#">RG 265</a>), and</li> <li>› Regulatory Guide 266 <i>Guidance on ASIC market integrity rules for participants of futures markets</i> (<a href="#">RG 266</a>)</li> </ul>	Consultation paper
<b>January 2025 and beyond</b>	Subject to consultation, amend the <a href="#">ASIC Market Integrity Rules (Securities Markets) 2017</a> and <a href="#">ASIC Market Integrity Rules (Futures Markets) 2017</a> to: <ul style="list-style-type: none"> <li>› update rules relating to trading infrastructure, AOP, false or misleading appearances, and</li> <li>› address emerging risks associated with the use of AI and machine learning in algorithmic trading</li> </ul> Update corresponding guidance in: <ul style="list-style-type: none"> <li>› <a href="#">RG 172</a></li> <li>› Regulatory Guide 241 <i>Electronic trading</i> (<a href="#">RG 241</a>)</li> <li>› <a href="#">RG 265</a>, and</li> <li>› <a href="#">RG 266</a></li> </ul>	Updated rules and regulatory guides

## Registered liquidators

Quarter	Initiative	Expected action
July to September 2024	Published Report 789 <i>Review of simplified liquidations: 2021–2023</i> ( <a href="#">REP 789</a> ), which sets out the findings from ASIC’s review of simplified liquidations and creditors’ voluntary liquidations to identify similarities or differences in the outcomes experienced between these two populations	Report
July to September 2024	Update Regulatory Guide 258 <i>Registered liquidators: Registration, disciplinary actions and insurance requirements</i> ( <a href="#">RG 258</a> ) after considering feedback received on Consultation Paper 376 <i>Registered liquidators: Registration, ongoing obligation, disciplinary actions and insurance—Updates to RG 258 and supporting documents and templates</i> ( <a href="#">CP 376</a> )	Updated regulatory guide
July to September 2024	Update Regulatory Guide 16 <i>External administrators: Reporting and lodging</i> ( <a href="#">RG 16</a> ) after considering feedback received on Consultation Paper 377 <i>Guidance for reporting by external administrators and controllers: Updates to RG 16</i> ( <a href="#">CP 377</a> )	Updated regulatory guide
July to September 2024	Update Regulatory Guide 217 <i>Duty to prevent insolvent trading: Guide for directors</i> ( <a href="#">RG 217</a> ) after considering feedback received on Consultation Paper 372 <i>Guidance on insolvent trading safe harbour provisions: Update to RG 217</i> ( <a href="#">CP 372</a> )	Updated regulatory guide
October to December 2024	Publish an information sheet about requesting an eligible applicant authorisation	Information sheet
January 2025 and beyond	Consult on a new regulatory guide about ASIC’s power to appoint reviewing liquidators	Consultation paper
January 2025 and beyond	Publish a new regulatory guide about ASIC’s power to appoint reviewing liquidators	Regulatory guide
January 2025 and beyond	Update Regulatory Guide 242 <i>ASIC’s power to wind up abandoned companies</i> ( <a href="#">RG 242</a> ) to include the proposed winding up on public benefit grounds	Updated regulatory guide

## Superannuation

Quarter	Initiative	Expected action
July to September 2024	Publish joint ASIC–APRA update about industry progress on implementing the recommendations of Report 766 <i>Implementation of the retirement income covenant: Findings from the APRA and ASIC thematic review</i> ( <a href="#">REP 766</a> )	Report
July to September 2024	Amend <a href="#">ASIC Corporations (Superannuation Calculators and Retirement Estimates) Instrument 2022/603</a> to reflect the change to the nominal wage growth rate in Treasury's <a href="#">2023 Intergenerational Report</a>	Amended legislative instrument
July to September 2024	Update Regulatory Guide 276 <i>Superannuation forecasts: Calculators and retirement estimates</i> ( <a href="#">RG 276</a> ) to align with changes made to <a href="#">ASIC Corporations (Superannuation Calculators and Retirement Estimates) Instrument 2022/603</a> (see above)	Updated regulatory guide
October to December 2024	Publish a report that summarises the findings from our review of how superannuation fund member services handle death benefits claims	Report
October to December 2024	Publish findings from our review of the scam prevention, detection and response activities of selected superannuation trustees	Findings



**ASIC**  
Australian Securities &  
Investments Commission