ASIC
Australian Securities & Investments Commission

Parliamentary Joint Committee on Corporations and Financial Services

Submission by the Australian Securities and Investments Commission

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Overview

1 The Australian Securities and Investments Commission (ASIC) thanks the Parliamentary Joint Committee on Corporations and Financial Services for the opportunity to provide information ahead of the public hearing on 18 September 2025.

2 Over the past three years, ASIC has undertaken a significant organisational restructure and extensive rebuilding at the Commission and executive level to progress our transformation to a modern, confident and ambitious regulator. The Commission is well-established, and operating with a refreshed senior executive team, including a new CEO. This team is collectively focused on building a digitally enabled and data-informed modern regulator and is bringing a whole of agency focus on the delivery of our objectives.

3 Through this transformation, we have achieved a significant uplift in investigations and strong outcomes across our regulatory functions, including enforcement.

4 This submission provides information requested by the committee relating to:

(a) ASIC's enforcement activity;

(b) the collapse of the Shield and First Guardian schemes (including identifying what regulatory gaps these cases expose; and ASIC's investigations to date);

(c) the operation of the protections for whistleblowers in the Corporations Act and ASIC's activities and resourcing in this space; and

(d) the operation of the Financial Services and Credit Panel (FSCP) since its establishment.

5 We welcome the opportunity to discuss our work in further detail with the Committee at the upcoming hearing.

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A ASIC's enforcement

6 ASIC is one of the most active law enforcement agencies in the country. We are in court almost every day of the week to protect Australians from financial harm and address misconduct. Our enforcement approach is strategic, proactive, and bold.

(a) We align our surveillance and enforcement work to proactively identified priorities. We publish our enforcement priorities annually to enhance transparency, promote compliance, and direct our resources effectively.

(b) We make strategic choices regarding the matters we take on to ensure our work reaches well beyond the matter we are prosecuting. We established a Regulatory Triage Committee with senior leaders across ASIC, including our enforcement, supervisory and intelligence functions, to centralise our approach to selecting matters for enforcement and compliance action.

(c) We are bold in the cases we take on and continue to test the laws Parliament has enacted to ensure they have broad protective application.

7 The transformation of our agency has helped to deliver a 50% increase in investigations, and a nearly 20% increase in new civil enforcement proceedings in the past year.

8 In the first six months of 2025 alone, we commenced:

(a) 132 new investigations, compared to 63 investigations in the same period last year; and

(b) 23 new court actions, compared to 12 new actions in the same period last year.

9 In the same period, secured six criminal convictions and $57.5 million in civil penalties.

10 For further detail, on our enforcement outcomes, see Report 812 *ASIC enforcement and regulatory update: January to June 2025* (REP 812).

11 We value the people and organisations who come to ASIC with reports of potential misconduct or breaches of the law. We value the intelligence we obtain from these reports. Reports of alleged misconduct are one of a number of sources of information that ASIC uses to make strategic choices about the regulatory and enforcement actions it takes. ASIC selects matters consistent with its strategic priorities and where the action will maximise our regulatory impact in reducing harm to consumers and markets.

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12 We are increasingly using the reports we receive and assess to inform our work to combat scams, assist administrators to obtain books and records and gain insights about patterns of misconduct. However, ASIC is not a complaints handling body. Our purpose is not to resolve individual consumer disputes and complaints. Like all regulators, there are finite resources to apply in our regulatory and enforcement work. This means we do not investigate many reports of alleged misconduct that we receive. We do not seek to take enforcement action on a fixed proportion of reports of alleged misconduct that we receive.

13 Before taking enforcement action, ASIC must ascertain the facts and understand the actions of individuals and entities (often involving multiple players complex interconnections). We can only act when we have sufficient evidence of misconduct and we are required to follow due process.

14 ASIC's approach to reports of misconduct and enforcement is set out in the following documents:

(a) Information Sheet 153 *How ASIC deals with reports of misconduct* (INFO 153); and

(b) Information Sheet 151 *ASIC's approach to enforcement* (INFO 151).

15 In August 2025, ASIC for the first time released data on reports of misconduct received from the public. The data covers the period 1 January 2025 to 30 June 2025.

Figure 1: 2025 ASIC enforcement priorities

Source: ASIC enforcement and regulatory update: January to June 2025.

Notable enforcement examples

ANZ

16 In September 2025, ASIC commenced four proceedings in the Federal Court of Australia against ANZ Banking Group Ltd (ANZ), including a proceeding in relation to ANZ's role as joint lead manager and risk manager on an issuance of $14 billion 10-year Australian government treasury bonds conducted on 19 April 2023 by the Australian Office of Financial Management (AOFM).

17 ANZ has admitted to engaging in unconscionable conduct in services it provided to the AOFM while undertaking hedging of ANZ's anticipated interest rate risk accompanying the bond issuance and engaging in misleading or deceptive conduct in relation to its post transaction reporting to the AOFM.

18 ANZ has also admitted to engaging in misleading conduct by incorrectly reporting secondary bond turnover data to the AOFM, by overstating its trading volume in Australian government treasury bonds by tens of billions of dollars over almost two years.

19 ASIC and ANZ will jointly submit to the Federal Court that a combined penalty of $125 million should be imposed on ANZ for the bond issuance and misreporting conduct.

20 At the same time, ASIC commenced three civil penalty actions against ANZ, relating to widespread misconduct in its retail banking operations:

(ii) Making false and misleading statements about its savings interest rates and failing to pay the promised interest rate to tens of thousands of customers, for which ASIC seeks a $40 million penalty;

(iii) Failing to refund fees charged to thousands of dead customers and respond to loved ones trying to deal with deceased estates, within the required timeframes. ASIC is seeking a $35 million penalty for this conduct; and

(iv) Failing to respond to 488 customer hardship notices, in some cases for over two years, and failing to have proper hardship processes in place. ASIC is seeking a $40 million penalty for this conduct.

21 ASIC's actions reflect our serious and ongoing concerns about ANZ's conduct and failure to manage non-financial risk. ASIC and ANZ will ask the Federal Court to impose penalties of $240 million in relation to four separate proceedings spanning misconduct across ANZ's Institutional and Retail divisions. The penalties are subject to consideration and approval by the Federal Court.

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Macquarie

22 ASIC has taken a range of regulatory actions against Macquarie Group. In just over 12 months we have achieved the following, using a range of regulatory tools:

(a) NSW Supreme Court action alleging that Macquarie Securities Australia Limited engaged in misleading conduct by misreporting millions of short sales to the market operator for over 14 years;

(b) imposing additional conditions on the AFS licence of Macquarie Bank Limited after multiple and significant compliance failures;

(c) issuing a record Markets Disciplinary Panel (MDP) fine to Macquarie Bank Limited for failing to prevent suspicious orders being placed on the electricity futures market; and

(d) a $10 million Federal Court penalty for Macquarie Bank's failure to properly monitor its system for third-party fee withdrawals from customer accounts.

23 ASIC's actions reflect our serious and ongoing concerns with longstanding issues at Macquarie, including ineffective supervision, weak compliance and inadequate risk management. The repeated failures across multiple entities points to a broad complacency towards regulatory obligations and a poor compliance culture.

24 As one of the biggest financial services groups in Australia, Macquarie plays a critical role in our market. The Macquarie Group also has a growing global presence in 34 markets. Given its size, scale and importance, Macquarie is subject to enhanced supervision by ASIC. ASIC expects Macquarie to be leading the way; protecting consumers and the integrity of the markets in which they operate.

25 Recent actions by both ASIC and international regulators send a clear message to Macquarie that there needs to be organisational-wide change in its approach to compliance, risk management and governance.

Star Entertainment Group

26 In December 2022, ASIC commenced civil penalty proceedings in the Federal Court against 11 former directors and officers of The Star Entertainment Group Limited (Star) for alleged breaches of their duties under section 180 of the Corporations Act.

27 The trial commenced on 10 February 2025 and concluded on 28 May 2025 with judgment awaited. The proceedings have three separate alleged components:

(a) Between 2017 and 2019, Star's former board members breached their duties by approving the expansion of Star's relationship with

individuals with known criminal associations and failed to make inquiries, including by failing to query management on the risk of Star breaching the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

(b) Matthias Bekier (former Star Managing Director and Chief Executive Officer) and Star executives Paula Martin (former Company Secretary, Chief Risk Officer and General Counsel) and Greg Hawkins (former Chief Casino Officer) breached their duties by not adequately addressing the money laundering risks that arose from dealing with Asian gambling junket 'Suncity' and its funder, as well as continuing to deal with them despite becoming aware of reports of criminal links, and not appropriately escalating these issues to the Board.

(c) Ms Martin and Harry Theodore (former Chief Financial Officer) allowed the making of misleading statements to Star's banker, National Australia Bank, regarding the use of China Union Pay cards (CUP cards) to obfuscate the fact that funds withdrawn using the CUP cards were used for gambling (being in contravention of facility arrangements between Star and NAB, CUP card scheme rules and Chinese government regulations); ASIC also alleges that Ms Martin, Mr Theodore and Mr Bekier failed to report those matters to Star's Board.

28 Prior to the trial, ASIC resolved the proceedings against two of the defendants who admitted liability:

(a) Star's former Chief Casino Officer, Gregory Hawkins, was ordered to pay a penalty of $180,000 and disqualified from managing corporations for 18 months; and

(b) Star's former Chief Financial Officer, Harry Theodore, was ordered to pay a $60,000 penalty and disqualified from managing corporations for nine months.

ASX Group

29 In August 2024, ASIC commenced civil penalty proceedings in the Federal Court against ASX alleging misleading conduct related to representations made about the progress of its CHESS replacement project.

30 ASIC alleges statements made in ASX announcements on 10 February 2022 that the project remained 'on-track for go-live' in April 2023 and was 'progressing well' were misleading.

31 At the time of the announcements, we allege the project was not 'progressing well' or currently tracking to plan and ASX did not have a reasonable basis to imply that the project was on track to meet future milestones.

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(a) On 15 November 2024, ASX filed its response to ASIC's claims denying that the statements made on 10 February 2022 contravened the law.

(b) On 27 May 2025, following an interlocutory hearing held on 11 April 2025, the Court delivered its judgment in relation to an application by ASX challenging legal professional privilege claims made by ASIC over documents responsive to orders for discovery. The Court dismissed ASX's application, and ordered that ASX pay ASIC's costs of the application.

(c) Following case management hearings on 4 June and 3 September 2025 and orders made for the progression of the proceeding, a further case management hearing is listed on 30 September 2025. A trial date is yet to be set by the Court.

Superannuation member services

32 ASIC has a multi-year project underway to improve the delivery of member services by superannuation funds.

33 In March 2025, we conducted a review of death benefit claims processes involving 10 trustees: see Report 806 *Taking ownership of death benefits: How trustees can deliver outcomes Australians deserve* (REP 806). The findings showed a lack of end-to-end claims handling monitoring and systemic failures that caused additional hardship for claimants, including First Nations members. Key issues included excessive delays, inconsistent procedures, and ineffective communication.

34 The report proposes 34 recommendations to improve trustee practices, including better oversight, clearer documentation, enhanced training, and assisting members to make valid nominations.

35 ASIC will review the progress all trustees have made on improving their death benefit claims handling processes later this year to ensure that they are appropriately prioritising the needs of members and their beneficiaries.

36 Phase 2 of our member services project will focus on how trustees learn from the complaints they receive. Information gathering from selected trustees is expected to begin in the first half of the financial year, with findings to be published in 2026.

37 ASIC has taken enforcement action against multiple trustees, including:

(a) Telstra Super in November 2023 for IDR breaches (with a decision pending from the June 2025 hearing);

(b) United Super (Cbus) in November 2024 over claims handling failures;

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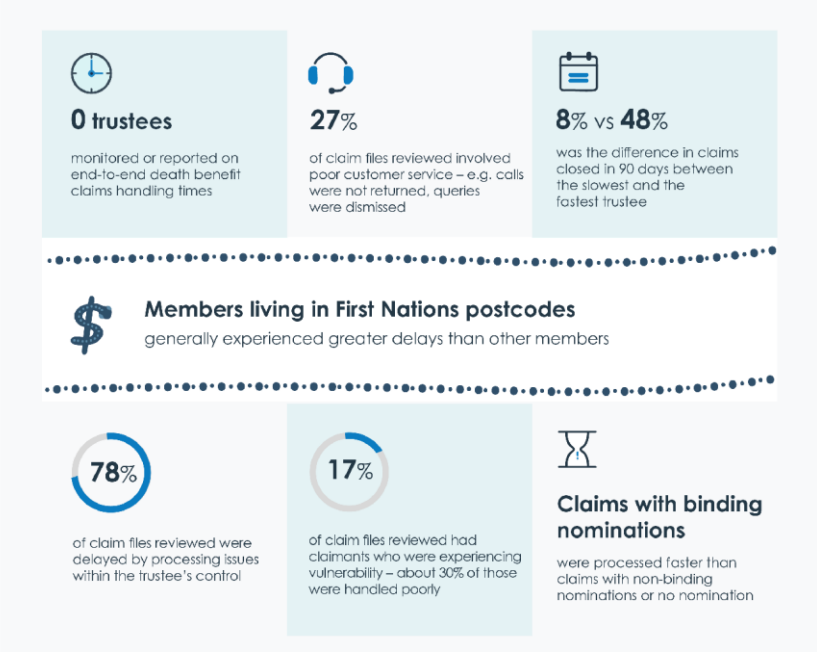
(c) AustralianSuper in March 2025 for delayed processing of death benefit claims; and

(d) Mercer Super in August 2025 for failing to report serious member service issues.

38 AustralianSuper was separately penalised $27 million in February 2025 for failing to merge member accounts.

Figure 2: Member services in superannuation



© ASIC March 2025 | REP 806 Taking ownership of death benefits: How trustees can deliver outcomes Australians deserve

Climate disclosure and greenwashing

39 ASIC is focused on supporting preparers to comply with mandatory sustainability reporting requirements:

(a) We have adopted a pragmatic and proportionate approach to supervision and enforcement and are providing support through engagement, guidance, relief and capacity building.

(b) In March 2025, we published guidance to entities that are required to prepare a sustainability report: see Regulatory Guide 280 *Sustainability reporting* (RG 280).

40 Promoting sound sustainable finance practices continues to be a strategic priority for ASIC. Our continued work this year focused on preventing harms by ensuring that sustainable finance–related products, services and

practices comply with existing laws. As part of our ongoing supervision, ASIC looks to intervene where we see misleading sustainability claims:

(a) ASIC's 2025 enforcement priorities include greenwashing and misleading conduct involving environmental, social and governance (ESG) claims, with a focus on the promotion of financial products.

(b) These interventions support market integrity and are founded on well-established legal obligations that prohibit misleading and deceptive conduct.

41 Through our ongoing surveillance activities, ASIC intervened to prevent harm to investors and consumers where we identified entities making sustainability-related representations that lacked accuracy, were not based on reasonable grounds, or failed to provide sufficient details to be easily understood by investors. These interventions included obtaining corrective disclosures and pursuing civil penalty proceedings for non-compliance with existing laws.

42 Our enforcement action targeting greenwashing conduct resulted in three significant civil penalty outcomes this year, totalling over $30 million in civil penalties and sending a strong deterrent message to the market.

(a) In August 2024, the Federal Court handed down its decision in ASIC's first greenwashing civil penalty case and ordered that Mercer Superannuation (Australia) Limited pay a $11.3 million penalty for making misleading statements on its website.

(b) In September 2024, the Federal Court ordered Vanguard Investments Australia Ltd (Vanguard) to pay a $12.9 million penalty for making misleading claims about ESG exclusionary screens.

(c) In March 2025, the Federal Court imposed a penalty of $10.5 million against LGSS Pty Limited, as trustee of superannuation fund Active Super, for greenwashing misconduct. This followed a finding by the Federal Court in June 2024 that Active Super contravened the law when it invested in various securities that it had claimed were eliminated or restricted by its ESG investment screens.

43 These outcomes also reinforce the messages in our previously released Information Sheet 271 *How to avoid greenwashing when offering or promoting sustainability-related products* (INFO 271).

44 Additionally, there were 14 instances where corrective disclosures in relation to corporate finance transactions were achieved, five significant

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superannuation fund policy and communication disclosures, and a specific corrective disclosure announcement from a listed entity.

Financial hardship

45 ASIC is focused on ensuring financial firms meet their obligations to consumers experiencing financial hardship. Our report on hardship released in May 2024 showed large home loan lenders were failing to adequately support customers experiencing financial hardship (see Report 782 *Hardship, hard to get help: Findings and actions to support customers in financial hardship* (REP 782)). We continue to monitor lender compliance with hardship obligations and provision of adequate support to customers experiencing financial hardship and will publish a short update on our observations since the publication of the report.

46 Financial hardship was also a 2024 enforcement priority for ASIC. We have undertaken four significant court actions in this area.

(a) Three of these involve allegations of failures by Westpac Banking Corporation (Westpac) and National Australia Bank Limited (NAB) (and its subsidiary AFSH Nominees Pty Ltd (AFSH)) and Australia and New Zealand Banking Group Limited (ANZ) to respond to hardship notices within the required timeframes under the National Credit Code. Collectively, this impacted more than 1,000 customers. Many of these customers were in vulnerable circumstances when they applied for their hardship support. This included customers reporting that they were experiencing domestic violence, serious medical conditions, business closures or loss of employment. Both Westpac and NAB admitted these contraventions at hearings before the Court. The Federal Court ordered NAB and AFSH pay a pecuniary penalty of $15.5 million. Judgment has been reserved in the case against Westpac. Civil penalty proceedings were filed against ANZ on 12 September 2025.

(b) On 20 May 2025, ASIC commenced civil penalty proceedings against Resimac Limited (Resimac), alleging contravention of Resimac's obligation as a credit licensee to act efficiently, honestly and fairly between 1 January 2022 and 15 February 2024. ASIC alleges that Resimac adopted a 'one size fits all' approach to hardship applications. Resimac typically requested extensive standard information from vulnerable customers without considering whether all of it was relevant and reasonably necessary in light of their individual circumstances and information the customers had already provided. ASIC also claims that when vulnerable customers did not provide any of the standard information, Resimac summarily rejected their hardship applications. This is the first time ASIC has acted against a credit licensee for alleged failures in its approach to assessing hardship applications. ASIC is seeking declarations, penalties, adverse publicity orders and costs.

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General insurance

47 We have put general insurers on notice regarding failures in claims handling and dealing fairly and in good faith with consumers. Our latest follow-up review on insurance claims handling functions found some improvement, but that further work is required on:

(a) uplifting claims and complaints handling functions;

(b) providing better information to policyholders about cash settlements; and

(c) improving supervision of third parties such as independent experts (e.g. engineers).

(see Home insurance claims handling improvements need to go further, 5 June 2025)

48 Report 802 *Cause for complaint: Complaints handling in general insurance* (REP 802) on internal dispute resolution (IDR) practices highlighted shortcomings in several areas, including the failure to identify complaints and systemic issues, as well as inadequate communications to customers.

49 General insurers have been remediating over $815 million to more than 5.6 million consumers for pricing failures reported to ASIC between January 2018 and July 2023 following ASIC intervention. See Media Release 23-169MR *General insurers to repay consumers $815 million for broken pricing promises* (23 June 2023).

50 Our enforcements actions have reinforced that policyholders must be treated in good faith, charged the correct premium, and get the full benefit of discounts and rewards they are promised.

(a) In April 2025, ASIC commenced court proceedings alleging Hollard Insurance breached its duty of utmost good faith in its handling of a home building and contents insurance claim.

(b) In October 2024, ASIC commenced court proceedings alleging QBE Insurance (Australia) Ltd misled customers about the value of discounts offered on general insurance products.

(c) RACQ was penalised $10 million for misleading customers in its Product Disclosure Statement about pricing discounts for RACQ's Motor, Home, Caravan & Trailer and Unique Vehicle insurance policies.

(d) ASIC has civil penalty proceedings against IAG for misleading customers about loyalty discounts available for certain types of home insurance.

(e) IAL was penalised $40 million over pricing discounting failures.

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Scams

51 Combating scams remains a priority for ASIC. Our efforts form part of the broader, Australian Government cross-agency Fighting Scams agenda. ASIC's approach involves coordinated take-down activity, supervision of financial institutions and their approach to prevention, detection and consumer responses and enforcement action.

52 Between July 2023 and June 2025, ASIC coordinated the take down of more than 14,000 investment scam and phishing websites, including:

(a) 8,330 fake investment platform scams;

(b) 2,465 phishing scam hyperlinks; and

(c) 3,015 cryptocurrency investment scams.

To further protect consumers, ASIC has expanded its scam fighting takedown capability to remove fake financial services social media advertisements that direct consumers to online investment scam sites: see Media Release 25-171MR *Scammers on notice as ASIC steps up action to protect consumers from online investment scams* (21 August 2025).

53 ASIC has examined the way banks and superannuation trustees prevent, detect and respond to consumers who have been scammed resulting in ASIC setting expectations that all financial institutions take steps to improve their approaches.

(a) In April 2023, our review of the anti-scam practices of the major four banks showed banks had inconsistent and narrow approaches to determining liability: see Report 761 *Scam prevention, detection and response by the four major banks* (REP 761).

(b) In August 2024, our review of the anti-scam practices of 15 banks outside the four major banks highlighted where banks needed to improve, particularly in response to poor customer experiences and outcomes: see Media Release 24-182MR *Anti-scam practices of banks outside the four major banks* (20 August 2024).

(c) In December 2024, ASIC commenced civil penalty proceedings against HSBC Australia alleging failure to adequately protect customers from scams: see Media Release 24-280MR *ASIC sues HSBC Australia alleging failures to adequately protect customers from scams* (16 December 2024) (see Case study 1),

(d) In January 2025, we wrote a letter to superannuation trustees urging them to strengthen their anti-scam practices following a review that found none of the reviewed trustees had an organisation-wide scams strategy in place: see ASIC calls out superannuation trustees for weak scam and fraud practices, 30 January 2025.

54 ASIC also supports the work of foreign regulators, including through the IOSCO Asia Pacific Regional Committee (APRC) Working Group on Scams and Online Harms.

Case study 1: Taking action against scams – filing proceedings against HSBC Bank Australia Limited

In December 2024, ASIC filed proceedings against HSBC Bank Australia Limited (HSBC Australia) in the Federal Court. This is the first time ASIC has filed court proceedings alleging that a licensee failed to adequately protect its customers from scams. This work demonstrates ASIC's focus on advancing digital and data resilience and safety to protect consumers from technology-enabled scams.

ASIC alleges that there was a significant escalation in reports of unauthorised transactions by HSBC Australia customers from mid-2023, which often occurred after scammers had obtained access to customer accounts by impersonating HSBC Australia staff. Between January 2020 and August 2024, HSBC received approximately 950 reports of unauthorised transactions, resulting in customer losses of about $23 million. Almost $16 million of this occurred in the six months from October 2023 to March 2024.

ASIC alleges that HSBC Australia failed to have:

- from January 2020, adequate systems and processes to prevent significant, widespread or systemic non-compliance with its obligations to investigate reports of unauthorised transactions within specified timeframes; and adequate systems and processes to promptly reinstate banking services to customers who reported unauthorised transactions
- from 1 January 2023 to 1 June 2024, adequate controls for the prevention and detection of unauthorised payments.

ASIC contends that, as a result, HSBC Australia failed to do all things necessary to ensure that:

- The financial services covered by its Australian financial services licence were provided efficiently, honestly and fairly in contravention of its obligations under section 912A(1)(a) of the Corporations Act.
- The credit activities authorised by its credit licence were engaged in efficiently, honestly and fairly in contravention of its obligations under section 47(1)(a) of the *National Consumer Credit Protection Act 2009*.

ASIC is seeking declarations of contraventions, pecuniary penalties, adverse publicity orders and costs.

See Media Release 24-280MR 'ASIC sues HSBC Australia alleging failures to adequately protect customers from scams', 16 December 2024

Crypto and digital assets

55 There are many potential benefits from blockchain and distributed ledger technology for the financial system. ASIC supports responsible innovation in this area, however, there are also risks that need to be understood and managed.

56 We are working with industry, researchers and government on potential use cases and applications, and are aiming to release our updated guidance package shortly following our consultation on Information Sheet 225 in December last year. See Consultation Paper 381 *Updates to INFO 225: Digital assets: Financial products and services* (CP 381).

57 Our compliance and enforcement work in this area continues to clarify how current laws apply to crypto and digital assets.

58 Sometimes cases show that conduct of concern to ASIC is outside the current law. These cases deal with fundamental questions about the operation of the Corporations Act and have implications beyond crypto assets. For example:

(a) In our action against Bit Trade Pty Ltd, a provider of the Kraken crypto exchange to Australian customers, we argued that in offering a margin lending service for clients investing in crypto and digital assets, the entity contravened the design and distribution obligation (DDO) rules, including the requirement to prepare a target market determination. The case turned on whether lending money to clients to invest in crypto and digital assets was a 'margin loan' under the current law and, therefore, whether DDO consumer protections applied. The court held that lending traditional money (AUD or USD) to invest in crypto did fit within the definition of margin loan — and, as such, that DDO rules applied — but that lending crypto for the same did not.

(b) In our case against Finder Wallet, the Federal Court held that the crypto-asset product in question was not a financial product and therefore that Finder Wallet had not breached the Corporations Act. The Full Federal Court dismissed ASIC's application to appeal the decision.

(c) In our case against Block Earner, the Full Federal Court held that the Earner product was not a financial product. We have received special leave to appeal the Block Earner matter to the High Court (see Case Study 2).

59 These cases highlight the challenges in the current regulatory framework and the application of the existing financial services regime to products involving crypto assets. They reinforce the importance of ASIC's work to provide guidance to the sector, as well as the value of the Government's ongoing law reform work in this area.

Case Study 2: Clarifying how the law applies to crypto and digital assets

From March 2022 to November 2022, Block Earner offered consumers a crypto-asset-related product called 'Earner', which allowed consumers to earn fixed-yield returns from different crypto-assets. ASIC was concerned that Earner was a financial product and that Block Earner should therefore have held an Australian financial services licence or appropriate authorisation. ASIC was concerned that consumers were left without important protections.

In February 2024, the Federal Court held that Earner was a financial product. In June 2024, the Federal Court relieved Block Earner from liability to pay a penalty for contraventions related to unlicensed financial services when it offered the Earner product.

ASIC appealed the 'relief from liability' decision, and Block Earner cross-appealed the 'financial product' decision.

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In April 2025, the Full Federal Court held that the Earner product was not a financial product (and therefore did not need to make a finding on the relief from liability issue).

In September 2025, ASIC received special leave from the High Court to appeal the Full Federal Court's decision. ASIC's appeal seeks to obtain the High Court's ruling on what falls within the definition of financial product and clarify when interest-earning products and products involving a conversion of assets from one form into another are regulated. This clarification is important, as it applies to all financial products and services, whether they involve crypto-assets or not.

See Media Release 25-194MR 'High Court grants ASIC special leave to appeal Block Earner decision', 5 September 2025.

Misconduct exploiting superannuation savings

60 In recent years, ASIC has been increasingly observing a range of concerning conduct that puts people's superannuation funds at risk. As superannuation has grown, we are seeing an increasing number of people considering options such as self-managed superannuation funds (SMSFs) or potentially risking their retirement savings by investing in complex schemes or high-risk products.

61 In May 2024, we published our review into the extent to which superannuation trustees are acting to protect members' superannuation balances from erosion by inappropriate advice charges: see Report 781 *Review of superannuation trustee practices: Protecting members from harmful advice charges* (REP 781). The report also summarises the findings of ASIC's review of trustee progress in this area following a joint letter from ASIC and APRA in June 2021.

62 ASIC has focused heavily on protective measures, including consumer education and warning campaigns calling on Australians to be on red alert for high-pressure sales tactics, clickbait advertising and promises of unrealistic returns. ASIC has also reminded the financial advice sector of its concerns about business models that use high-pressure sales tactics.

(a) In 2023, ASIC commenced a cross-sector project focused on deterring cold calling for superannuation switching business models: see Exposing high-pressure cold calling tactics and social media click-bait leading to superannuation switching, 7 May 2024.

(b) In May 2024, ASIC commenced a public information campaign warning about high-pressure sales tactics and online click-bait advertisements to lure consumers into receiving inappropriate superannuation switching advice: see Media Release 24-092MR *ASIC issues warning over dodgy cold calling operators and online baiting tactics* (7 May 2024).

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(c) As a further protective measure, in June 2025, ASIC commenced another public information campaign to raise awareness for consumers when considering shifting their superannuation into another fund or SMSF that may be connected to high-risk investments: see Media Release 25-120MR *Consumer alert—ASIC warns about pushy sales tactics urging people to make quick superannuation switches* (3 July 2025).

(d) In July 2025, Chair Joe Longo's speech to the FSC Symposium called for a system-wide response to the growing harms from these models. This includes consideration of law reform around:

(i) conflicts of interest;

(ii) gatekeepers; and

(iii) managed investment schemes.

63 Our recent investigations have identified suspected misconduct, including the involvement of lead generators and financial advisers advising consumers to shift superannuation savings into complex, high-risk schemes. Our actions in relation to the Shield and First Guardian schemes are set out in Part B.

64 We have also focused on taking targeted enforcement action against cookie-cutter advice to roll funds into SMSFs and superannuation switching models that result in the inappropriate erosion of superannuation (see Case study 3).

65 Our enforcement action focusing on concerns about superannuation savings has included:

(a) applying to the Federal Court for asset preservation orders and appointment of receivers and liquidators, including in the ongoing matters of Shield, First Guardian and Australian Fiduciaries.

(b) obtaining interim orders from the Federal Court freezing the assets of financial advice licensee United Global Capital Pty Ltd and related property investment company Global Capital Property Fund Limited (GCPF) followed by orders winding up GCPF.

(c) commencing civil proceedings against company director David McWilliams and several of his companies that offered investment opportunities for purpose-built, NDIS-compatible property development schemes across Australia, including ALAMMC Developments Pty Ltd, SDAMF Pty Ltd, Harvey Madison Capital Pty Ltd and Coral Coast Mutual Pty Ltd.

(d) intervening in proceedings resulting in orders appointing receivers to wind up the Private Access Fund and the Real Estate Equity Fund operated by ISG Financial Services Limited (in liquidation).

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Case study 3: Inappropriate cookie-cutter advice, conflicted remuneration and an $11 million penalty

In April 2025, following proceedings brought by ASIC, the Federal Court imposed a penalty of $11.03 million on DOD Bookkeeping Pty Ltd (in liquidation), previously Equiti Financial Services Pty Ltd (Equiti FS) for breaching conflicted remuneration rules and for inappropriate 'cookie-cutter' advice given by its advisers.

ASIC's case concerned $130,250 in bonuses paid to three financial advisers who provided template advice to clients to roll over their superannuation into self-managed super funds and use those funds to buy property through a related entity, Equiti Property Pty Ltd.

The Court found that the bonuses paid to the three advisers, which were paid when the clients settled on property offered through Equiti Property, influenced the advice they provided and also breached conflicted remuneration laws. The Court found that in the case of 12 sample client files, the advice failed to consider each client's individual circumstances or objectives.

ASIC took this action to deter misconduct relating to financial product advice and the deliberate exploitation of superannuation savings. The Court found that there was little or no heed paid to the particular circumstances of the individual clients, they were not given sufficient time to understand the advice given to them, and the advice was focused on manoeuvring them into property purchases through self-managed super funds.

ASIC cancelled Equiti FS's Australian financial services licence on 7 November 2024.

See Media Release 25-063MR 'Financial services provider penalised $11 million over "cookie-cutter" advice and conflicted bonus payments', 24 April 2025.

66 ASIC is working to improve our guidance on superannuation and retirement to better meet the needs of Australian consumers and help them to feel confident and informed about their future (see Case study 4).

Case study 4: Supporting better retirement outcomes through Moneysmart

Moneysmart is a leading source of trusted independent financial information for Australian consumers and investors.

The content and tools on Moneysmart.gov.au help Australians by providing essential information, including on the following topics: budgeting, investing, superannuation, insurance, financial advice, managing debt and avoiding scams.

Moneysmart had wide reach and engagement in the 2024–25 financial year:

- Website: over 11 million users
- Facebook: 198,000 followers
- Instagram: 16,000 followers.

In November 2024, the Treasurer announced new funding for tools, information and ongoing consumer education campaigns over four years to ensure retirees have easy access to independent, reliable information on superannuation and retirement options.

New content was published on Moneysmart in June 2025 and planning is underway for the consumer awareness campaign.

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B The Shield and First Guardian schemes

67 ASIC is focused on doing what we can using our regulatory tools and powers to protect the retirement savings of hard-working Australians from individuals and entities seeking to exploit our growing superannuation pool. ASIC has been actively concerned about super switching conduct both in the lead up to and since super choice began in 2005. We are taking action against practices that encourage people to switch their super into high-risk investments. This alleged misconduct seeks to exploit the large amount of money held in the superannuation system and has resulted in significant losses.

68 ASIC's regulatory role does not involve preventing all consumer losses or ensuring compensation for consumers in all instances where losses arise. Our underpinning statutory objectives, regulatory tools and resources are not intended or able to prevent many of the losses that retail investors and financial consumers will experience. This is true of every financial services regulator.

69 The superannuation sector is a critical part of the financial services industry and the economy more generally, and it is important that consumer trust is maintained in our long-term compulsory retirement savings system.

70 We jointly regulate the superannuation sector with APRA and the ATO. While we cannot (and should not) eliminate investment risk from the financial system, consumers have a reasonable expectation that their money is relatively safe when invested in APRA regulated superannuation funds.

71 We are working with APRA and the Government to make the system safer for consumers, particularly for those who invested through an APRA regulated superannuation fund.

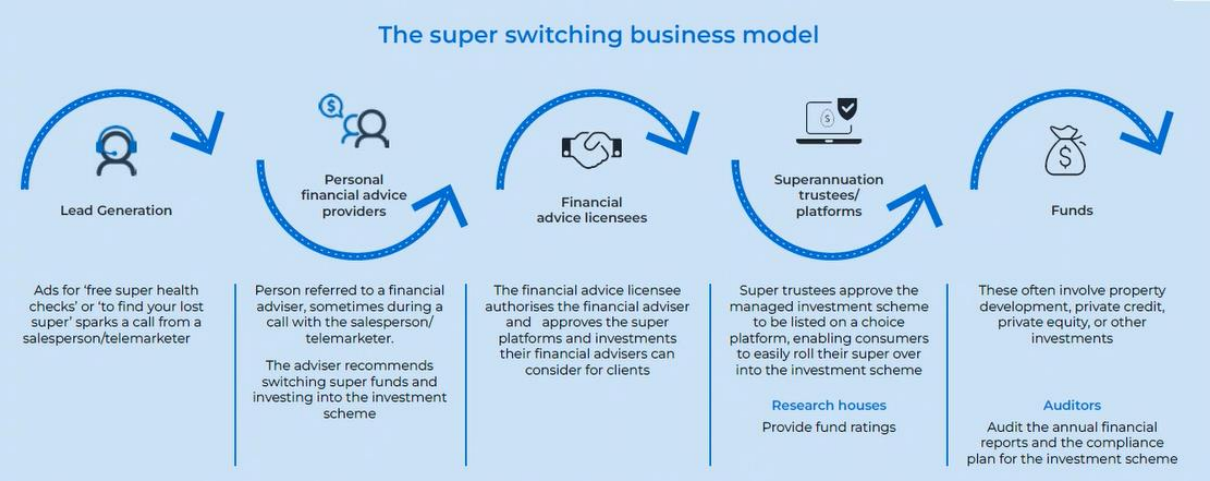
Overview of high-risk superannuation switching business model

72 Over the past 2 years ASIC has become increasingly concerned with what appears to be a significant increase in unscrupulous business models, on an industrial scale, that deprive people of their superannuation savings.

73 This issue remains a priority for ASIC. In addition to our ongoing enforcement action, we are focused heavily on protective measures, including issuing guidance to consumers and industry, carrying out surveillance, and publishing warnings and alerts (see Part A).

74 The business model we have seen tends to involve an initial advertisement on social media or online, inviting consumers to 'check their super' or 'find

lost super'. Consumers register their contact details, and a lead generator (telemarketer) calls them to obtain information and connects them to a financial adviser. The adviser then recommends the consumer roll their superannuation into a regulated super fund (usually a super choice platform) and then select an option like Shield or First Guardian from the superannuation fund's investment menu. In some cases, the consumer is instead advised to establish an SMSF, roll their superannuation into the SMSF and then invest in an investment like Shield or First Guardian through the SMSF.



Timeline and investigations

75 Since early 2023, we have been inquiring into and investigating a range of entities and individuals we allege have been engaged in unscrupulous superannuation switching conduct.

76 ASIC has ongoing investigations in relation to the First Guardian Master Fund (First Guardian) and Shield Master Fund (Shield).

(a) In June 2024, we took court action against Keystone Asset Management Ltd (Keystone) due to concerns relating to the possible mishandling of significant superannuation monies invested in Shield.

(b) In February 2025, ASIC took court action against Falcon Capital Limited due to concerns about the operation and management of First Guardian.

77 Across the two funds, over 11,000 consumers have invested approximately $1.1 billion through superannuation platforms, with liquidator reports

indicating significant funds have been dissipated. Both funds are now in the process of being wound up.

78 Our ongoing investigations into these matters are complex. They include numerous lines of inquiry into the conduct of a large number of entities and individuals including lead generators, financial advisers, advice licensees, superannuation trustees, the research house, auditors and the managed investment schemes.

79 So far ASIC has had more than 45 court appearances related to Shield and First Guardian and more than 40 staff working on the connected investigations.

80 ASIC's first priority has been to preserve any remaining assets of the schemes to the extent they are available, so they can be recovered for investors.

(a) We have issued stop orders to prevent ongoing harm, executed search warrants with the Australian Federal Police, appointed receivers and liquidators, frozen assets, obtained travel restraints, cancelled financial services licenses and banned financial advisers.

(b) We expect further enforcement action imminently and are actively exploring avenues for compensation for victims.

81 ASIC is limited in what it can share publicly until further proceedings are in court.

82 A high level chronology of these matters can be found in Appendix 1.

ASIC's role in the financial services regulatory regime

83 ASIC jointly regulates the superannuation sector with APRA and the ATO. ASIC is the conduct regulator and APRA is the prudential regulator for the superannuation sector. The ATO is the primary regulator in relation to self-managed superannuation funds (SMSFs). Superannuation trustees also have important reporting and administrative obligations to the ATO. ASIC has a memorandum of understanding in place with both APRA and the ATO to help facilitate the exchange of information between the regulators.

84 As the financial services regulator, ASIC has the function of monitoring and promoting market integrity and consumer protection in relation to the Australian financial system. We administer the Australian financial services (AFS) licensing regime and conduct risk-based surveillance of financial services businesses to ensure that they operate efficiently, honestly and fairly. We also exercise the powers given to us by Parliament to exempt and modify the law, register new managed investment schemes, provide

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guidance to consumers and industry, and take enforcement action where appropriate

85 However, Australia's regulatory framework is not a "merit-based" system—it does not assess the quality or safety of financial products. Instead, it focuses on ensuring transparency in the sales process and the conduct of intermediaries.

86 This approach reflects a deliberate policy choice in the regulatory settings within which ASIC must operate. These settings allow a wide range of financial products, including high-risk and speculative investments, to be offered to retail investors, provided there is adequate disclosure and the product is operated by a licensed entity. This openness supports innovation and consumer choice, but it also means that risk is an inherent feature of the system. ASIC's role is not to eliminate risk, but to ensure that consumers are informed and that misconduct is addressed.

ASIC can only act when we have sufficient evidence

87 While ASIC understands the public interest in swift regulatory intervention, it is bound by legal and procedural requirements.

88 ASIC must gather sufficient evidence and is required to follow due process before it can take action, whether that's issuing stop orders, suspending licences, or initiating court proceedings. Sometimes this means our responses are not as timely as the public may like them to be.

89 This due process is essential to ensure that enforcement actions are lawful, proportionate, and effective. It also ensures that appropriate considerations are taken into account, including the possibility that ASIC's intervention itself can destabilise a business and risk the collapse of an investment scheme.

90 In practice, this means that ASIC cannot act on suspicion or anecdotal reports alone. It must assess the credibility of information, prioritise cases based on risk and harm, and allocate resources accordingly. This can result in delays that may be frustrating to investors, but they are necessary to uphold the integrity of the regulatory process.

91 Decisions to take enforcement action can occur at various times during an investigation, and it is often appropriate to undertake multiple enforcement or administrative actions in a matter, sometimes at the same time.

92 This can be a complex task. We apply our expertise and judgement to assess the evidence (which can be voluminous), the benefits and risks of available enforcement actions, the available resources and the necessary priorities.

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93 A matter may involve multiple entities and individuals, and different enforcement options may arise or be dismissed as evidence is gathered. We evaluate possible enforcement actions at the outset of an investigation, and continue to make assessments iteratively as the investigation progresses.

94 Ultimately, the specific actions we pursue will depend on the laws that govern the particular misconduct, the sufficiency of evidence available to us, and our regulatory priorities and objectives.

Regulatory and systemic weaknesses

95 It is a sad reality that bad actors are attracted to the large amount of money held in the superannuation system. While choice and risk are inherent features of superannuation and investment in Australia, we have observed there are areas of weakness in the system:

(a) lead generators and associated financial advisers

(b) super switching practices

(c) duties of superannuation trustees

(d) regulation of managed investment schemes.

96 Some of these areas of weakness have been highlighted by changes in the operating environment, including the growth of superannuation savings, and the use of technology and social media which have enabled business models to achieve rapid growth.

Lead generators and associated financial advisers

97 While some parties involved in encouraging consumers to switch their superannuation are covered by the financial services regulatory regime, others are not.

98 Some lead generators and telemarketers told us they relied on legal advice that their activities were outside the regulatory framework.

99 It is compulsory for Australians to save for their retirement through the superannuation system. The vast majority of people doing so are not financial experts. They rely heavily on the professionals in this system to manage their money well.

100 There are currently no anti-avoidance provisions which ensure that all activity that encourages superannuation switching is within the regulatory regime. For example, activity to induce, encourage, advertise or take other preparatory steps towards getting a consumer to switch their superannuation to a new fund.

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Super switching practices

101 Superannuation switching has been deliberately made easy to facilitate consumer choice and competition. Under Regulation 6.34A(2) of the *Superannuation Industry (Supervision) Regulations 1994* (Cth), superannuation trustees must process rollover requests no later than 3 business days after receiving a request with all the required information.

102 We have seen some examples of consumers pressured to switch their superannuation as part of a lengthy phone call with both a telemarketer and financial adviser. Such pressure selling in relation to someone's retirement savings is unethical and unfair.

103 There is currently no general unfair trading practice laws that would apply to such conduct in the financial services sector. This issue has been considered in the Treasury's 2024 consultation on unfair trading practices, and ASIC's submission to that consultation.

Duties of superannuation trustees

104 Superannuation trustees have obligations regarding investment due diligence under the Superannuation Industry (Supervision) Act 1993,, the Corporations Act and APRA prudential standards.

105 ASIC has recently commenced landmark court action against Equity Trustees Superannuation Limited (Equity Trustees), alleging failures in its due diligence concerning the Shield Master Fund. ASIC alleges that Equity Trustees' process to onboard the Shield Master Fund onto its investment menu and its approach to ongoing monitoring of the fund were inadequate and failed to meet the standards expected of a superannuation trustee under the current law.

Regulation of managed investment schemes and data

106 There are a range of limitations in the framework that applies to managed investment schemes, including in retail client protection and transparency.

107 These issues have been considered by a range of inquiries following large scheme collapses. See for example Treasury's Review of the regulatory framework for Managed Investment Schemes.

108 Prior to being made available to retail consumers, managed investment schemes are required to be registered with ASIC. In ASIC's submission to Treasury's review, we made the observation that the current scheme registration process is of limited effectiveness. While assessment of scheme constitutions and compliance plans can result in improvements to these documents, we have not observed a clear link between the quality of scheme documents and the governance and compliance practices of the responsible

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entity. Given a responsible entity may amend scheme documents at any time after registration, the requirement for ASIC to assess scheme constitutions and compliance plans does not ensure a material reduction in consumer harm.

109 We also observed that the registration of schemes in Australia has been misunderstood by some investors to mean that ASIC has scrutinised or endorsed the merits of the scheme's investment strategy, which is not the case.

110 ASIC's data collection powers could be strengthened to align with regulators in other jurisdictions, including the SEC, FCA, ESMA in the EU, and the FMA in New Zealand. These regulators are all empowered to collect data on managed funds for use by the regulator, industry and consumers.

111 We have recommended introducing a legislative framework for the recurrent collection of data on managed investment schemes, including unregistered schemes. Our recent work on public and private markets has also identified the scarcity of recurrent data on managed investment schemes as a risk.

International perspectives

112 In recent years in many countries, financial services regulation has moved to more actively influence the quality of financial services and products provided to retail investors and financial consumers. Following the 2014 Financial System Inquiry (Murray Inquiry) and the recent Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission), the Government legislated product intervention powers and the design and distribution obligations.

113 As noted in the final report of the Parliamentary Joint Committee on Corporations and Financial Services 'Inquiry into financial products and services in Australia' (2009) (quoting from ASIC's submission):

> Consistent with the economic philosophy underlying the FSR regime, ASIC does not take action on the basis of commercially flawed business models. A significant feature of the recent collapses leading to investor losses, is flawed business models, that is, models that could only prosper if asset prices continually rose and debt markets remained open and liquid. Responsibility for flawed business models lies with management and the board.

114 The Australian managed investment scheme regime is relatively open and liberal by international standards. Provided that an appropriately licensed entity operates the scheme and adequate disclosure is made of the nature, benefits and risks of the scheme, almost any type of collective investment

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can be sold to Australian retail clients. Schemes that are novel, risky, illiquid, leveraged or speculative can be registered and sold in Australia.

115 In contrast, some peer jurisdictions do not permit higher risk, less liquid schemes based on unconventional underlying assets (e.g. certain real estate, timber and other agricultural products) for retail investors (e.g. United Kingdom and European Union).

C Whistleblower protections

116 Whistleblowers play an important role to identify and call out misconduct and breaches of the law, including the laws administered and enforced by ASIC. This can be where a company or its managers or employees commit fraud, rip people off or cause harm to others.

117 ASIC enforces the whistleblower protection provisions in the Corporations Act 2001 and is responsible for investigating and bringing enforcement action against alleged breaches of the offence and civil penalty provisions on causing or threatening a whistleblower with detriment or breaches of a whistleblower's confidentiality.

118 ASIC assists and supports whistleblowers who report misconduct by providing information to help people understand their rights and protections.

119 We recently updated our mandatory training and resources to uplift how we communicate with whistleblowers and have engaged a specialist whistleblower liaison officer with clinical skills.

Protections for whistleblowers in the Corporations Act

120 It is against the law for a person to reveal the identity of a whistleblower unless they agree or it is done when referring their report to ASIC, APRA or the Australian Federal Police. However, a company or person may disclose information that could identify a whistleblower if it is for the purpose of investigating their report and they have taken steps to reduce the risk that the whistleblower will be identified.

121 It is also against the law for a person to cause detriment, harm or threaten a whistleblower for reporting misconduct or because they suspect the person has reported or may report misconduct. For example:

(a) an employer cannot sack, demote, discriminate against, or harass or intimidate a whistleblower because they reported misconduct or if an employer suspects that they have

(b) as a supplier or a contractor to a company, the company cannot threaten a whistleblower's contract or business arrangements because they reported misconduct or if it suspects that they have

(c) a whistleblower can seek compensation, to be reinstated, or other remedies through the courts and can also report their actions to ASIC. It is noted that ASIC is not responsible for bringing claims for compensation on behalf of individuals.

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122 People cannot take legal action against a whistleblower because they reported misconduct. For example:

(a) a company cannot enforce a non-disclosure clause in a whistleblower's employment contract or in a settlement of an employment dispute to prevent them from reporting misconduct and a whistleblower cannot be stopped from speaking up about suspected misconduct, including to ASIC or APRA

(b) a whistleblower cannot be charged with a criminal offence for reporting misconduct, and

(c) a person or company cannot bring civil proceedings against a whistleblower because of their report.

123 The whistleblower laws do not give a whistleblower immunity if they were involved in the misconduct reported. However, their report cannot be used against them.

124 The whistleblower laws also:

(a) create civil penalty provisions, in addition to the existing criminal offences, for causing or threatening detriment to (or victimising) a whistleblower and for breaching a whistleblower's confidentiality

(b) give protections for whistleblowers in limited circumstances if they disclose to a journalist or parliamentarian after they have reported to ASIC or APRA their concerns about

(i) substantial and imminent danger to the health or safety of one or more people or to the natural environment or

(ii) matters in the public interest after 90 days

(c) provide whistleblowers with easier access to compensation and remedies if they suffer detriment, including protections from costs orders unless a court finds the claim to be vexatious or the whistleblower acted unreasonably, and

(d) require all public companies, large proprietary companies, and corporate trustees of registrable superannuation entities to have a whistleblower policy from 1 January 2020. At a minimum, whistleblower policies must describe the legal protections, explain the process within the company for how a whistleblower can report misconduct, and explain how the company will support and protect whistleblowers and investigate their concerns

(e) protects the confidentiality of a whistleblower by allowing ASIC and others to resist production of documents to a court or tribunal if the documents would reveal the identity of a whistleblower; and

(f) provide whistleblowers with easier access to compensation and remedies if they suffer detriment, including protections from costs

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orders unless a court finds the claim to be vexatious or the whistleblower acted unreasonably.

ASIC's handling of reports of misconduct from whistleblowers

125 When ASIC receives a report of misconduct from a whistleblower, we conduct an initial assessment of all reports of misconduct and determine whether further consideration of concerns raised in those reports is required.

126 We assist and support whistleblowers who report misconduct by providing publicly available information to help people understand:

(a) who is a whistleblower under the law

(b) how a whistleblower can access the legal rights and protections

(c) what protections are available to whistleblowers under the law

(d) when whistleblower protections may not be available, and

(e) what further steps whistleblowers can take to seek legal advice or support for their circumstances.

127 We provide the following information sheets (also available on our website) to whistleblowers who report misconduct to us:

(a) Information Sheet 238 *Whistleblower rights and protections* (INFO 238)

(b) Information Sheet 239 *How ASIC handles whistleblower reports* (INFO239)

128 ASIC operates an Office of the Whistleblower, which oversees:

(a) ASIC's whistleblower handling processes

(b) the training of ASIC Whistleblower Liaison Officers who are embedded in ASIC's operational teams to assist with communicating with whistleblowers

(c) ASIC teams' compliance with ASIC's policy on communicating with whistleblowers and other reporters of misconduct. The main requirement is that, at a minimum, ASIC's investigation and regulatory and supervision teams must communicate with the whistleblower at least once every 4 months during the inquiries into the concerns that the whistleblower raised with ASIC.

129 We recently updated our mandatory training and resources to uplift how we communicate with whistleblowers and have engaged a specialist whistleblower liaison officer with clinical skills. The Whistleblower and Witness Liaison Senior Specialist:

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(a) provides support to case officers dealing with whistleblowers and witnesses

(b) offers specific guidance and training to ASIC staff

(c) helps manage whistleblowers from a clinical lens and coordinates support for those with more complex needs.

Monitoring compliance with the whistleblower protection regime

130 ASIC monitors how companies and other regulated entities are complying with the whistleblower protection provisions, using regulatory tools such as stakeholder engagement, thematic reviews, reactive surveillances, and policy development.

131 We have conducted two thematic reviews as part of ASIC's staged approach to implementing the reforms to whistleblower protection regime in the Corporations Act. These reviews were intended to raise awareness of the reforms, assess compliance with the new legal requirements, and provide feedback to the corporate sector to improve the protection of whistleblowers and the handling of whistleblower disclosures.

132 This year we are conducting a review to benchmark the whistleblower programs of a large sample of companies and their compliance with the whistleblower protection provisions in the Corporations Act. ASIC intends to publish the findings from our benchmarking review later in the year.

133 Our review conducted in 2020-21 involved an analysis of 102 whistleblower policies. The review found that, while some policies addressed the legal requirements, the majority of policies appeared not to include all the information required by the Corporations Act. Following this work, ASIC issued an open letter to chief executive officers calling on companies to review their whistleblower policies to ensure they:

(a) clearly articulate how a person can make a disclosure that qualifies for the legal protections for whistleblowers, including to whom

(b) carefully update their whistleblower policy to reflect the whistleblower protection regime that started on 1 July 2019, and

(c) accurately describe the legal rights and remedies whistleblowers can rely on if they make a qualifying disclosure.

See Media Release 21-267MR *ASIC calls on Australian CEOs to review whistleblower policies* (13 October 2021).

134 In 2021-22, ASIC conducted a review of whistleblower programs from a sample of seven firms, looking into the firms' arrangements for:

(a) handling and using information from whistleblower disclosures

(b) the level of executive and board oversight of those arrangements, and

(c) the extent to which firms had followed ASIC's guidance materials.

135 Our Report 758 *Good practices for handling whistleblower disclosures* (REP758) summarised our findings from the review, showing that firms with stronger programs:

(a) established a strong foundation for the program—for example, through procedures and systems to embed the program's requirements

(b) fostered a culture and practices to support whistleblowers

(c) informed and trained those involved in receiving or handling disclosures about protecting whistleblowers and treating material confidentially

(d) monitored, reviewed, and improved the program, including seeking feedback from whistleblowers

(e) used information from disclosures to address underlying harms and improve company performance

(f) embedded senior executive accountability for the program, and

(g) created frameworks to entrench effective director oversight.

Enforcement and compliance

136 We investigate alleged whistleblower victimisation, breach of confidentiality, and other issues that a whistleblower has reported to ASIC.

137 We are unable to comment on our assessments of, or investigations into, whistleblower disclosures, due to the strong confidentiality protections provided to whistleblowers.

138 In 2023, ASIC brought proceedings against TerraCom for breaching the anti-victimisation provisions in relation to an employee who had alleged in mid-2019 that the company and certain of its officers and employees colluded with a coal testing laboratory to falsify certificates of analysis of coal exported by TerraCom.

(a) TerraCom Limited is an ASX-listed resource company. It operates the Blair Athol coal mine in Clermont Queensland, as well as having operations in South Africa.

(b) Following the allegations, TerraCom terminated the whistleblower's employment

(c) ASIC's case concerned two ASX announcements made by TerraCom on 14 February 2020 and 3 April 2020, and an open letter it published to shareholders in the *Australian Financial Review* and *The Australian* on 12 March 2020. The announcements and open letter stated that

allegations made by the whistleblower were false, and that TerraCom had the conduct of its employees independently investigated.

(d) TerraCom admitted that those announcements caused detriment to the whistleblower in the form of hurt, humiliation, distress and embarrassment. It admitted they damaged his reputation by representing him as someone willing to make unfounded accusations for personal gain in circumstances where an independent investigation at least partially supported his allegations

(e) On 26 August 2025, the Federal Court of Australia handed down a penalty decision, ordering TerraCom to pay a $7.5 million penalty and an additional $1 million in ASIC's legal costs.

(f) The action against TerraCom marked the first time ASIC had commenced proceedings against a company and individuals for alleged breaches of the whistleblower protection provisions.

D Financial Services and Credit Panel (FSCP)

139 The FSCP is a pool of industry participants, appointed by the responsible Minister, that ASIC draws upon when forming individual sitting disciplinary panels to addresses misconduct by financial advisers in Australia.

140 The FSCP was given statutory functions and powers in response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. The *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021* (the Better Advice Act) expanded the operation of ASIC's Financial Services and Credit Panel (FSCP) to be the single disciplinary body for financial advisers from 1 January 2022.

Operation of the FSCP

141 ASIC is responsible for convening individual panels to consider financial adviser disciplinary matters. The FSCP acts separately from, but alongside, ASIC's own administrative decision-making processes, and has a range of powers that enable it to consider and respond to a range of misconduct by financial advisers. Each sitting panel of the FSCP comprises an ASIC staff member and two industry participants who are drawn from a pool of 24 ministerial appointees.

142 As at 8 September 2025, ASIC has convened 40 sitting panels of the FSCP. During 2024–25, 15 sitting panels were convened, and the FSCP made 17 decisions, some of which were made by sitting panels convened in the previous financial year.

143 We publish a summary of the FSCP's decisions and a brief explanation of the background to each sitting panel's decision on the FSCP Outcomes Register on ASIC's website.

144 ASIC has released guidance regarding the FSCP, including:

(a) Regulatory Guide 263 *Financial Services and Credit Panel* (RG 263)

(b) Information sheet 273 *FSCP decisions: Your rights* (INFO 273)

(c) Report 734 *Response to submissions on CP 359 Update to RG 263 Financial Services and Credit Panel* (REP 734).

145 Examples of the types of matters considered by the FSCP include:

(a) An adviser receiving superannuation cold-calling referrals and subsequently giving inappropriate superannuation switching advice

(b) A financial adviser who was a current insolvent under administration

(c) Inappropriate scoping of advice impacting the quality of the advice

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(d) Failure to comply with the continuing professional development requirements

(e) Superannuation advice which caused clients to breach the non-concessional contribution cap

(f) An adviser holding out that the advice was within authority when it was not

(g) Failure to provide an advice document and disclose lost benefits to a client.

Figure 3: FSCP outcomes in 2024–25 and total since inception

Financial Services and Credit Panel outcomes	FY24/25	Total since inception
Registration Prohibition Orders issued	1	3
Registration suspension order	1	1
Directions issued	6	14
Reprimands issued	5	9
Warnings issued	1	2

Case study 5: FSCP decision to give a registration prohibition order

Following an ASIC investigation, in September 2024, ASIC convened a sitting panel of the FSCP to consider Mr Meilak's financial advice given to two retail clients. Mr Meilak's advice recommended both clients set up a self-managed superannuation fund (SMSF). ASIC was concerned with Mr Meilak's advice recommending SMSF establishment.

After considering the information provided by ASIC the panel prepared a proposed action notice (PAN) to give to Mr Meilak which set out the alleged contraventions and the panel's proposed action of a two year registration prohibition order. In October 2024, Mr Meilak was given the PAN and an opportunity to make written submissions or attend a hearing before the panel.

Initially Mr Meilak requested a hearing to provide submissions to the panel. However, in late January 2025 Mr Meilak's solicitors advised the panel that Mr Meilak would accept the proposed 2-year deregistration.

On 5 February 2025, the panel made a registration prohibition order under s921(K)(1)(d) and under s921L(1)(c) of the Corporations Act 2001 cancelling Mr Meilak's registration as a relevant provider from 10 February 2025 until after 10 February 2027.

The panel considered Mr Meilak exhibited conduct that was systemic, displayed a lack of care and a level of incompetence in providing the advice to his clients. The panel reasonably believed that Mr Meilak had contravened the best interest duty, the appropriate advice obligation, failed to prioritise his clients' interest over his own and made misleading statements. In addition, the Sitting Panel found that Mr Meilak had not complied with the values of competence and fairness and Standards 1, 5 and 9 in the Code of Ethics.

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Appendix 1

High level chronology – Shield Master Fund and First Guardian Master Fund

2006
- Falcon Capital registered, obtained AFS licence

2016
- Keystone Asset Management registered

2017
- Keystone Asset Management obtained AFS licence

2019
- First Guardian Master Fund registered (Falcon as the responsible entity)

2020
- Reports of misconduct received about selling practices of various funds, including First Guardian.
- **ASIC takes a range of action with respect to lead generation and cold calling misconduct between 2020 and 2025, commencing with cancelling the licence of Smart Solutions Group**

2021
- Shield Master Fund registered (Keystone as the responsible entity)
- **ASIC commences Hutchinson investigation (alleged mis-selling of First Guardian Master Fund)**

2022
- **Hutchinson banned**
- Reports of misconduct received about selling practices relating to Shield Master Fund
- Shield Master Fund starts receiving investor funds (April 2022)

2023
- **Thematic (sector-wide) cold calling project commenced**
- Report of misconduct received about the Shield Master Fund itself.
- **ASIC commences preliminary investigatiion into Shield Master Fund (April 2023)**
- **ASIC issues notice to Macquarie in relation to Shield Master Fund (May 2023)**
- Macquarie offboards Shield Master Fund (June 2023)
- Equity Trustees Superannuation Limited (ETSL) lodges reportable situation with ASIC in relation to Venture Egg (financial advice firm) with no reference to Shield or First Guardian (November 2023)
- **ASIC commences Section 13 investigation into Shield Master Fund (November 2023)**

2024
- ETSL offboards Shield Master Fund (January 2024)
- **ASIC commences preliminary investigation into the First Guardian Master Fund (February 2024)**
- **ASIC issues stop orders on product disclosure statements for the Shield Master Fund (February 2024)**
- **ASIC issues warning over dodgy cold calling operators and online baiting tactics**

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Appendix 1 continued

High level chronology – Shield Master Fund and First Guardian Master Fund

2024

- First Guardian Master Fund suspends applications and withdrawals from First Guardian subject to some limited exceptions (May 2024)
- ASIC obtains interim orders from the Federal Court freezing assets of the Shield Master Fund. Mr Chiodo (director of Keystone) provides an undertaking to the Court re international travel. (June 2024)
- ASIC cancels AFS licence of United Global Capital Pty Ltd (UGC) and banned its director (July 2024)
- ASIC obtains orders appointing Mr Tracy and Ms Palaghia of Deloitte as receivers and managers of the property of Keystone (August 2024)
- ASIC commences Section 13 investigation into First Guardian Master Fund (September 2024)
- ASIC cancels the AFS licence of Next Generation Advice Pty Ltd (October 2024)
- Liquidators appointed to Shield Master Fund (December 2024)

2025

- ASIC undertakes 3 day search warrent operation with the AFP. (Feb 2025)
- ASIC obtains orders freezing the assets of First Guardian and Mr David Anderson, a director of Falcon (Feb 2025)
- ASIC obtains interim orders freezing certain assets of Melbourne-based financial adviser Ferras Merhi and Osama Saad (director of Aus Super Compare and Atlas Marketing) (Feb 2025)
- ASIC obtains orders freezing assets of Rashid Alshakshir relating to marketing services (including lead generation) (March 2025)
- ASIC obtains orders for Falcon Capital and the First Guardian Master Fund to be wound up (April 2025)
- ASIC cancels AFS licence of Financial Services Group Australia and permanently bans its responsible manager (June 2025)
- ASIC bans four financial advisers of MWL in relation to financial advice provided on Shield (June-July 2025).
- ASIC launches investor warning campaign (July 2025)
- ASIC secures travel restraint against David Anderson and Simon Selimaj (directors of First Guardian) and asset freezing orders against Simon Selimaj (July 2025).
- ASIC commences action against ETSL in relation to alleged due diligence failures (August 2025)
- ASIC cancels AFS licence of MWL Financial Services Pty Ltd and bans MWL's director and compliance manager and responsible manager (August 2025)
- ASIC expands action against Ferras Merhi seeking injunctions prohibiting Mr Merhi from any involvement in a financial services business, the appointment of a receiver to Mr Merhi's personal property, and provisional liquidators to his associated companies (August 2025)

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