

6

Appendices

Appendix 1: ASIC–APRA engagement	174
Appendix 2: ASIC’s governance and operations	176
Appendix 3: Entity resource statement and expenses by outcome	191
Appendix 4: Staffing	194
Appendix 5: Information relating to assessments of misconduct and other reports	206
Appendix 6: Statements required by law	212
Appendix 7: Ecologically sustainable development	221
Appendix 8: Procurement, contracts and expenditure on advertising	224
Appendix 9: Australian Financial Complaints Authority	229
Appendix 10: Five-year summary of key stakeholder data	231

Appendix 1: ASIC–APRA engagement

Public Statement on ASIC-APRA Engagement 2022–23

Often referred to as the “twin peak” regulators for the Australian financial system, APRA and ASIC have a longstanding commitment to work together to promote the financial interests of Australians, in line with their respective mandates.

ASIC and APRA have complementary and mutually reinforcing roles. As Australia’s financial markets conduct regulator, ASIC is responsible for promoting a fair, transparent and efficient financial system. As Australia’s prudential regulator, APRA is responsible for the safety of regulated institutions and financial system stability, ultimately to protect the interests of depositors, insurance policyholders and superannuation fund members.

Under the 2019 Memorandum of Understanding (MoU), ASIC and APRA commit to:

- › facilitate cooperation and collaboration between the regulators;
- › contribute to effective and efficient regulatory outcomes across the financial sector; and
- › promote a whole-of-system perspective in meeting each regulator’s responsibilities.

To support these objectives, the APRA-ASIC Committee (AAC) comprising ASIC Commissioners and APRA Members meets through the year to provide strategic oversight of APRA-ASIC cooperation. Below the AAC, five Standing Committees specifically consider credit, banking and payment providers, insurance, superannuation, enforcement and internal capabilities. Outside of these formal committees, extensive engagement occurs at all levels across the regulators.

Some examples of recent cooperation and collaboration, focusing on public matters, are as follows:

- › In superannuation, the regulators are jointly focused on supporting member outcomes and rectifying substandard industry practices. For example, following the commencement of the Retirement Income Covenant in July 2022, ASIC and APRA in July 2023 released a joint thematic review highlighting the need for trustees to make more progress to enhance retirement outcomes as more members approach retirement.

- › In relation to banking and credit, the regulators are conscious of potential consumer and prudential risks in the current economic environment. APRA and ASIC have been jointly monitoring impacts on credit portfolios and individual borrowers, as well as the effectiveness and consistency of hardship support provided to customers in need. APRA and ASIC also jointly oversaw an orderly exit by Volt Bank Limited following its commercial decision to return its banking licence.
 - › In insurance, a key focus for regulators is addressing the underlying drivers of insurance affordability, sustainability and availability. For example, in December 2022, the regulators issued a joint letter to CEOs of life insurers and friendly societies about premium increases. ASIC and APRA also participate as observers at the Hazards Insurance Partnership between the Australian Government and the insurance industry.
 - › APRA and ASIC continue to prepare for joint administration of the Financial Accountability Regime (FAR). In July 2023, the regulators released for consultation Regulator rules and Transitional rules to support FAR implementation by industry. The regulators continue to work closely to ensure implementation readiness through the development of guidance, engaging with industry and building modernised processes to ensure efficient and effective operation of the regime.
 - › The regulators – as part of a broader whole-of-government approach – have a joint focus in promoting cyber resilience and responding promptly and effectively to cyber incidents, such as for Medibank Private.
 - › The regulators have cooperated on a broad range of enforcement matters during the year, such as the imposition in January 2023 of additional licence conditions on Diversa Trustees Limited by APRA.
 - › APRA and ASIC have jointly engaged industry through CEO roundtables. This year, the superannuation CEO roundtable focused on cyber resilience and the Retirement Income Covenant, and the life insurance CEO roundtable focused on future opportunities for the Australian life insurance market.
 - › Finally, the regulators continue to collaborate on data and digital transformation initiatives, with a view to developing recurrent data collections that provide richer insights while reducing industry burden.
- APRA and ASIC will continue to work together to deliver coordinated and efficient regulatory outcomes, and to support the ongoing safety, stability, fairness and efficiency of the financial system for all Australians.

Appendix 2: ASIC's governance and operations

Parliamentary oversight

Responsible Ministers

At 30 June 2022, the Minister responsible for ASIC was the Treasurer, the Hon. Jim Chalmers, MP.

Parliamentary committees

ASIC is accountable to Parliament through the following parliamentary committees:

- › Parliamentary Joint Committee on Corporations and Financial Services
- › Senate Standing Committee on Economics
- › House of Representatives Standing Committee on Economics
- › other parliamentary committees and inquiries as required.

In October 2022, the Senate referred an inquiry into the capacity and capability of ASIC to undertake proportionate investigation and enforcement action arising from reports of alleged misconduct to the Senate Economics References Committee for reporting back in 2024.

Correspondence with members of Parliament

ASIC receives correspondence from members of Parliament both directly and indirectly through requests from Treasury.

We aim to respond to 100% of correspondence within 28 days of receiving it. In 2022–23, we responded to 136 letters and emails from members of Parliament. We responded to 67% of this correspondence within 14 days and 96% within 28 days.

Financial and operational oversight

ASIC is a non-corporate Commonwealth entity under the PGPA Act, which primarily governs our use and management of public resources.

The PGPA Act also requires ASIC to prepare a corporate plan covering our purpose, environment, performance, capability, and risk oversight and management for the budget forward estimates period.

ASIC's Corporate Plan for 2022–26 was published in August 2022.

The Auditor-General audits our annual financial statements on behalf of Parliament.

External scrutiny of our agency

Financial Regulator Assessment Authority: First assessment of ASIC

The Financial Regulator Assessment Authority (FRAA), established under the Financial Regulator Assessment Authority Act 2021, adds to ASIC's governance mechanisms. Its role is to assess and report on the effectiveness and capability of ASIC and APRA. The FRAA is part of a comprehensive framework of independent oversight of ASIC.

The first FRAA assessment of ASIC focused on ASIC's effectiveness and capability in strategic prioritisation, planning and decision making, and ASIC's surveillance and licensing functions. The FRAA also examined ASIC's use of data and technology in each of these focus areas. The ASIC Chair, Deputy Chairs, Commissioners, Senior Executive Leaders (SELs) and staff assisted and engaged with the FRAA during the review.

The first FRAA assessment of ASIC: Recommendations

The FRAA made four recommendations:

- › Data and technology: ASIC requires a substantial uplift in its data and technology capability, which will involve cultural change.
- › Stakeholder engagement: ASIC should increase its focus on enhancing the quality of its engagement with stakeholders across the organisation.
- › Performance measurement: ASIC should enhance its ability to measure its own effectiveness and capabilities, and communicate the outcomes of any such assessments transparently, both internally and externally.
- › People: ASIC should continue to broaden its mix of skill sets to ensure it can meet the current and future needs of the organisation.

The report detailing the FRAA's first assessment was released in August 2022. In the report, the FRAA acknowledged ASIC's crucial contribution to Australia's financial system and found that ASIC is effective and capable in the areas reviewed. ASIC has implemented several initiatives that align with the FRAA's recommendations, as noted in the FRAA's report.

ASIC initiatives that align with the FRAA's recommendations

Our initiatives include the following:

- › ASIC is implementing multi-year data and digital strategies that focus on uplifting our technology systems and data capabilities to increase efficiency and effectiveness, support innovation and improve user experience for stakeholders. This work will begin with the upgrade of ASIC's licensing systems to speed up the processing of licence applications. ASIC will continue to engage with government in relation to our data and digital strategies.
- › We are implementing a multi-year people strategy to help meet ASIC's organisational priorities. This includes defining ASIC's workforce strategy to identify future demands and build a future-fit workforce that is equipped with a broad skill set, including skills to harness the benefits of ASIC's technology and data commitments.
- › ASIC is implementing regulatory efficiency initiatives to make changes to the ways in which we administer the law and to make it easier for stakeholders to interact with us. One initiative will consider the ways ASIC can enhance and leverage engagement with stakeholders clearly and consistently. This initiative will also include a case study focused on how ASIC engages with licensing applicants and their advisers.
- › We are taking steps to enhance how ASIC measures and reports on our effectiveness and capability. For example, ASIC is measuring the outcomes of surveillance regulatory interventions using an impact assessment methodology. Further work is underway to pilot efficiency measures for ongoing regulatory work. ASIC will continue to monitor these approaches and refine them over the following years.

We will continue to implement the FRAA's findings in our future work.

Joint committees

During 2022–23, ASIC provided written submissions and testified before the following joint Parliamentary committees and provided answers to Questions on Notice:

- › Parliamentary Joint Committee on Corporations and Financial Services – Oversight of ASIC, the Takeovers Panel and the Corporations Legislation, including the inquiry into the CHES replacement project.
- › Parliamentary Joint Committee on Corporations and Financial Services – Inquiry into corporate insolvency

Senate committees

During 2022–23, ASIC testified before the following Senate committees and provided answers to Questions on Notice:

- › Senate Economics Legislation Committee – Senate Estimates Senate Economics Legislation Committee – Inquiry into the Financial Accountability Regime Bill 2021 [Provisions] and Financial Services Compensation Scheme of Last Resort Levy Bill 2021 [Provisions] and related bills
- › Senate Economics References Committee – Investigation into Australian Securities and Investments Commission investigation and enforcement.

ASIC provided written submissions to the following Senate Committee inquiries:

- › Senate Economics References Committee – Investigation into Australian Securities and Investments Commission investigation and enforcement
- › Senate Standing Committee on Rural and Regional Affairs and Transport – Inquiry into bank closures in regional Australia
- › Senate References Committee on Environment and Communications – Inquiry into greenwashing.

House of Representatives committees

During 2022–23, ASIC testified before the following House of Representatives Committee and provided answers to Questions on Notice:

- › House of Representatives Standing Committee on Economics – Review of the Australian Securities and Investments Commission Annual Report 2021.

Other external oversight

Until 30 June 2023, ASIC was subject to the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI). ACLEI was responsible for investigating corruption issues involving staff members and former staff members of organisations that fell under ASIC’s jurisdiction. On 1 July 2023, ACLEI was subsumed into the National Anti-Corruption Commission under whose jurisdiction ASIC now falls.

In 2022–23, there were no judicial review decisions, administrative decisions or decisions by the Office of the Australian Information Commissioner that have had, or may have, a significant impact on ASIC’s operations.

Corporate governance

The role of the Chair and the Commission

In line with the PGPA Act, the Chair, as the Accountable Authority, will govern ASIC in a way that is not inconsistent with the policies of the Australian Government. Our Chair has sole executive management responsibility and relies on and uses our key senior executives to carry out day-to-day management activities and deal with operational issues. The Chair delegates functions where they consider that this would benefit the executive management of ASIC.

The Commission acts as a strategic non-executive body, focusing on high-level regulatory and statutory

decision making and stakeholder management. It provides support to the Chair on organisational oversight.

In 2022–23, as set out in Chapter 1, we carried out a review of our internal organisational structure to assess our decision-making processes and make recommendations to improve the speed and efficiency of decisions to improve the overall outcomes of ASIC's core regulatory and enforcement work. The new organisational structure came into effect on 3 July 2023.

The Commission uses a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles. Details of these committees are set out in Chapter 1. Commission meetings are held weekly and may be convened more regularly as required.

The Commission appoints and evaluates the performance of its executive directors and SELs and approves budgets and business plans for each team. Commissioners are appointed by the Governor-General, on the nomination of the Treasurer. The Treasurer may nominate only those people who are qualified by knowledge of or experience in business, the administration of companies, financial markets, financial products and financial services, law, economics or accounting. Commissioners are appointed on fixed terms that may be terminated only for the reasons set out in section 111 of the ASIC Act. The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance. Under the ASIC Act, Commissioners are required to disclose to the Minister any direct or indirect pecuniary interests in corporations carrying on business or businesses in Australia; interests regulated

by ASIC; or expectations, understandings, arrangements or agreements for future business relationships.

ASIC's Legal Services Group, led by Chris Savundra, General Counsel, is the primary source of legal advice to the Commission, providing legal counsel on governance and on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission delegates various powers and functions to executive directors, SELs, Regional Commissioners and employees reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly, and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission. In 2022–23, the Commission held 43 meetings, the Commission Enforcement Committee met 34 times, the Commission Regulatory Committee met 21 times, and the Commission Risk Committee met four times.

Additional information on ASIC's internal governance is published on our website.

Audit and Risk Committee and audit services

The Audit and Risk Committee operates independently of management, in accordance with the Terms of Reference approved by the Accountable Authority. The Committee provides independent assurance to the ASIC Chair on ASIC's financial and performance reporting responsibilities, risk oversight and management, and system of internal control.

ASIC’s **Audit and Risk Committee Terms of Reference**,¹ which are available on our website, set out the Committee’s role, authority, membership and functions, as well as procedural, reporting and administrative arrangements.

The Audit and Risk Committee met seven times during the year, at six regular meetings and one special meeting. Table 6.2.1 sets out details of the Audit and Risk Committee’s membership in 2022–23. Table 6.2.2 sets out the remuneration of Audit and Risk Committee members.

Table 6.2.1 Membership of the Audit and Risk Committee, 2022–23

Member	Member experience	No. of regular meetings	No. of special meetings
Peter Achterstraat AM (Chair)	<p>Peter holds a Bachelor of Economics (Hons), a Bachelor of Laws and a Bachelor of Commerce from the Australian National University (ANU) and has been inducted into the ANU College of Business and Economics Hall of Fame. He was appointed a Member of the Order of Australia for significant service to public administration through his financial management and governance roles.</p> <p>Peter currently holds the following positions:</p> <ul style="list-style-type: none"> › NSW Commissioner for Productivity › Chairman of Bankstown Airport Limited › Chair of the Australian Taxation Office Audit and Risk Committee › Chair of the Audit and Risk Committee of the Department of Agriculture, Forestry and Fisheries. <p>His former roles include NSW President of the Australian Institute of Company Directors, Adjunct Professor at the Graduate School of Government at the University of Sydney, Auditor-General of NSW and Chief Commissioner of State Revenue NSW.</p>	6	1

¹ <https://download.asic.gov.au/media/lqjh54fz/audit-and-risk-committee-terms-of-reference-published-10-september-2021.pdf>

Member	Member experience	No. of regular meetings	No. of special meetings
Lisa Woolmer (Deputy Chair)	<p>Lisa holds a Bachelor of Economics and a Postgraduate Diploma in Japanese Business Communication from Monash University, and a Postgraduate Diploma of Employment Relations from the University of Canberra. She is a member of both the Australian Institute of Company Directors and Chartered Accountants Australia and New Zealand.</p> <p>Lisa currently holds the following positions:</p> <ul style="list-style-type: none"> › Independent Chair of the Audit and Risk Committee of the Adult, Community and Further Education Board › Independent Chair of the Audit and Risk Committee of the Glen Eira City Council › Independent Member of the Audit and Risk Committee of the Whitehorse City Council › Independent Member of the Orygen Audit and Risk Committee › Director of the Yarra Yarra Golf Club Ltd. <p>Lisa's former roles include Principal at PwC Melbourne, and Independent Chair of the Audit and Risk Committees of Comcare, Bayside City Council and Mornington Peninsula Shire.</p>	6	1

Member	Member experience	No. of regular meetings	No. of special meetings
Jon Webster AM	<p>Jon holds a Bachelor of Commerce, Bachelor of Law (Hons) and Master of Laws from the University of Melbourne, where he was also a Senior Fellow of the Law School for more than 20 years.</p> <p>His former roles include Partner at Allens, practising in the area of mergers and acquisitions, Chairman of the Corporations Committee of the Law Council of Australia, Director of the Human Rights Law Centre, member of ASX's Listings Advisory Panel and of the Australian Government's Consultative Group to the Corporations Law Simplification Task Force, and Chairman of the Audit Committee of the Northern Land Council.</p> <p>Jon is an independent non-executive director and member of the Audit and Investment Committee for AMCIL Limited, a Trustee of the R E Ross Trust, and a Director of Hillview Quarries Pty Ltd.</p> <p>He was appointed a Member of the Order of Australia for his significant service to the law, education and the community.</p>	6	1

Member	Member experience	No. of regular meetings	No. of special meetings
Jenny Telford ¹	<p>Jenny is a Senior Executive at the Australian Bureau of Statistics (ABS) with over 20 years experience in the public sector across a range of senior roles focused on technology, communications and data.</p> <p>Jenny has led large-scale digital transformation projects at the ABS, including the successful delivery of a range of new and innovative solutions designed to make it easier to produce, discover, access and use statistical data and information.</p> <p>In her current role as Program Manager, Customer Experience and Communications, Jenny is responsible for digital product development, media and citizen engagement, and a range of strategic communication initiatives.</p> <p>Jenny holds a degree in information technology and business management from Southern Cross University.</p>	6	1

¹ Jenny Telford commenced as a Committee member on 22 July 2022.

Table 6.2.2 Remuneration of Audit and Risk Committee members, 2022–23

Member	Remuneration (net of GST where applicable)		
	ARC meetings	Other meetings	Total remuneration
Peter Achterstraat AM	55,909	9,432	65,341
Lisa Woolmer	41,932	3,625	45,557
Jon Webster AM	41,932	–	41,932
Jenny Telford ¹	–	–	–

¹ Audit and Risk Committee services were provided free of charge in accordance with an MOU between ASIC and the ABS.

Peter Achterstraat AM

Chair

Audit and Risk Committee

August 2023

Disciplinary or peer review panels

The following panels and committees have disciplinary or peer review functions and assist in our regulatory decision making:

- › Markets Disciplinary Panel (MDP) (more information is available on [our website](#)²)
- › Financial Services and Credit Panel (more information is available on [our website](#)³)
- › liquidator registration and disciplinary committees.

Markets Disciplinary Panel

The MDP is a peer review panel engaged by ASIC to make decisions about whether infringement notices should be issued to market participants for alleged contraventions of the market integrity rules. It consists of part-time members with extensive market or professional experience. Matters are referred to the MDP by ASIC as an alternative to bringing civil proceedings.

The MDP issued five infringement notices to the following market participants during 2022–23:

- › **ABN AMRO Clearing Sydney Pty Ltd**⁴ (ABN AMRO) paid a penalty of \$222,000 to comply with an infringement notice.

² <https://asic.gov.au/regulatory-resources/markets/markets-disciplinary-panel/>

³ <https://asic.gov.au/regulatory-resources/financial-services/financial-advice/financial-services-and-credit-panel-fscp/>

⁴ <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-245mr-abn-amro-clearing-sydney-pty-ltd-pays-222-000-infringement-notice/>

The MDP had reasonable grounds to believe that ABN AMRO registered block trades on the ASX 24 Market in the SPI 200 Futures contract on three occasions (7 January 2021, and 14 and 15 April 2021), where each of the block trades included split allocations below the minimum value threshold of 200 lots.

› **Wilsons Advisory and Stockbroking Limited**⁵ (Wilsons) paid a penalty

of \$548,328 to comply with an infringement notice. The MDP had reasonable grounds to believe that between 1 January 2020 and 31 March 2022, Wilsons reported trades without price improvement on 2,306 occasions when it was not permitted to do so, as the trades did not provide price improvement over the best available bid price and the best available offer price.

› **Ord Minnett Limited**⁶ (Ord Minnett) paid a penalty of \$888,000 to comply with an infringement notice. On 1 September 2021, Ord Minnett received instructions to commence a buyback on behalf of its client. The MDP had reasonable grounds to believe that Ord Minnett contravened the market integrity rules:

- on 1 September 2021, by purchasing shares in its client at a price above the maximum limit allowable for a buyback, which was contrary to the client's instructions and the ASX Listing Rules

- on 27 September 2021, by executing crossings that were prearranged, which resulted in the market for its client's shares not being fair and orderly.

› **Morrison Securities Pty Limited**⁷

(Morrison) paid a penalty of \$333,000 to comply with an infringement notice. The MDP had reasonable grounds to believe that Morrison authorised client orders on six occasions on 27 October 2021 and on one occasion on 2 November 2021, which resulted in the market for the relevant securities not being fair and orderly.

› **Openmarkets Australia Limited**⁸

(Openmarkets) paid a penalty of \$4.5 million and entered into an enforceable undertaking to appoint an independent expert to assess, report on and identify any necessary remedial actions relevant to the adequacy of Openmarkets' organisational and technical resources and the design and operational effectiveness of its arrangements relating to trade surveillance, client on-boarding and client money.

This occurred after the MDP found that it had reasonable grounds to believe that Openmarkets contravened the market integrity rules due to the following:

- An Openmarkets' client had placed simultaneous bid-and-ask orders in the same security and at the same price on 2,011 occasions (same-price

5 <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-016mr-wilsons-advisory-and-stockbroking-ltd-acn-010-529-665-pays-548-328-infringement-notice/>

6 <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-114mr-ord-minnett-limited-ltd-acn-002-733-048-pays-888-000-infringement-notice/>

7 <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-165mr-morrison-securities-pty-ltd-acn-001-430-342-pays-333-000-infringement-notice/>

8 <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-184mr-openmarkets-pays-record-4-5-million-penalty-enters-enforceable-undertaking-former-head-of-trading-banned/>

orders). Many of these suspicious orders formed part of an unusual series of orders involving the rapid cancellation or amendment away from priority of large-volume orders.

- Openmarkets had reasonable grounds to suspect that the same-price orders were likely to have the effect of creating an artificial trading price or a false or misleading appearance of active trading.
- Openmarkets had not appropriately calibrated its post-trade surveillance system (the Nasdaq Trade Surveillance & Market Abuse Software [SMARTS] system). This resulted in an unmanageable volume of alerts, most of which were not reviewed.
- Openmarkets did not have appropriate supervisory procedures in place to ensure compliance with requirements under the market integrity rules dealing with suspicious trading.
- Openmarkets had insufficient staff with the appropriate skills, knowledge and experience to carry out effective trade surveillance.
- Openmarkets failed to engage the anti-wash trade filter. Further, Openmarkets failed to conduct any sufficient review of the appropriateness of its automated order processing filter settings until several years after they were established.
- Openmarkets failed to prevent unprofessional conduct by senior staff. This included a senior staff member warning a client in relation to SMARTS alerts that they triggered rather than escalating the matter to compliance.

- Openmarkets failed to submit suspicious activity reports to ASIC in relation to other clients engaging in suspicious trading.
- A back-office system transition inadvertently resulted in trust account deficiencies of up to approximately \$20,000,000 on 35 consecutive business days from 18 August to 5 October 2021.

ASIC has referred three additional matters to the MDP for which the outcomes were pending as at 30 June 2023.

The infringement notices issued by the MDP are published on the MDP Outcomes Register on the ASIC website. Compliance with an infringement notice is not an admission of guilt or liability, and the market participant is not taken to have contravened subsection 798H(1) of the Corporations Act.

Financial Services and Credit Panel

The *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021* expanded the operation of ASIC's Financial Services and Credit Panel (FSCP). The FSCP acts separately from, but alongside, ASIC's own administrative decision-making processes and has a range of powers to enable it to consider and respond to a range of misconduct by financial advisers, including lower-level misconduct. Each sitting panel of the FSCP comprises an ASIC staff member and at least two industry participants who are drawn from a pool of ministerial appointees.

ASIC convened the first sitting panel of the FSCP in February 2023, and to date, a total of nine panels have been convened. To date, the FSCP has made a decision in

relation to two matters, and a summary of the concerns and the decision of the FSCP have been published on the FSCP Outcomes Register on ASIC's website.

For more information about the principles and processes of the FSCP, please see **Regulatory Guide 263⁹** *Financial Services and Credit Panel*.

Warnings and reprimands

No warnings were issued by ASIC during 2022–23.

Three reprimands were issued by ASIC during 2022–23.

More information on warnings and reprimands is available on our [website](#).¹⁰

Financial adviser examination

ASIC continues to support the professional standards reforms introduced in 2017 to encourage higher standards of behaviour and professionalism for financial advisers. The examination is a key component of the education and training standards that all financial advisers must complete to provide personal advice on relevant financial products to retail clients.

In August 2022, ASIC released a public tender for a provider to deliver the financial adviser examination for 2023–25. The Australian Council of Educational Research (ACER) was the successful

tenderer. In November 2022, ACER was contracted to deliver the examination from 1 February 2023 to 1 February 2025.

ACER also delivered all previous financial adviser examinations, including those under ASIC's administration in 2022.

ASIC successfully administered four cycles of the examination from 1 July 2022 to 30 June 2023. The 18th and 19th cycles of the examinations were held from 28 July to 1 August and on 3 November 2022, respectively. The 20th and 21st cycles of the examination were held on 16 February and 11 May 2023, respectively.

We released the results of the July–August examination on 1 September 2022 and the results of the November examination on 8 December 2022.

We released the results of the February 2023 examination on 27 March 2023 and the results of the May examination on 16 June 2023.

The following statistics relate to the examinations:

- › 1,297 candidates sat the examination between 1 July 2022 and 30 June 2023, 628 sat the July–August 2022 examination, 282 sat the November 2022 examination, 192 sat the February 2023 examination and 195 sat the May 2023 examination.
- › The pass rate was 52% in the July–August 2022 examination, 57% in the November 2022 examination, 67% in the February 2023 examination and 63% in the May 2023 examination.

⁹ <https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-263-financial-services-and-credit-panel/>

¹⁰ <https://asic.gov.au/regulatory-resources/financial-services/financial-advice/how-asic-regulates-financial-advice/warnings-and-reprimands/>

- › All examinations had a high number of resitters (76% in the July–August 2022 examination, 57% in the November 2022 examination, 60% in the February 2023 examination and 74% in the May 2023 examination).
- › More than 20,500 candidates have sat the examination since it was first administered in June 2019.
- › Of the candidates who have sat the examination since it was first administered in June 2019, approximately 92% passed.

Liquidator registration and disciplinary committees

Applications for registration as a liquidator, or to vary or remove conditions imposed on a liquidator's registration,

and potential disciplinary actions against registered liquidators are referred to committees convened by ASIC.

Each committee consists of an ASIC delegate who chairs the committee, a registered liquidator chosen by the Australian Restructuring, Insolvency and Turnaround Association, and a person appointed by the Minister as set out in sections 20–10, 20–45 and 40–45 of Schedule 2 of the Corporations Act. The Minister's power to appoint committee members has been delegated to ASIC under subsection 50-10(4) of **Schedule 2 of the Corporations Act**.¹¹

During 2022–23, ASIC convened 36 committees to consider applications for registration as a liquidator, and registered 29 liquidators (see Table 6.2.3).

Table 6.2.3 Committees convened, 2022–23

Results of committees convened in 2022–23	Notes	Convened	Registered
Applicants should be registered (no conditions)		21	20
Applicants should be registered (with conditions)		7	7
Applicants – not registered	1	3	1
Committee decision pending		5	0
Prior year convened committee registered during the year	2,3	–	1
Total		36	29

Note 1: A committee convened during the year determined three applicants should not be registered; however, one of these applicants was subsequently registered (with conditions) after an application for review to the Administrative Appeals Tribunal.

Note 2: One applicant, which a committee convened in the previous year had determined should not be registered, was subsequently registered (with conditions) after an application for review to the Administrative Appeals Tribunal.

Note 3: One applicant, for which a committee was convened during the previous year and for which the decision was pending at 30 June 2022, subsequently withdrew their application.

¹¹ http://www5.austlii.edu.au/au/legis/cth/consol_act/ca2001172/sch2.html

During 2022–23, ASIC received six applications from liquidators to remove conditions attached to their registration. The applications were referred to committees convened by ASIC for consideration. Of those six applications, one application was subsequently withdrawn and the outcome of one application was pending at 30 June 2023. The other four committees decided to remove the conditions attached to the relevant liquidators' registrations. ASIC implemented those four decisions.

Additionally, during 2022–23, four disciplinary committees were convened to consider matters referred by ASIC. Two committees determined that the registration of the respective registered liquidators should be cancelled. The decisions of the other two committees convened were pending at the end of the financial year. A summary of disciplinary actions can be found on the ASIC website.

Table 6.2.4 Registered liquidator outcomes, 2022–23

Outcome	Total 2022–23	Total 2021–22
Registered liquidators		
Liquidators registered by ASIC	29	21
Registration committees convened during the year	36	25
Outcome of registration committees convened during the year		
Applications for registration approved by committees	28	17
Applications for registration refused by committees	3	7
Committee matters in progress – registration application yet to be determined	5	1

Appendix 3: Entity resource statement and expenses by outcome

Portfolio Budget Statement outcomes

Table 6.3.1 Agency resource statement, 2022–23

	Actual available appropriation for 2022–23 \$'000	Payments made 2022–23 \$'000	Balance remaining 2022–23 \$'000
	(a)	(b)	(a)-(b)
Departmental			
Annual appropriations – ordinary annual services ^{1,4}	607,099	486,780	120,317
Annual appropriations – other services – non-operating ²	8,197	2,358	5,839
Total departmental annual appropriations	615,296	489,138	126,158
Special accounts ³	133,110	54,485	78,625
Total special accounts	133,110	54,485	78,625
Less departmental appropriations drawn from annual appropriations and credited to special accounts	(55,246)		
Total departmental resourcing	693,160	543,623	204,782
Administered			
Annual appropriations – ordinary annual services ¹	20,658	8,403	12,254
Total administered annual appropriations	20,658	8,403	12,254
Administered special appropriations ³	143,830	127,411	
Total administered special appropriations	143,830	127,411	
Total administered resourcing	164,488	135,815	12,254
Total resourcing and payments for ASIC	857,648	679,438	217,037

1 Supply Act (No. 1) 2022–2023, Supply Act (No. 3) 2022–2023, Appropriation Act (No. 1) 2022–2023, prior year appropriation and section 74 relevant agency receipts.

2 Supply Act (No. 2) 2022–2023, Supply Act (No. 4) 2022–2023 and Appropriation Act (No. 2) 2022–2023.

3 Excludes trust moneys held in Services for Other Entities and Trust Moneys (SOETM) and other special accounts.

4 Includes \$21.058 million for the Departmental Capital Budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

Table 6.3.2 Expenses by outcome

Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.	Budget* 2022–23 \$'000	Actual expenses 2022–23 \$'000	Variance \$'000
	(a)	(b)	(a)–(b)

Program 1.1: Australian Securities and Investments Commission

Administered expenses

Ordinary annual services (Supply Act 1 and Act 3)	5,627	6,108	(481)
Expenses not requiring appropriation in the Budget year ²	67,186	91,967	(24,781)
Administered total	72,813	98,075	(25,262)

Departmental expenses

Ordinary annual services (Supply Act 1 and Act 3 and Appropriation Act 1)	389,782	434,952	(45,170)
s74 External revenue ¹	27,762	30,135	(2,373)
Expenses not requiring appropriation in the Budget year ³	61,183	77,323	(16,140)
Departmental total	478,727	542,410	(63,683)

Total expenses for Program 1.1	551,540	640,485	(88,945)
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Program 1.2: Banking Act 1959, Life Insurance Act 1995, unclaimed monies and special accounts

Administered expenses

Ordinary annual services (Appropriation Act 1)	2,298	1,415	883
Special appropriations	141,248	182,923	(41,675)
Administered total	143,546	184,337	(40,791)

Total expenses for Program 1.2	143,546	184,337	(40,791)
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Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.	Budget* 2022-23 \$'000	Actual expenses 2022-23 \$'000	Variance \$'000
	(a)	(b)	(a)–(b)

Outcome 1 totals by appropriation type

Administered expenses

Ordinary annual services (Appropriation Act 1)	7,925	7,523	402
Expenses not requiring appropriation in the Budget year ²	67,186	91,967	(24,781)
Special appropriations	141,248	182,923	(41,675)
Administered total	216,359	282,412	(66,053)

Departmental expenses

Ordinary annual services (Appropriation Act 1 and Act 3)	389,782	434,952	(45,170)
s74 External revenue ¹	27,762	30,135	(2,373)
Expenses not requiring appropriation in the Budget year ³	61,183	77,323	(16,140)
Departmental total	478,727	542,410	(63,683)

Total expenses for Outcome 1	695,086	824,822	(129,736)
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Average staffing level (number)	1,998	1,831	167
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* Full year budget, including any subsequent adjustments made to the 2022-23 October budget at Additional Estimates.

1. Estimated expenses incurred in relation to receipts retained under s74 of the PGPA Act.
2. Expenses not requiring appropriation in the budget year are made up of doubtful debts.
3. Expenses not requiring appropriation in the budget year are made up of depreciation and amortisation expenses.

Appendix 4: Staffing

ASIC continues to attract and retain highly skilled employees who are instrumental in ensuring that we carry out our regulatory functions and achieve our regulatory goals.

As at 30 June 2023, ASIC had a total of 1,831 full-time equivalent (FTE) employees. Tables 6.4.1 and 6.4.2 show a breakdown by location for each role in 2022–23 and 2021–22, respectively. Tables 6.4.3 and 6.4.4 provide a detailed picture of the gender breakdown of our people in 2022–23 and 2021–22, respectively.

Table 6.4.1 ASIC employees (FTE), by location, 2022–23^{1,2,3}

Role	Vic	NSW	Qld	WA	SA	Tas	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	1
Deputy Chair	1	–	–	–	1	–	–	–	2
Member	2	–	–	–	–	–	–	–	2
SES	21	30	2	1	2	–	1	–	57
ELS	5	8	1	–	–	–	1	–	15
Exec 2	216	338	62	30	13	15	9	–	683
Exec 1	134	243	45	28	13	2	4	1	470
ASIC 4	118	169	42	18	8	8	2	–	365
ASIC 3	75	69	20	4	5	1	1	–	175
ASIC 2	32	12	8	2	–	–	–	–	54
ASIC 1	7	–	–	–	–	–	–	–	7
Total	612	869	180	83	42	26	18	1	1,831

1 Average FTE staff for FY2022–23 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).

2 No staff at the Companies Auditors Disciplinary Board.

3 Excludes contractors and secondees from other agencies.

Note: Data rounded – some totals and subtotals may vary.

Table 6.4.2 ASIC employees (FTE), by location, 2021–22^{1,2,3}

Role	Vic	NSW	Qld	WA	SA	Tas	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	1
Deputy Chair	1	–	–	–	1	–	–	–	2
Member	2	1	–	–	–	–	–	–	3
SES	20	32	1	1	2	–	2	–	58
ELS	3	8	1	–	–	–	–	–	12
Exec 2	223	359	60	35	15	13	9	–	714
Exec 1	131	257	44	31	13	2	5	1	484
ASIC 4	132	193	42	22	13	6	2	–	410
ASIC 3	72	71	27	13	5	1	2	–	191
ASIC 2	41	10	10	1	–	–	1	–	63
ASIC 1	9	–	–	–	–	–	–	–	9
Total	635	931	185	103	49	22	21	1	1,947

1 Average FTE staff for FY2021–22 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).

2 No staff at the Companies Auditors Disciplinary Board.

3 Excludes contractors and secondees from other agencies.

Note: Data rounded – some totals and subtotals may vary.

Table 6.4.3 Combined totals by gender and employment type, 2022–23^{1,2,3}

Role	Permanent				Temporary				Total
	Full time		Part time		Full time		Part time		
	Female	Male	Female	Male	Female	Male	Female	Male	
Chair	–	–	–	–	–	1	–	–	1
									2
Deputy Chair	–	–	–	–	2	–	–	–	
Member	–	–	–	–	1	1	–	–	2
SES	28	22	1	–	3	3	–	–	57
ELS	8	6	–	–	–	1	–	–	15
Exec 2	231	323	76	13	17	21	2	–	683
Exec 1	165	206	60	4	16	17	2	–	470
ASIC 4	173	124	31	4	21	11	1	–	365
ASIC 3	76	61	10	2	20	5	1	–	175
ASIC 2	25	11	3	1	2	1	6	5	54
ASIC 1	2	1	2	–	1	1	–	–	7
Total	708	754	183	24	83	62	12	5	1,831

1 Average FTE staff for FY2021–22 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).

2 No staff at the Companies Auditors Disciplinary Board.

3 Excludes contractors and secondees from other agencies.

Note: Data rounded – some totals and subtotals may vary.

Table 6.4.4 Combined totals by gender and employment type, 2021–22^{1,2,3}

Role	Permanent				Temporary					
	Full time		Part time		Full time		Part time			
	Female	Male	Female	Male	Female	Male	Uses a different term	Female	Male	Total
Chair	–	–	–	–	–	1	–	–	–	1
Deputy Chair	–	–	–	–	2	–	–	–	–	2
Member	–	–	–	–	2	1	–	–	–	3
SES	28	20	1	1	3	5	–	–	–	58
ELS	7	5	–	–	–	–	–	–	–	13
Exec 2	231	336	76	12	22	32	–	4	1	714
Exec 1	167	207	61	6	16	24	1	2	–	484
ASIC 4	188	149	30	4	21	15	–	3	–	410
ASIC 3	89	62	12	2	16	7	–	2	1	191
ASIC 2	31	13	4	1	9	3	–	1	1	62
ASIC 1	3	2	2	–	1	1	–	–	–	9
Total	744	794	186	26	92	89	1	12	3	1,947

1 Average FTE staff for FY2021–22 on a business-as-usual FTE basis (i.e. including FTE staff working on capital projects).

2 No staff at the Companies Auditors Disciplinary Board.

3 Excludes contractors and secondees from other agencies.

Note: Data rounded – some totals and subtotals may vary.

Table 6.4.5 shows ASIC employees by regulatory and enforcement team. Most of our staff are employed under the ASIC Enterprise Agreement 2019–22, which is ongoing. Table 6.4.6 shows the industrial arrangements for all ASIC employees.

We continued to provide our people with the opportunity to receive an annual performance bonus. Table 6.4.7 shows the performance payments we made in 2022–23.

Table 6.4.5 ASIC employees (FTE) by regulatory and enforcement team, 2022–23

Team	Total net FTE
Markets¹	
Corporations	45
Financial Reporting and Auditing	21
Insolvency Practitioners	24
Market Infrastructure	30
Market Supervision	70
Markets Operations	10
Financial Services and Wealth	
Financial Advisers	51
Investment Managers	35
Superannuation	35
Credit, Retail Banking and Payments	50
Insurers	33
Licensing	34
Institutional Supervision	25
Consumer Insights and Communications	21
Misconduct and Breach Reporting	82
Small Business Engagement and Compliance	36
Office of Enforcement²	
Financial Services Enforcement	
Financial Services Enforcement	194
Small Business, Engagement and Compliance ³	36
Markets Enforcement	
Corporations and Corporate Governance	56
Enforcement WA	45
Markets Enforcement	52
Total net FTE	949

1 The Governance team merged with the Corporations team under the Markets Group in FY2022–23. It was reported as a separate team in the Markets Group in the FY2021–22 FTE report.

2 Plus an additional 115 FTE staff providing enforcement support services and legal counsel.

3 The Small Business, Engagement and Compliance team was moved to the Office of Enforcement in FY2022–23. It was reported as one separate line in the FY2021–22 FTE report.

Table 6.4.6 Industrial arrangements for ASIC employees as at 30 June 2023¹

Classification	ASIC Act s120(3)	EA ²	Total
ASIC 1		7	7
ASIC 2		66	66
ASIC 3		174	174
ASIC 4		371	371
Exec 1		487	487
Exec 2		697	697
ELS	15		15
SES	54		54
Total	69	1,802	1,871

1 The number of industrial arrangements for ASIC team members is calculated based on the total headcount as at 30 June rather than FTE. This is because each industrial instrument belongs to an individual, regardless of their work pattern, and our obligations against those instruments related to a number of people, not FTE.

2 Enterprise Agreement.

Table 6.4.7 Performance payments by classification, 2021–22

Classification	No. of recipients	Aggregate (\$)	Minimum (\$)	Maximum (\$)	Average (\$)
ASIC 4	349	1,307,499	613	17,146	3,746
Exec 1	504	3,072,567	906	15,401	6,096
Exec 2	748	6,974,730	1,305	34,602	9,325

This table includes payments for the 2021–22 performance year, which were paid in 2022–23, plus any pro-rata payments for the 2022–23 performance year for staff who left ASIC in 2022–23.

Executive remuneration

ASIC's executive remuneration is determined by:

- › the *Remuneration Tribunal Act 1973*
- › the ASIC Act
- › the ASIC Enterprise Agreement 2019–2022
- › remuneration policies and procedures.

Commission remuneration is set according to the *Remuneration Tribunal Act 1973* and the Remuneration Tribunal determinations.

Senior executive remuneration is determined under section 120 of the ASIC Act. Remuneration and conditions are consistent across the cohort, and jobs are evaluated under the Mercer International Position Evaluation methodology. Senior executive remuneration is based on a fixed total remuneration package that comprises base salary and superannuation.

In October 2022, the Chair awarded salary increases of 3% to Senior Executives under the ASIC Act and the ASIC Enterprise Agreement 2019–2022, in line with the Australian Government's *Public Sector Workplace Relations Interim Arrangements 2022*.

Table 6.4.8 Information about remuneration for key management personnel, 2022–23

2023									
Remuneration paid to Key Management Personnel in 2022–23		Short-term benefits			Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration	
Name	Position title	Base salary	Bonuses	Other benefits and allowances	Superannuation contributions	Long service leave ¹	Other long-term benefits	Termination benefits	
		\$	\$	\$				\$	
Joseph Longo	Chair ²	798,863	–	–	25,292	8,681	–	–	
Sarah Court	Deputy Chair ²	573,614	–	–	83,677	16,407	–	–	
Karen Chester	Deputy Chair ²	534,695	–	–	80,756	14,275	–	–	
Danielle Press	Commissioner ²	548,541	–	–	25,292	8,944	–	–	
Sean Hughes	Commissioner ^{2,3}	293,246	–	–	45,347	9,124	–	–	
Warren Day	Chief Operating Officer	433,065	–	–	73,141	12,846	–	–	
								519,052	

1 This table is prepared on an accrual basis. This includes accrued long service leave, which can only be realised when the vesting requirements have been met.

2 The remuneration for these positions is set by the Remuneration Tribunal. This is outlined in Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2022

3 Part-year remuneration disclosure – ceased as a KMP on 3 February 2023.

Table 6.4.9 Information about remuneration for senior executives, 2022–23

Remuneration band (\$) ²	Number of senior executives	Short-term benefits			Post-employment benefits		Average other long-term benefits			Termination benefits (\$)	Total remuneration
		Average base salary (\$)	Average bonuses (\$) ²	Average other benefits and allowances (\$)	Average superannuation contributions (\$)	Average long service leave ¹ (\$)	Average long-term benefits (\$)				
0–\$220,000	9	125,685	4,202	–	12,567	(117)	–	–	142,337		
245,001–270,000	2	214,497	–	–	39,873	6,864	–	–	261,234		
270,001–295,000	5	240,865	–	–	38,120	6,135	–	–	285,120		
295,001–320,000	13	267,711	–	–	34,948	6,492	–	–	309,151		
320,001–345,000	7	256,897	1,633	–	41,734	6,305	–	25,948	332,517		
345,001–370,000	8	304,626	–	–	41,548	8,118	–	–	354,292		
370,001–395,000	3	311,714	–	–	58,816	9,021	–	–	379,551		
395,001–420,000	1	326,129	–	–	60,251	9,608	–	–	395,988		
420,001–445,000	5	345,291	–	–	33,764	8,501	–	43,875	431,431		
470,001–495,000	1	226,266	–	–	42,739	6,785	–	197,966	473,756		
495,001–520,000	1	158,246	–	–	45,778	6,028	–	304,173	514,225		
520,001–545,000	2	240,683	–	–	35,427	7,894	–	245,485	529,489		
545,001–570,000	2	271,187	–	–	50,303	7,831	–	228,492	557,813		

Short-term benefits			Post-employment benefits		Other long-term benefits		Termination benefits	Total remuneration
Remuneration band (\$) ²	Number of senior executives	Average base salary (\$)	Average other benefits and allowances (\$) ²		Average superannuation contributions (\$)	Average long service leave ¹ (\$)	Average other long-term benefits (\$)	Average total remuneration (\$)
			Average bonuses (\$)	Average benefits and allowances (\$)				
570,001–595,000	2	291,115	–	–	37,461	8,154	–	575,726
595,001–620,000	1	295,901	–	–	55,065	8,594	–	609,908
720,001–745,000	1	347,092	–	–	66,370	10,524	–	731,049

1 This table is prepared on an accrual basis. This includes accrued long service leave, which can only be realised when the vesting requirements have been met.

2 Where no information exists for a remuneration band, the band has been removed.

Table 6.4.10 Information about remuneration for other highly paid staff, 2022–23

Remuneration band (\$) ²	Number of other highly paid staff	Short-term benefits			Post-employment benefits			Other long-term benefits		Termination benefits	Total remuneration
		Average base salary (\$)	Average bonuses (\$)	Average other allowances (\$)	Average other benefits and superannuation contributions (\$)	Average long service leave ¹ (\$)	Average long-term benefits (\$)	Average other long-term benefits (\$)	Average termination benefits (\$)		
240,001–245,000	5	195,356	10,656	–	–	32,255	4,235	–	–	–	242,502
245,001–270,000	23	183,341	10,232	–	–	27,010	4,309	–	–	31,347	256,239
270,001–295,000	13	173,624	8,727	–	–	25,102	4,075	–	–	68,360	279,888
295,001–320,000	8	176,580	9,241	–	–	24,304	3,699	–	–	89,664	303,488
320,001–345,000	8	142,873	8,413	–	–	23,804	4,157	–	–	154,037	333,284
345,001–370,000	8	158,117	8,300	–	–	26,802	4,529	–	–	162,580	360,328
370,001–395,000	7	168,777	10,112	–	–	28,847	4,858	–	–	173,133	385,727
395,001–420,000	8	176,679	13,322	–	–	32,376	4,985	–	–	185,142	412,504
445,001–470,000	1	202,549	8,042	–	–	37,727	4,231	–	–	214,751	467,300
470,001–495,000	2	205,001	8,488	–	–	34,487	5,956	–	–	227,994	481,926
520,001–545,000	1	214,286	12,906	–	–	42,996	6,420	–	–	261,951	538,559

1 This table is prepared on an accrual basis. This includes accrued long service leave, which can only be realised when the vesting requirements have been met.

2 Where no information exists for a remuneration band, the band has been removed.

Governance arrangements

Senior executive remuneration reviews are conducted by the Remuneration advisory group around June–July each year. The Remuneration advisory group comprises the Accountable Authority, Chief Executive Officer, and the Senior Executive Leader, People and Development.

Remuneration decisions are based on:

- › the duties, responsibilities and accountabilities required by the position
- › the performance and behaviours of the relevant executive
- › managing internal consistency and recognising the different skills, experience and capabilities of executives in comparable level roles.

Appendix 5: Information relating to assessments of misconduct and other reports

Misconduct assessments and other reports

Misconduct reports from the public

We record and assess reports of alleged misconduct that we receive, and we use this information to identify and respond to misconduct. In 2022–23, we responded to 8,149 reports of alleged misconduct. Table 6.5.1 shows the outcomes of the misconduct reports received by ASIC during the 2022–23 financial year.

Table 6.5.1 Misconduct issues by category, 2022–23

Category	2022–23 (%)
Corporations and corporate governance	
Governance issues	13
Failure to provide books and records or reports as to affairs to registered liquidator	12
Fraud allegations	3
Registered liquidator misconduct	3
Insolvency matters	3
Other (e.g. shareholder issues and reporting issues)	9
Subtotal	43
Financial services and retail investors	
Credit issues	11
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	14
General licence obligations	8

Category	2022–23 (%)
Other (e.g. insurance, advice, misleading or deceptive conduct, and unconscionable conduct)	8
Subtotal	41
Market integrity – including insider trading, continuous disclosure, misleading statements and market manipulation	5
Registry integrity – including incorrect address recorded on ASIC’s register, lodging false documents with ASIC and issues with business name	3
Issues outside ASIC’s jurisdiction	8
Total	100

Table 6.5.2 Misconduct issues by outcome, 2022–23 and 2021–22

	2022–23 Number	2021–22 Number
Misconduct reports		
Total misconduct reports finalised ¹	8,149	8,688
Outcome	Percentage	Percentage
Referred for action by ASIC²	14	13
Resolved³	8	11
Compliance achieved	1	1
Warning letter issued	4	6
Referred to internal or external dispute resolution	3	4
Formal information release made under s127 of the ASIC Act	<0.5	<0.5
Analysed and assessed for no further action⁴	63	66
Insufficient evidence	29	43
No action	34	23

	2022–23 Number	2021–22 Number
No jurisdiction⁵	14	9
No breach or offence	1	1
Total	100	100

1 Where ASIC receives reports about the same entity and issue, we merge these matters.

2 The factors ASIC takes into account when deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.

3 This can involve referral to an EDR scheme, ASIC issuing a warning letter to the party that may be in breach of the Corporations Act, ASIC assisting the reporter in the form of guidance and information about how best to resolve the matter themselves, or ASIC taking action to achieve compliance.

4 Preliminary inquiries made and provided information analysed and assessed, but no further action required by ASIC, due to insufficient evidence or another reason; e.g. because another agency or law enforcement body or third party (e.g. a liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.

5 Where relevant, ASIC directs reporters to the appropriate agency or solution.

Reportable situations from licensees and auditors

The Corporations Act requires AFS licensees and, since 1 October 2021, Australian credit licensees to submit notifications to ASIC about reportable situations (previously called breach reports). Reportable situations include significant or likely significant breaches of core obligations and investigations into such matters, or conduct of gross negligence or serious fraud. Licensees can also report situations about other licensees. We also receive reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by a company, managed investment scheme, AFS licensee or Australian credit licensee they are appointed to audit. ASIC uses the reports to undertake both immediate assessments of particular concerns and a broader consideration of the trends and issues arising from the analysis of the collective information. In

2022–23, ASIC received 28,493 reportable situation form lodgements from licensees and 160 reportable situation form lodgements from licensees reporting another licensee.

ASIC publishes information about reportable situations lodged with us each financial year (via reports published on our website).

Table 6.5.3 provides a breakdown of the reportable situations and reports by type and outcome in which an immediate assessment was completed by ASIC's Misconduct and Breach Reporting team in 2022–23. ASIC's regulatory and enforcement teams also consider reportable situations.

Table 6.5.3 Reportable situations by type and outcome, 2022–23 and 2021–22

	2022–23	2021–22
Type	Number	Number
Auditor breach reports	1,968	1,393
AFS licence notifications/updates	11	1,151
AFS licence and ACL licensee notifications	1,208	765
Another licensee notification	67	53
Dual APRA/ASIC reports	27	N/A
Total breach reports finalised	3,281	3,362
Outcome	Percentage	Percentage
Referred for action by ASIC	7	10
Referred for compliance, investigation or surveillance	7	10
Analysed and assessed for no further action	93	90
No further action	93	87
Awaiting update	0	3
Total	100	100

For more information on the matters that require an auditor to report a breach of the law to ASIC, see sections 311, 601HG and 990K of the Corporations Act.

Statutory reports from registered liquidators

The Corporations Act requires liquidators, administrators and receivers (i.e. external administrators) to report to ASIC if they suspect that company officers are guilty of an offence. Liquidators must also report if the return to unsecured creditors may be less than 50 cents in the dollar.

We received 5,775 initial reports from external administrators. Of these, 5,084 reported suspected offences by company officers, and the remainder were lodged because the return to unsecured creditors may be less than 50 cents in the dollar.

Of the 5,084 that reported misconduct, we requested supplementary reports from the external administrators in 778 cases.

Supplementary reports typically set out the results of the external administrator's inquiries and the evidence to support the alleged offences. We referred 34% of the supplementary reports assessed in 2022–23 for compliance, investigation or surveillance action, compared to 20% in 2021–22.

Table 6.5.4 provides details of the statutory reports we assessed in 2022–23 and 2021–22 by type and outcome.

Table 6.5.4 Statutory reports from registered liquidators, 2022–23 and 2021–22

	2022–23	2021–22
Type	Number	Number
Initial reports from registered liquidators¹	5,775	4,313
Reports alleging misconduct	5,084	3,767
Reports not alleging misconduct	691	546
Supplementary reports finalised	298	332
Total statutory reports finalised (initial and supplementary)	6,073	4,645
Outcome	Percentage	Percentage
Supplementary report analysed and assessed – no further information required²	66	80
Supplementary reports referred	34	20
Total	100	100

1 We requested a further report (supplementary report) from the external administrator in 15% of cases.

2 There was insufficient evidence to warrant commencing a formal investigation in 66% of the cases where a supplementary report was requested, and subsequently, it was determined that no further information was required. We retain these reports for intelligence purposes for possible future use.

Whistleblowing

ASIC's Office of the Whistleblower ensures that we record and assess the disclosures we receive from whistleblowers and that we communicate with whistleblowers as we undertake our inquiries. We also engage with stakeholders about the implementation of Australia's corporate sector whistleblower protection regime.

From 1 January 2020, public companies, large proprietary companies and corporate trustees of APRA-regulated superannuation entities must have a whistleblower policy.

In 2022–23, we dealt with 793 disclosures by whistleblowers, a decrease from the previous year. Around 70% of these disclosures related to corporations and corporate governance, including internal company disputes. We also dealt with matters relating to credit and financial services, and the conduct of licensees (22%), markets (6%) and other issues (2%).

ASIC is unable to comment on our assessments of, or investigation into, whistleblower disclosures, due to the strong confidentiality protections provided to whistleblowers. Following our preliminary inquiries, we assessed approximately 90% of disclosures as requiring no further action by ASIC due to insufficient evidence, no actionable breach being disclosed, or the breach being in the jurisdiction or remit of other regulators. In a number of cases, we referred the matter to another agency, law enforcement body, or third party (such as a liquidator) that was better placed to deal with the issue or was already taking action.

Appendix 6: Statements required by law

Reports required under statute and other reporting requirements

ASIC Act

As required by section 136(1)(a) of the ASIC Act, ASIC reports that during 2022–23 we issued one individual instrument under section 328 of Part 29 of the SIS Act. We did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997*.

As required by section 136(1)(c) of the ASIC Act, ASIC reports that during 2022–23, we conducted one joint inspection with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations.

We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de Surveillance du Secteur Financier, or share any information with them under relevant provisions of the ASIC Act during 2022–23.

As required by subsection 136(1)(cb) of the ASIC Act, ASIC reports that there were no instances during the period where ASIC failed to consult before making a product intervention order, as required by section 1023F of the Corporations Act or section 301F of the National Credit Act.

Commonwealth fraud control guidelines

ASIC has a fraud control policy and plan in place, which is reviewed every two years and approved by the Commission Risk Committee.

We have appropriate fraud prevention, detection, investigation and reporting mechanisms in place, considering the nature of ASIC's activities.

ASIC conducts fraud risk assessments as part of our enterprise risk management protocols for each business unit. Results are contained in the operations risk registers.

We have taken all reasonable measures to deal appropriately with fraud.

Auditor-General reports

This financial year, there were two reports by the Auditor-General on ASIC's operations.

On 14 December 2022, the Auditor-General released a report on the Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2022. The Australian National Audit Office (ANAO) did not identify any significant or moderate audit findings arising from ASIC's 2020–21 or 2021–22 financial statements.

On 13 June 2023, the Auditor-General released a report on Probity Management in Financial Regulators – Australian Competition and Consumer Commission. The ANAO concluded that ASIC's probity

management arrangements, including arrangements to manage probity risks and to promote compliance – a framework and arrangements to monitor, report on and provide assurance on probity requirements – were largely effective, and that ASIC fully or largely complied with most of the probity-related requirements examined by the ANAO. The Auditor-General made one recommendation to review the financial thresholds for declaring hospitality in ASIC policies in relation to gifts, benefits and hospitality. ASIC is in the process of implementing this recommendation.

Commonwealth Ombudsman reports

ASIC was examined in the Commonwealth Ombudsman's investigation report, *Monitoring Agency Access to Stored Communications and Telecommunications Data* under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979, released on 7 March 2023.

Other reports

In 2022–23, there were no:

- › instances of fraud reported to the Minister
- › capability reviews of ASIC.

Freedom of Information Act 1982

Members of the public have the right to apply to ASIC for access to documents in our possession under the *Freedom of Information Act 1982* (FOI Act).

Applications must be in writing, state that they are made under the FOI Act, provide such information as is reasonably necessary to identify the documents requested, and provide details of where notices under the FOI Act can be sent to the applicant.

ASIC remains committed to, and devotes substantial resources to, complying with its freedom of information obligations.

Requests by email should be sent to:

foirequest@asic.gov.au

Or you may lodge a mail request to:
Senior Manager
Freedom of Information Team
GPO Box 9827
Brisbane QLD 4001.

For further information on how to lodge an application, visit our website at **www.asic.gov.au**.

For operational matters, categories of documents in ASIC's possession include:

- › licence and professional registration applications
- › applications from businesses, correspondence, internal working papers, policy proposals and submissions
- › administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers.

For other matters, categories of documents in ASIC's possession include:

- › law reform, including submissions and proposal papers
- › correspondence with members of the public, government entities, parliamentary committees, business entities and other bodies
- › administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and employee management, delegation and authorisation
- › reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory documents, media releases, information releases, pamphlets and annual reports
- › other documents held as public information.

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, legislative instruments and other regulatory publications on our website.

ASIC Digest, which includes ASIC regulatory documents and additional information, is published by Thomson Reuters under the terms of an agreement with ASIC.

ASIC Digest is available by subscription from **Thomson Reuters**.¹²

Information from ASIC's registers and databases that is available to the public for the payment of a fee cannot be obtained under the FOI Act.

Agencies subject to the FOI Act must publish information for the public as part of the Information Publication Scheme. This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

ASIC's Information Publication Scheme Plan, showing what information is published in accordance with the scheme requirements, can be found at:

<https://asic.gov.au/about-asic/freedom-of-information-foi/information-publication-scheme/>.

ASIC's use of compulsory information-gathering powers

Since 2010–11, ASIC has reported the use of significant compulsory information-gathering powers under statute.

This appendix discloses data by number of instances in 2022–23, with comparative data for 2021–22.

¹² <https://legal.thomsonreuters.com.au/products/asic/>

Table 6.6.1 Use of significant compulsory information-gathering powers

Use of significant compulsory information-gathering powers		Number of notices 2022–23 ¹	Number of notices 2021–22
Appear for examination			
s19 ASIC Act ²	Requirement to appear for examination	793	895
s58 ASIC Act	Power to summons a witness and take evidence	0	0
s253 National Credit Act ³	Requirement to provide reasonable assistance	58	73
Give reasonable assistance			
s1317R Corporations Act	Power to require assistance in prosecutions	35	19
s49(3) ASIC Act	Power to require reasonable assistance in proceedings and prosecutions	67	45
s51 National Credit Act	Requirement to provide reasonable assistance	1	0
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	0	0
s274(4) National Credit Act	Requirement to provide reasonable assistance	0	0
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	46	71
Produce documents			
s266 National Credit Act	Requirement to produce books (credit activities)	9	70
s267 National Credit Act	Requirement to produce books	75	79
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	703	761
s31 ASIC Act	Notice to produce books about financial products	11	34

Use of significant compulsory information-gathering powers		Number of notices 2022–23 ¹	Number of notices 2021–22
s32A ASIC Act	Notice to produce books about financial services	1	0
s33 ASIC Act	Notice to produce books in person's possession	1,544	1,930
s1213P	Power to provide a register of members of a foreign passport fund	0	0
Provide access			
s29 ASIC Act	Power to inspect books	0	0
s821D Corporations Act	Power to require access to a clearing and settlement facility	0	0
Provide information			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	0	0
s37(9)(a) ASIC Act	Power requiring explanation of books	0	0
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	0	0
s49(1) National Credit Act	Requirement to provide information (statement)	50	46
s912C Corporations Act	Power to require information from an AFS licensee	457	431
Item 17 Sch 2 National Credit Act	Power to require information (obtain statement or audit report)	0	0
s672A Corporations Act	Power to require disclosure of relevant interests	10	3
s672B Corporations Act	Power to require disclosure of relevant interests	0	0
s37(4) National Credit Act	Power to request information or audit report from licence applicant	0	0
s792D Corporations Act	Power to require reasonable assistance from a market licensee	10	11

Use of significant compulsory information-gathering powers		Number of notices 2022–23 ¹	Number of notices 2021–22
S1226C Corporations Act	Power to request information about a compliance plan of a retail corporate collective investment vehicle	0	0
Provide information and produce books			
s30A ASIC Act	Notice to auditors requiring information or books	15	65
s30B ASIC Act	Notice to registered liquidators requiring information or books	3	5
Search warrants executed			
s3E Crimes Act 1914	Warrants to search premises/conveyance or person	0	0
s36 ASIC Act	Warrant to search premises/conveyance or person	24	79

1 There has been a decrease in the number of notices issued compared to last year.

2 These notices may include directions to provide reasonable assistance or produce documents.

3 These notices may include directions to provide reasonable assistance or produce documents.

Table 6.6.2 Use of other powers

Use of other powers		Number of notices 2022–23	Number of notices 2021–22
Obligations of carriers and carriage service providers			
s313 Telecommunications Act 1997	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	0	0
Provide documents, information or evidence			
s10(2) Mutual Assistance in Business Regulation Act 1992	Requirement to produce documents, to give information or to appear to give evidence and produce documents	34	23

Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Australian Government and administered by ASIC to address illegal phoenix activity or other serious misconduct. The scheme may fund:

- › further investigations and reports by liquidators into the failure of companies with few or no assets, where it appears that a director may be banned, or other enforcement action may result from the investigations and reports
- › liquidator recovery actions to undertake legal action to recover assets when misconduct has occurred that resulted in the dissipation of company assets
- › the appointment of reviewing liquidators to companies under external administration where ASIC suspects misconduct of either the director, the pre-insolvency adviser or the registered liquidator
- › the appointment of liquidators to abandoned companies pursuant to Part 5.4C of the Corporations Act.

On 1 July 2022, ASIC was allocated \$4.668 million, which, together with an amount of \$10.197 million rolled over from the previous financial year, resulted in total available funds of \$14.865 million. ASIC paid and committed the amount of \$8.695 million to liquidators in 2022–23. Applications in progress and grants approved comprised approximately 70% of the remaining balance of the allocated funds.

In 2022–23, the number of liquidations increased by 44.96% and the number of AA Fund applications increased by 16%, compared to 2021–22. The 550 applications for funding comprised:

- › 445 director banning reports (18% increase)
- › 49 matters other than section 206F director banning reports (9% decrease)
- › 56 asset recovery actions (27% increase).

ASIC approved grant funding for:

- › 141 director banning reports
- › 40 matters other than section 206F director banning reports
- › 26 asset recovery actions.

An additional 20 requests for increased funding were approved.

ASIC also funded the appointment by ASIC of one reviewing liquidator and six liquidators to abandoned companies.

The AA Fund assisted in:

- › the banning of 24 directors, representing 75% of the total 32 directors banned – the average banning period for funded matters was 42 months
- › one criminal conviction/prosecution.

AA Fund agreements relating to 20 applications that were entered into in 2022–23 were to undertake public examinations of an estimated 40 parties.

Information on grants by ASIC under the AA Fund can be found at **Assetless Administration Fund**.¹³

¹³ <https://asic.gov.au/for-finance-professionals/registered-liquidators/your-ongoing-obligations-as-a-registered-liquidator/assetless-administration-fund/>

Managing property vested in ASIC or the Commonwealth

ASIC administers the property of deregistered companies. This property remains vested in ASIC or, in the case of trust property, the Commonwealth, until it is lawfully dealt with or evidence is provided that the property no longer vests in ASIC or the Commonwealth for some other reason.

ASIC accounts for any proceeds on realisation of property vested in it by transferring such proceeds, less the expenses incurred in dealing with the property, to the Official Public Account in accordance with our statutory duties. The proceeds are treated like any other unclaimed money for which ASIC is responsible.

In 2022–23, the number of new cases received increased to 1,787 and the number of cases finalised increased to 1,804.

Table 6.6.3 shows vested properties of deregistered companies by number of cases.

Identified assets of deregistered companies vesting in ASIC or the Commonwealth

Section 601AD of the Corporations Act provides that when a company is deregistered, all of its property vests in ASIC or, in the case of trust property, the Commonwealth. Any identified vested property is accounted for and recorded in a register maintained by ASIC in accordance with section 601AE(5) of the Corporations Act.

We generally only deal with vested property once an application is made by a third party for us to exercise powers under section 601AE or section 601AF of the Corporations Act. We do not consider it practical to value any identified vested property and, consequently, such property is not recorded or disclosed in these financial statements.

**Table 6.6.3 Deregistered company activities and property disposals
(by number of cases)**

Claims by type	2022–23	2021–22
Total new cases	1,787	1,648
Total finalised cases	1,804	1,701
Property disposals		
Transferred	39	53
Sold	9	5
No longer vested ¹	623	768
Other ²	50	61
Total property disposals	721	887

1 Property is removed from ASIC's records when the company is reinstated, a third party lawfully deals with the asset, or evidence is provided that the property no longer vests in ASIC.

2 Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

Appendix 7: Ecologically sustainable development

ASIC continues to focus on our environmental performance in accordance with government policy. In 2022–23, we continued to mitigate our impact on the environment through the initiatives discussed below. These initiatives were consistent with the *Environmental Protection and Biodiversity Conservation Act 1999* principles of ecologically sustainable development. The progress and results of these initiatives are reported and reviewed by our Executive on a twice-yearly basis.

Energy efficiency

We continue to monitor our offices to minimise our electricity consumption, including closing office spaces to reflect staffing numbers in the hybrid working model. This space efficiency is complemented by ongoing energy minimisation initiatives, including programmable motion sensor-controlled lighting, LED lighting and default power-saving modes for equipment. These approaches ensure we reduce our associated environmental impacts. We continue to review and report on our energy consumption results against the Energy Efficiency in Government Operations Policy targets. The increase in electricity consumption compared to the previous financial year reflects staff returning to the office under our hybrid working model.

Table 6.7.1 Consumption of office energy

Indicator	2021–22	2022–23
Light and power – ASIC tenancies (kWh)	1,355,863	1,816,608

Resource efficiency and waste

We have continued our strategy of using Australian-made copy paper and consumables supplied from state-based warehouses to minimise the environmental impacts of freight shipping. We engage with our landlords on extending waste streams to minimise the amount of waste going to landfill. We have replaced disposable batteries with rechargeable batteries across all our offices to limit the environmental impact of toxic chemicals from disposed batteries entering the ecosystem.

We continue to use a desk booking system to identify which desks have been used and need end-of-day cleaning, helping to reduce the use of chemicals and the associated environmental impact. This has also enabled us to best use and monitor our space requirements, and given us insights to help us reduce our property footprint by subleasing unused space.

We have continued with our zero IT waste policy through e-waste recycling.

Table 6.7.2 Resource efficiency and waste

Indicator	2021–22	2022–23
Office paper purchased by FTE (A4 reams/FTE)	0.1*	0.8
Percentage of purchased office paper with recycled content	100%	100%

* Government target 4.5.

Travel

In 2022–23, the amount of business-related air travel undertaken increased, but was lower than pre-Covid travel. This is due to an ASIC policy to limit travel to strictly essential business purposes and our adoption of technology solutions to minimise the need to travel.

Table 6.7.3 Travel undertaken by ASIC employees

Indicator	2021–22	2022–23
Air travel		
Total distance of flights (km)	1,374,195	6,394,708

CO₂ emissions

ASIC's electricity emissions are reported below using the location-based approach and the market approach. The market-based method accounts for activities such as Greenpower, purchased LGCs and/or being located in the ACT.

Table 6.7.4 Location-based approach

Emission source	Scope 1 kg CO ₂ -e	Scope 2 kg CO ₂ -e	Scope 3 kg CO ₂ -e	Total kg CO ₂ -e
Electricity (location-based approach)	N/A	1,326,787	122,835	1,449,622
Natural gas	–	N/A	–	–
Fleet vehicles	154	N/A	38	192
Domestic flights	N/A	N/A	764,725	764,725
Other energy	–	N/A	–	–
Total kg CO₂-e	154	1,326,787	887,598	2,214,539

Table 6.7.5 Market-based approach

Emission source	Scope 1 kg CO ₂ -e	Scope 2 kg CO ₂ -e	Scope 3 kg CO ₂ -e	Total kg CO ₂ -e
Electricity (market-based approach)	N/A	1,244,053	164,654	1,408,707
Natural gas	–	N/A	–	–
Fleet vehicles*	154	N/A	38	192
Domestic flights	N/A	N/A	764,725	764,725
Other energy	–	N/A	–	–
Total kg CO₂-e	154	1,244,053	929,416	2,173,623

* ASIC has now divested all fleet vehicles with the last of these being returned to the leasing company in August 2022.

Information and engagement

We have continued our engagement with key stakeholders in relation to sustainability initiatives and seek to trial and implement new initiatives. We continue to encourage our staff to be mindful of their environmental impact and educate our staff to utilise the different waste streams available in each of our offices.

Appendix 8: Procurement, contracts and expenditure on advertising

During 2022–23, ASIC conducted the advertising campaigns set out in Table 6.8.1.

Further information on ASIC’s advertising campaigns is available on our website at www.asic.gov.au. Information on

advertising campaign expenditure greater than \$250,000 is available in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available at www.finance.gov.au.

Table 6.8.1 Expenditure on advertising agency services, 2022–23¹⁴

Agency	ABN	Expenditure (\$) (inc. GST)	Purpose
Mediabrand Australia Pty Ltd	190 029 660 01	132,000.00	Moneysmart scams campaign
Mediabrand Australia Pty Ltd	190 029 660 01	132,000.00	Moneysmart investing campaign
Mediabrand Australia Pty Ltd	190 029 660 01	132,000.00	Moneysmart cost-of-living campaign
Total		396,000.00	

Procurement

ASIC’s use of Commonwealth resources and expenditure of public money is primarily governed by the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule).

Responsibility for compliance with the Commonwealth Procurement Rules (CPRs) lies with the appropriate financial delegates.

¹⁴ The data contained in this table reflects the reported contract commitment value and not the amount spent in the reporting period.

The delegates are supported by a central procurement team of qualified procurement advisers who:

- › develop and maintain our procurement processes, guidance and systems to promote compliance with the PGPA Act, the PGPA Rule and the CPRs for all levels of procurement
- › manage, in partnership with the business, complex and high-risk procurement activities, enabling procurement compliance with the CPRs
- › advise on all procurement activities.

Our procurement framework aims to facilitate compliance with the core principles, policies and spirit of the CPRs to achieve value for money. This is done by encouraging competition; efficient, effective, ethical and economical use of resources; accountability and transparency; and appropriate

engagement with risk through a process that is commensurate with the scale and scope of the business requirement.

We undertake regular audits of procurement, and any instances of non-compliance are reported through a central compliance incident management system and addressed, as required, through process improvement initiatives.

98.6% of major contracts entered into during 2022-23 contained the provision allowing the Auditor General access to premises held by contractors relating to performance of the contract. Seven contracts, or 1.4% of all new contracts in the period, have been identified as not containing the clause providing Auditor-General access which is due to the contracts being subject to supplier’s terms (see Table 6.8.2). ASIC continues working with vendors to standardise contract terms where possible.

Table 6.8.2 Contracts that did not allow Auditor-General access

Supplier	ABN	Expenditure (\$ (inc. GST)	Purpose
Thomson Reuters (Professional) Australia Limited	640 589 146 68	1,800,809.51	Thomson Reuters Electronic Agreement 2022–2025
CCH Australia Limited	950 969 033 65	347,126.22	CCH Electronic Agreement 2022– 2023
Visual Analysis Pty Ltd	240 759 600 75	184,800.00	Supply, configuration and deployment of Analyst’s Notebook Premium
Optimizely North America Inc	117 887 871 31	107,882.58	Renewal Episerver content management system and 24x7 support coverage
VMware Australia Pty Ltd	771 226 770 89	694,548.17	Support and maintenance of VMware perpetual licences

Supplier	ABN	Expenditure (\$ (inc. GST)	Purpose
REMASYS Pty Ltd	990 853 297 19	278,330.98	Managed services for EUE monitoring support
Pluralsight LLC	N/A	114,726.24	Business Enterprise licences and support – cyber security
Total		3,528,223.70	

Using AusTender

This annual report contains information about actual expenditure on contracts. Information on the committed value of contracts is available through AusTender at www.tenders.gov.au.

During 2022–23, ASIC awarded 515 contracts valued at \$10,000 (GST inclusive) or more, with a total value of \$47.107 million. Of these procurements, 179 were valued in excess of \$80,000 (GST inclusive), with a total value of \$98.996 million.

Contracts of \$100,000 (GST inclusive) or more were reported on AusTender, in accordance with the Senate Order on Departmental and Agency Contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2022 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

Table 6.8.3 Expenditure on non-consultancy contracts

Business data	2022–23
Number of new non-consultancy contracts	496
Expenditure on new non-consultancy contracts (\$ millions)	42.131
Number of ongoing non-consultancy contracts	887
Expenditure on ongoing non-consultancy contracts (\$ millions)	85.842

Note: The above figures are GST inclusive. Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the committed value of reportable non-consultancy contracts is available on the AusTender website at www.tenders.gov.au.

Consultancy contracts

During 2022–23, ASIC entered into 19 new consultancy contracts, involving total expenditure of around \$4.975 million (GST inclusive). In addition, 36 ongoing consultancy contracts were active during the year, involving total expenditure of \$7.346 million (GST inclusive).

Table 6.8.4 Consultancy trend data

Business data	2022–23	2021–22
Number of new consultancies	19	38
Expenditure on new consultancies (\$ millions)	4.975	8.970
Number of ongoing consultancies	36	42
Expenditure on ongoing consultancies (\$ millions)	7.346	3.888

Note: The above figures are GST inclusive and include all consultancies valued over \$10,000, as indicated on AusTender. The figures differ from the consultancy expenditures shown in the financial statements, which are the value of all consulting costs exclusive of GST. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at www.tenders.gov.au.

Additional contracts information

Table 6.8.5 shows the five suppliers that received the largest share of ASIC's total expenditure on contracts in 2022–23, and the total amounts.

In 2022–23, Deloitte Touche Tohmatsu Limited received a total of \$8,721,171.62 (GST inclusive), which accounted for at least 5% of ASIC's expenditure on such contracts during the period.

Table 6.8.5 Top 5 suppliers' reportable contract expenditure

Supplier	ABN	Expenditure (\$) (inc. GST)
Deloitte Touche Tohmatsu Limited	744 901 210 60	8,721,171.62
Amazon Web Services Australia Pty Ltd	636 053 458 91	6,303,364.13
Australian Government Solicitor	694 059 376 39	5,670,659.36
Norton Rose Fulbright Australia	327 208 680 49	4,840,266.56
Data#3 Limited	310 105 452 67	4,107,410.63

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally, and business units seeking to engage consultants must prepare a business case for funding. Requests to engage consultants must be linked to outcomes in business plans and must contribute to ASIC's decision making. Once the engagement of a consultant is approved, the procurement method used must accord with the CPRs and ASIC's procurement policies.

Of the 19 consultants that ASIC engaged during 2022–23:

- › 3 were engaged to conduct independent research or assessments
- › 2 were engaged to provide skills currently unavailable within the agency
- › 14 were engaged to provide specialised or professional skills.

The method of procurement used was open tender for 16 engagements (including engagements from panels) and limited tender for 3 engagements.

The consultants were engaged for the following main service categories:

- › information technology consultation services
- › management advisory services
- › organisational structure consultation
- › risk management consultation services
- › strategic planning consultation services.

Procurement initiatives to support small business

ASIC supports small business participation in the Australian Government procurement market. Small to medium enterprise (SME) and small enterprise participation statistics are available on the Department of Finance website at www.finance.gov.au.

ASIC recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury website at www.treasury.gov.au.

ASIC's procurement practices support small businesses by:

- › using the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000 (GST inclusive) where applicable
- › encouraging the use of the SME exemption under the Commonwealth Procurement Rules
- › using the coordinated and cooperative panels, such as the Digital Transformation Agency's digital marketplace, which is accessible to SMEs, and panels that clearly identify their SME status.

Appendix 9: Australian Financial Complaints Authority

The Australian Financial Complaints Authority (AFCA) is the single external dispute resolution (EDR) scheme for consumers and small businesses unable to resolve complaints that a financial firm did not resolve directly with the customer.

Financial firms must have internal dispute resolution (IDR) procedures that meet the standards or requirements made or approved by ASIC, as well as membership of AFCA. AFCA deals with complaints about financial services, credit and superannuation made by consumers, small businesses and primary producers that have not been resolved by IDR.

In 2022–23, AFCA received 96,987 complaints and secured \$253.81 million in compensation for consumers and small businesses. This was a 34% increase in the number of complaints and a 22% increase in the amount of compensation and refunds compared to the previous year. AFCA has reported record complaint volumes, particularly in general insurance (up 50%), banking and finance (up 27%) and superannuation (up 32%).

As an authorised EDR scheme, AFCA is governed by an independent board responsible for ensuring the scheme's ongoing compliance with the authorisation requirements, ministerial conditions and ASIC regulatory requirements. In April 2023, AFCA announced the reappointment of David Locke as Chief Ombudsman and CEO for a second five-year term.

Under the legislative requirements, AFCA reported 105 systemic issues and 14 serious contraventions to ASIC in 2022–23. AFCA's systemic issues work resulted in remediation for more than 378,000 consumers and \$100.5 million in refunds.

AFCA is progressing a significant three-year program of work responding to the recommendations of the inaugural Independent Review of AFCA. This review included public consultation on a consolidated suite of proposed rule changes in May 2023.

ASIC will continue to work closely with AFCA on its implementation of the Independent Review recommendations, noting interactions with ASIC's work on IDR data reporting, remediation and breach reporting reforms.

Other areas of shared priority and focus in 2022–23 included:

- › an increasing volume of complaints and consumer losses from scams, as reflected in ASIC **Report 761**,¹⁵ which called for improvements in approaches to scam handling by financial institutions
- › performance of superannuation trustees responding to member complaints at IDR (see **Report 751**)¹⁶
- › the passage of legislation through Parliament to establish a Compensation Scheme of Last Resort, a recommendation of the Financial Services Royal Commission and the final missing piece in the consumer protection redress framework
- › ASIC enforcement action responding to licensees who fail to cooperate with AFCA processes or comply with AFCA determinations.

¹⁵ <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-761-scam-prevention-detection-and-response-by-the-four-major-banks/>

¹⁶ <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-751-disputes-and-deficiencies-a-review-of-complaints-handling-by-superannuation-trustees/>

Appendix 10: Five-year summary of key stakeholder data

Table 6.10.1 Five-year summary of key business and stakeholder data, 2018–23

Business data	2022–23	2021–22	2020–21	2019–20	2018–19
Registry services					
Companies (total)	3.2m	3.1m	2.9m	2.8m	2.7m
New companies registered	274,964	292,166	279,853	222,048	223,661
Business names (total)	2.7m	2.5m	2.4m	2.3m	2.3m
New business names registered	387,629	421,607	460,409	387,827	375,052
% companies data lodged on time	95%	95%	94%	93%	95%
Total searches of ASIC databases	317.8m	265.8m	219.2m	243.7m	142.6m
Regulated entities					
AFS licensees	6,311	6,288	6,179	6,127	6,159
Credit licensees	4,665	4,720	4,777	4,930	5,188
Authorised market infrastructure providers	86	72	67	64	64
Registered SMSF auditors	4,423	5,173	5,540	5,699	5,919
Registered company auditors	3,290	3,441	3,553	3,781	3,962
Registered liquidators	654	646	649	633	651
Registered managed investment schemes	3,605	3,656	3,612	3,650	3,712
Fundraising and takeovers					
Fundraising documents lodged	676	908	884	711	794
Fundraising where ASIC required additional disclosure	\$1.1bn	\$4.6bn	\$3.8bn	\$2.3bn	\$3.2bn

Business data	2022–23	2021–22	2020–21	2019–20	2018–19
Control transactions – schemes and bids	59	77	85	55	73
Control transactions – schemes and bids implied target size	\$24.67bn	\$120.96bn	\$40.5bn	\$23.5bn	\$34.3bn
Enforcement outcomes					
Criminal and civil litigation completed ¹⁷	96	99	75	72	108
% successful criminal and civil litigations ¹⁸	93%	95%	97%	93%	94%
Criminals imprisoned ¹⁹	6	6	7	7	10
Recoveries, costs, compensation or fines ²⁰	\$8.4m	\$3.3m	\$10.2m	\$1.5m	\$77.7m
Reports of misconduct					
Reports of crime or misconduct finalised	8,149	8,688	10,711	12,355	10,249
Other key statistics					
Fees and charges collected for the Commonwealth	\$1,835m	\$1,676m	\$1,513m	\$1,358m	\$1,273m
Staff (average FTEs) ²¹	1,831	1,947	2,008	1,940	1,701

17 This excludes summary prosecutions for strict liability offences.

18 This excludes summary prosecutions for strict liability offences.

19 This excludes custodial sentences served by way of an Intensive Correction Order or where the defendant is released on recognisance to be of good behaviour.

20 Compensation or remediation programs monitored by ASIC are not included in this statistic. The amount includes compensation or remediation agreed in court enforceable undertakings accepted by ASIC, fines and costs ordered by the Courts and infringement notices paid. The decrease compared to previous years is attributed to fewer court enforceable undertakings being accepted by ASIC, where there is a component of compensation or remediation.

21 Data rounded. This data excludes contractors and secondees from other agencies.

Surveillance and supervisory teams

ASIC's surveillance and supervisory teams and who they regulate are outlined below.

Markets

Greg Yanco – Executive Director

Chief Accountant

Doug Niven – Chief Accountant

Corporations

Claire LaBouchardiere and Rachel Howitt – Senior Executive Leaders

- › Unlisted public companies: 27,384
- › Listed companies (excluding listed schemes): 2,155

Registered Liquidators

Financial Reporting Audit

Thea Eszenyi – Senior Executive Leader

- › Registered company auditors: 3,290
- › Entities required to produce financial reports: 29,424
- › Registered SMSF auditors: 4,423
- › Registered liquidators: 654
- › External administrations and controllerships: 7,942

Market Infrastructure

Nathan Bourne – Senior Executive Leader

- › Licensed domestic and overseas financial markets: 61
- › Exempt markets: 4
- › Licensed domestic and overseas clearing and settlement facilities: 7
- › Exempt clearing and settlement facilities: 4
- › Derivative trade repositories: 1
- › Credit rating agencies: 7
- › Benchmark administrators: 2

Market Supervision

Calissa Aldridge – Senior Executive Leader

- › Large securities exchange participants: 65
- › Large futures exchange participants: 34
- › Securities dealers: 1,174
- › Corporate advisers: 553
- › OTC traders: 322
- › Retail OTC derivative issuers: 106
- › Wholesale electricity dealers: 1,694

Financial Services and Wealth

Joanna Bird – Executive Director

Credit and Banking

Tim Gough – Senior Executive Leader

- › Authorised deposit-taking institutions: 139
- › Australian credit licensees: 4,665
- › Credit representative: 41,905
- › Non-cash payment facility providers: 606
- › Trustee companies: 11

Financial Advisers

Leah Sciacca – Senior Executive Leader

- › Financial advisers: 15,905
- › AFS licensees licensed to provide personal advice: 4,095
- › AFS licensees licensed to provide general advice only: 1,075

Insurers

Rhys Bollen – Senior Executive Leader

- › General insurers: 50
- › Life insurers: 24
- › Friendly societies: 10

Investment Managers

Kate Metz – Senior Executive Leader

- › Responsible entities: 409
- › Registered managed investment schemes: 3,605
- › Wholesale trustees: 1,849
- › MDA operators: 235
- › Investor Directed Portfolio Services operators: 73
- › Custodial service providers: 1,333
- › Foreign financial services providers: 1,022
- › Total assets: \$2,684.4 billion

Licensing

Peng Lee – Senior Executive Leader

- › AFS licence: 6,311
- › Australian credit licence: 4,665
- › Registered company auditors: 3,290
- › Registered SMSF auditors: 4,423

Superannuation

Jane Eccleston – Senior Executive Leader

- › Superannuation trustees: 82
- › Total assets: \$2,484 billion

Institutional Supervision

Suneeta Sidhu – Chief Supervisory Officer

Entities subject to supervision:

- › Australia and New Zealand Banking Group Limited
- › Commonwealth Bank of Australia
- › National Australia Bank Limited
- › Westpac Banking Corporation

Office of Enforcement

Financial Services Enforcement

Tim Mullaly – Executive Director

Financial Services Enforcement

Melissa Smith – Senior Executive Leader

Wealth Management Enforcement – Major Financial Institutions

David McGuinness – Senior Executive Leader

Wealth Management Enforcement

Marita Hogan – Senior Executive Leader

Markets Enforcement

Sharon Concisom – Executive Director

Corporations and Corporate Governance

Brendan Caridi – Senior Executive Leader

Enforcement Western Australia and Criminal Intelligence Unit

Wendy Endebrock-Brown – Senior Executive Leader

Markets Enforcement

Molly Choucair – Senior Executive Leader