



ASIC

Australian Securities & Investments Commission

REPORT 476

ASIC enforcement outcomes: July to December 2015

March 2016

About this report

This report outlines the enforcement results achieved by ASIC during the period from 1 July 2015 to December 2015 (the relevant period). The report provides a high-level overview of some of our enforcement priorities and highlights some important cases and decisions during this period.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Previous reports on ASIC's enforcement outcomes

Report number	Report date
REP 444	August 2015
REP 421	January 2015
REP 402	July 2014
REP 383	January 2014
REP 360	July 2013
REP 336	April 2013
REP 299	September 2012
REP 281	March 2012

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

Contents

Overview.....4
 ASIC’s role and the scope of this report4
 Summary of key results4

A Enforcement objectives6
 Our long-term challenges6
 Our recent areas of focus8
 Next six months10

B Key matters supporting enforcement objectives14
 Court-appointed liquidators and freezing orders14
 Tackling loan fraud15
 Holding gatekeepers to account17
 Protecting retail investors and financial consumers19
 Protecting investors from cyber crime20

Appendix 1: Summary of enforcement results22

Appendix 2: Data tables for figures24

Key terms29

Related information.....30

Overview

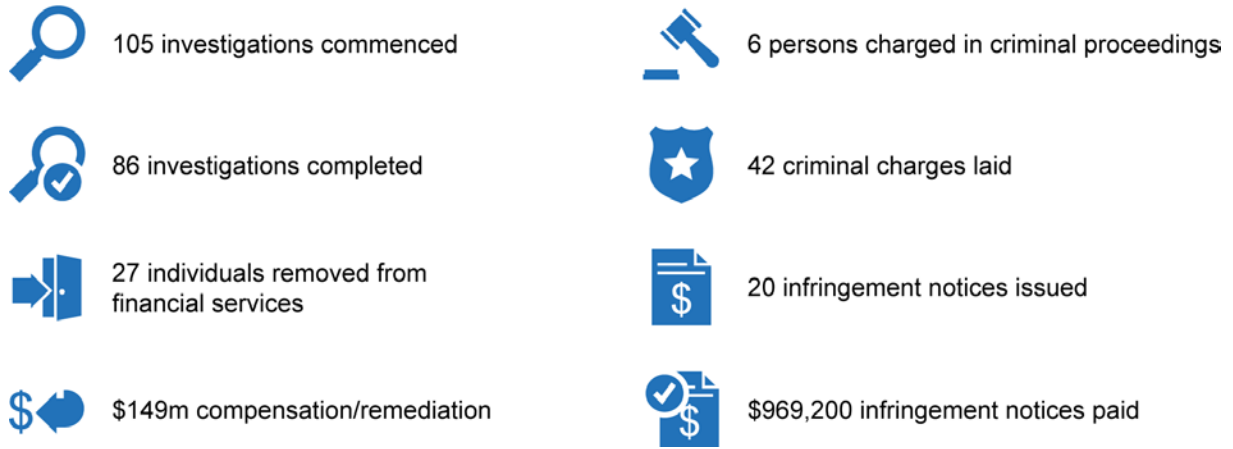
ASIC's role and the scope of this report

- 1 ASIC investigates and enforces the law to give effect to our strategic priorities of:
 - (a) promoting investor and financial consumer trust and confidence;
 - (b) ensuring fair, orderly and transparent markets; and
 - (c) providing efficient and accessible registration.
- 2 This report considers our enforcement activities and results achieved during the period from 1 July to 31 December 2015 (the relevant period).
- 3 This report covers:
 - (a) Section A—ASIC's enforcement priorities, including:
 - (i) our areas of focus and how we aim to support [ASIC's Corporate Plan 2015–16 to 2018–19](#); and
 - (ii) our priorities for the next six months, including pending matters before the court;
 - (b) Section B—key actions that we have taken to enforce the law and support our priorities; and
 - (c) Appendices 1 and 2—statistics about our enforcement results.
- 4 We are committed to transparency about our enforcement work. Previous reports are available on [our website](#).

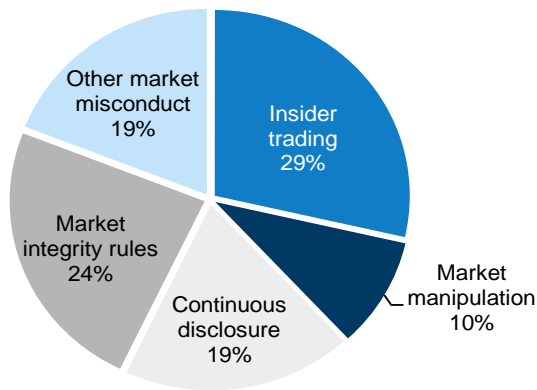
Summary of key results

- 5 Figure 1 summarises our key enforcement results in the relevant period. The pie graphs show the proportion of total activity represented by different categories of misconduct in each enforcement area.

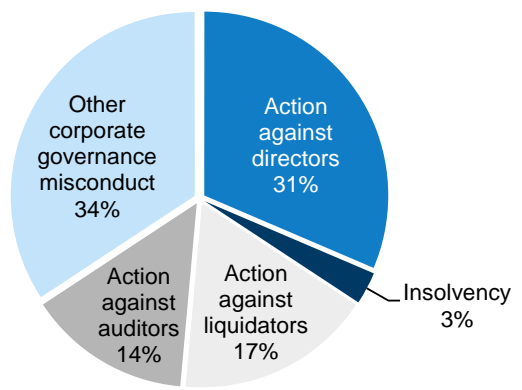
Figure 1: Summary of key enforcement results by misconduct type



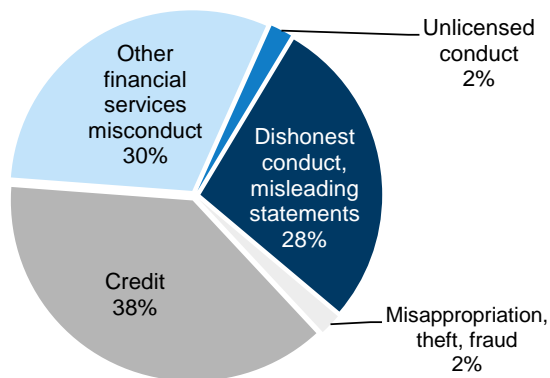
Market integrity results by misconduct type (%)



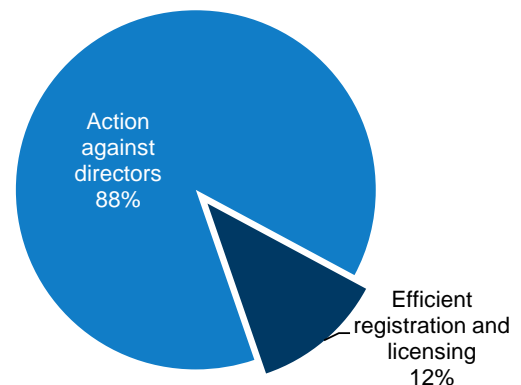
Corporate governance results by misconduct type (%)



Financial services results by misconduct type (%)



Small business results by misconduct type (%)



Note 1: Percentages are rounded to the nearest unit.

Note 2: See Table 9 to Table 13 in Appendix 2 for the data shown in this figure (accessible versions).

A Enforcement objectives

Key points

This section focuses on our enforcement priorities and how these support ASIC's Corporate Plan.

In line with ASIC's Corporate Plan, we will address the long-term challenges of:

- balancing a free market-based system with investor and financial consumer protection;
- digital disruption;
- structural change;
- financial innovation-driven complexity; and
- globalisation.

Our areas of focus include issues relating to:

- poor organisational culture in the financial services industry;
- retail margin foreign exchange (FX) trading;
- illegal phoenix activity; and
- increasing volumes of electronic evidence and the associated technology.

Our long-term challenges

- 6 ASIC's Corporate Plan has been developed and published, spanning across four financial years—from 2015–16 to 2018–19. The plan forms the foundation for our areas of focus.
- 7 The priorities for our enforcement teams, during the period covered by the corporate plan, are set out below. These are based on addressing the plan's long-term challenges in regulating a broad number of industries.

Balancing a free market-based system with investor and financial consumer protection

- 8 We have identified particular risks arising from poor gatekeeper culture and conduct in relation to:
- (a) responsible entities;
 - (b) lenders;
 - (c) markets; and
 - (d) directors, auditors and insolvency practitioners.

- 9 Culture and incentives are key drivers of the behaviour of gatekeepers in our financial system. We will address the long-term challenge of achieving the right balance of investor and financial consumer protection in our free market-based system. In doing so, we will focus on responding to poor gatekeeper culture and conduct by taking enforcement or other regulatory action, where appropriate.

The Kleenmaid case outlined in Section B is an example of how our enforcement work holds gatekeepers to account.

Digital disruption

- 10 The increasing incidence, complexity and reach of malicious cyber activities can undermine businesses and destabilise our markets, eroding investor and financial consumer trust and confidence in the financial system and the wider economy.
- 11 We will take appropriate enforcement action by accepting enforceable undertakings (EUs) or issuing infringement notices where we identify wrongdoing—for example, where disclosure by companies and issuers provides insufficient information on cyber threats.

Our work on Operation Emerald discussed in Section B shows how ASIC is working alongside the Australian Federal Police (AFP) to protect investors from cyber crime.

Structural change

- 12 Because we expect that structural change in our financial system, driven by growth in superannuation, will continue in the future, we will address this challenge long term.
- 13 We will focus on:
- (a) working closely with other supporting proactive and reactive surveillance in the funds management sector;
 - (b) responding to poor financial advice affecting retirement savings; and
 - (c) where appropriate, taking enforcement or other regulatory action.

Financial innovation-driven complexity

- 14 An increase in the number of investors in hybrid products and exchange-traded options in recent years means that we need to protect and educate consumers.
- 15 The growing complexity and financialisation of financial markets continue to aid innovation and increase efficiency, changing how financial markets

interact, including with investors. This has increased trading options for investors—for example, through dark pools and alternative exchanges.

- 16 We will support surveillance on complex products, services and distribution models that pose the highest risks to investors and financial consumers. Where appropriate, we will take enforcement or other regulatory action.

Globalisation

- 17 The long-term challenges raised by globalisation will continue to hold our attention.
- 18 To facilitate substituted compliance and enforcement activities, we will focus on increasing recognition of Australia’s regulatory regime by international authorities.

Our recent areas of focus

- 19 In recent published reports, we have outlined the priority areas our enforcement work is focused and the outcomes of that work. A number of these areas continue to be a priority for us.

Poor culture

- 20 ASIC is concerned about the culture within the financial services industry because it is a key driver of conduct. The trust and confidence of investors and financial consumers have been significantly eroded over the past few years due to poor conduct within the financial industry, including:
- (a) the provision of poor advice, both in large institutions and in smaller firms, and the mis-selling of financial products and services to investors and consumers; and
 - (b) suspected financial benchmark and FX manipulation, both in Australia and overseas.
- 21 Our work continues to focus on poor gatekeeper culture and conduct and, where appropriate, taking enforcement or other regulatory action.

Sino Strategic International Limited (Sino Strategic) and CME Capital Australia Pty Ltd (CME Capital Australia) are examples of actions that ASIC has undertaken to appoint liquidators in Section B.

Illegal phoenix activity

- 22 The cost of illegal phoenix activity in Australia is high—for employees, business and taxpayers.

- 23 As part of a surveillance program to combat illegal phoenix activity, we are targeting company directors with a history of being involved in failed companies, together with our:
- (a) construction industry statutory declaration campaign; and
 - (b) proactive phoenix and registered liquidator surveillance programs.

Retail margin FX trading

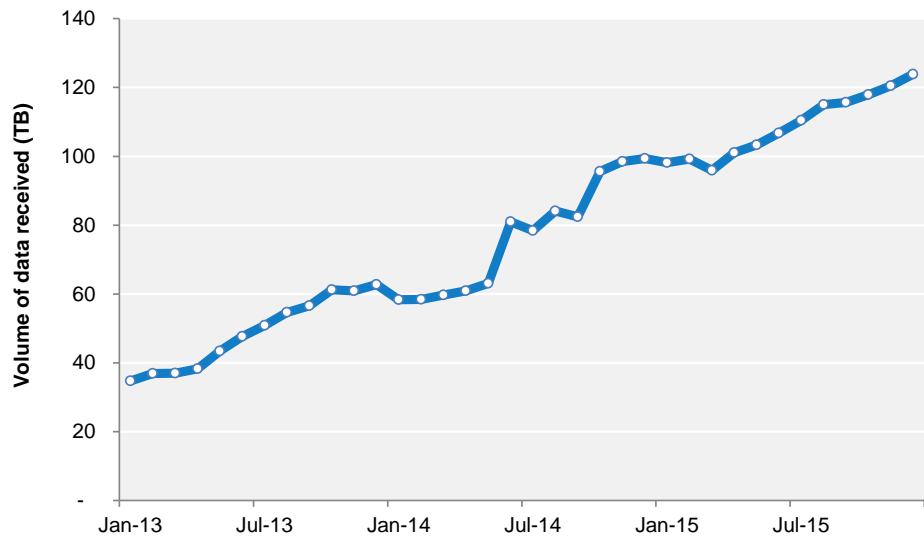
- 24 There has been an increase in the number of businesses seeking an Australian financial services (AFS) licence to set up and operate a retail margin FX broker business in Australia, many with the ultimate objective of operating in the Asian marketplace. FX trading often involves leverage and is a potentially risky form of retail investment.
- 25 ASIC is undertaking proactive surveillance activities to ensure that FX brokers are meeting their AFS licence requirements, and we are continuing to educate retail investors about the risks involved in FX trading.
- 26 We are focusing on FX brokers that are not adequately disclosing the risks of trades to their clients, as well as ensuring that they are capable of managing their own risks and any conflicts of interest.

Increase in data volume and associated technology

- 27 Increasing volumes of electronic forensic data and the use of technology, such as encryption, cloud computing, virtualisation and new technology devices are creating challenges for law enforcement agencies across the world. ASIC is regarded as a leading regulator in the field of digital forensics and is committed to maintaining its capability through ongoing investment, capacity building and inter-agency cooperation to ensure that we remain at the forefront of developments in digital forensics and technology.

Volume of data

- 28 More electronic data is being created and stored by organisations and individuals globally, which is reflected in the volume of data that is being obtained during the evidence-gathering stage of our investigations. Figure 2 indicates a continuous increase in volume over the past three years, and this is likely to continue. By 2020, we estimate that ASIC will receive 425 terabytes (TB) of data per year.

Figure 2: Volume of electronic forensic data received by ASIC in 2013–15

29 The increasing volume of data means traditional review methodologies based on targeted keyword searches and manual review are becoming less effective and efficient. ASIC is increasingly adopting smarter strategies that use tools such as predictive coding, machine learning and computer algorithms.

Our digital forensics strategy

30 ASIC addresses the challenges facing digital forensics by:

- (a) investing in the infrastructure and software necessary to support the management of evidence and our intelligence capabilities;
- (b) investing in the training and development of our forensic analysts; and
- (c) collaborating with other Australian and international government agencies to facilitate access to data using the most current forensic techniques.

31 These strategies mitigate the risk that new technology and challenges to our forensic toolkit will impair ASIC's ability to investigate misconduct in financial markets and to obtain the evidence crucial to pursuing enforcement action.

Our investigation into Kleenmaid and Myra Financial Services (Myra) resulted in a significant amount of electronic evidence. These volumes of material are no longer unique to large scale matters and are becoming the norm for all regulators.

Next six months

32 The focus of ASIC's enforcement activity over the next six months—from 1 January to 30 June 2016, will be on the following types of misconduct.

Market integrity

- 33 Conduct risk and the integrity of financial market benchmarks remain a high enforcement priority. ASIC remains committed to ensuring that disclosure obligations by entities and market abuse are addressed through enforcement action.

Corporate governance

- 34 We will continue our focus on:
- (a) companies with poor corporate governance;
 - (b) issues concerning related party transactions;
 - (c) inadequate company disclosure; and
 - (d) financial reporting and accounting fraud.
- 35 We will also continue our work in ensuring that auditors and insolvency practitioners adhere to the highest standards and, where necessary, we will take action against practitioners who fail to meet them.

Financial services

- 36 The ASIC Wealth Management Project was established in October 2014 with the objective of lifting the standards of major financial advice providers, the quality of their financial advice, and their remediation of clients who have suffered loss as a result of their failure or action. We are conducting a significant number of investigations and risk-based surveillances targeting a range of misconduct, including charging clients for financial advice where no advice was provided and compliance with the Future of Financial Advice laws.
- 37 To date, the project's work has resulted in the banning of 12 advisers, one infringement notice, additional conditions for one AFS licensee, and the acceptance of EUs from two advisers. The project will continue its investigations and surveillance in pursuing a range of regulatory outcomes.
- 38 Other important work will include progressing court proceedings commenced by ASIC to wind up land banking schemes and their developers or promoters. We have commenced two proceedings against a number of individuals and companies relating to seven land banking schemes. Approximately 1,000 people have invested in the schemes.
- 39 Land banking is a real estate investment scheme involving the acquisition of large blocks of land by promoters or developers of the scheme—often in undeveloped rural areas—who then offer portions of the land to investors. Investors either purchase a lot in the land under a standard real estate contract of sale or acquire an option to purchase a lot of land in an unregistered plan of subdivision.

- 40 ASIC's concerns relate to:
- (a) the representations made about the schemes;
 - (b) that the projects constitute financial products and/or managed investment schemes; and
 - (c) the use of the money invested in the projects.

Matters before the courts as at 1 January 2016

- 41 In Table 1 to Table 4, we provide the number of court matters that have yet to achieve a final result, such as a court-ordered penalty or criminal sentence. All of the matters in the tables were pending as at 1 January 2016.

Table 1: Market integrity—Pending enforcement matters by misconduct type

Type of misconduct	Criminal	Civil
Insider trading	3	2
Market manipulation	3	–
Continuous disclosure	1	2
Other market misconduct	4	1
Total	11	5

Table 2: Corporate governance—Pending enforcement matters by misconduct type

Type of misconduct	Criminal	Civil
Action against directors	13	25
Insolvency	4	–
Action against liquidators	1	2
Total	18	27

Table 3: Financial services—Pending enforcement matters by misconduct type

Type of misconduct	Criminal	Civil
Unlicensed conduct	1	–
Dishonest conduct, misleading statements	7	13
Misappropriation, theft, fraud	4	1

Type of misconduct	Criminal	Civil
Credit	5	3
Other financial services misconduct	2	26
Total	19	43

Table 4: Small business—Pending enforcement matters by misconduct type

Type of misconduct	Criminal	Civil
Action against directors	90	–
Efficient registration and licensing	9	–
Total	99	–

B Key matters supporting enforcement objectives

Court-appointed liquidators and freezing orders

- 42 We successfully applied to the courts to have liquidators appointed to over 20 companies to maintain protections for investors and financial consumers, or where we were concerned about the company's corporate governance.

Area of focus

Poor corporate culture and corporate governance

ASIC will target poor corporate culture and corporate governance in Australian companies to ensure that investors and financial consumers have confidence in the Australian market.

Sino Strategic

- 43 Following a successful ASIC application to the Federal Court of Australia, liquidators were appointed to ASX-listed Sino Strategic and orders were made freezing funds in Sino Strategic's bank account. The application was made because we were concerned that:
- (a) Sino Strategic had been involved in multiple contraventions of the Corporations Act and was not complying with its obligations under that legislation, including failing to lodge financial reports and convene annual general meetings;
 - (b) the affairs of Sino Strategic had not been properly managed for some time and the assets of the company were at risk; and
 - (c) Sino Strategic's continued failure to comply with the basic regulatory requirements of a listed company was contrary to the interests of the company's shareholders.

CME Capital

- 44 Following an ASIC application, the Federal Court of Australia ordered the appointment of a provisional liquidator to CME Capital Australia, Boston Pacific Capital Australia Pty Ltd (Boston Pacific Capital Australia), Boston Pacific Capital Pty Ltd, GKN Capital Pty Ltd (GKN) and IMCG Pty Ltd.
- 45 Our application for the appointment of a provisional liquidator was based on numerous concerns, including that:
- (a) CME Capital Australia, Boston Pacific Capital Australia and GKN had raised funds totalling approximately \$13.55 million from investors; and

- (b) the funds were raised unlawfully in that offers to invest were made by the companies without a disclosure document, and to individuals who were not professional investors.

46 The appointment of a provisional liquidator followed orders made by the court in November 2015 that froze the assets of the companies.

Tackling loan fraud

Area of focus

Balancing a free market-based system with investor and financial consumer protection

ASIC has a clear commitment to tackling loan fraud in Australia. We continue to focus on misconduct involving loan fraud, which often involves mortgage brokers. We have also observed misconduct within lending institutions that is facilitating loan fraud.

Myra home loans

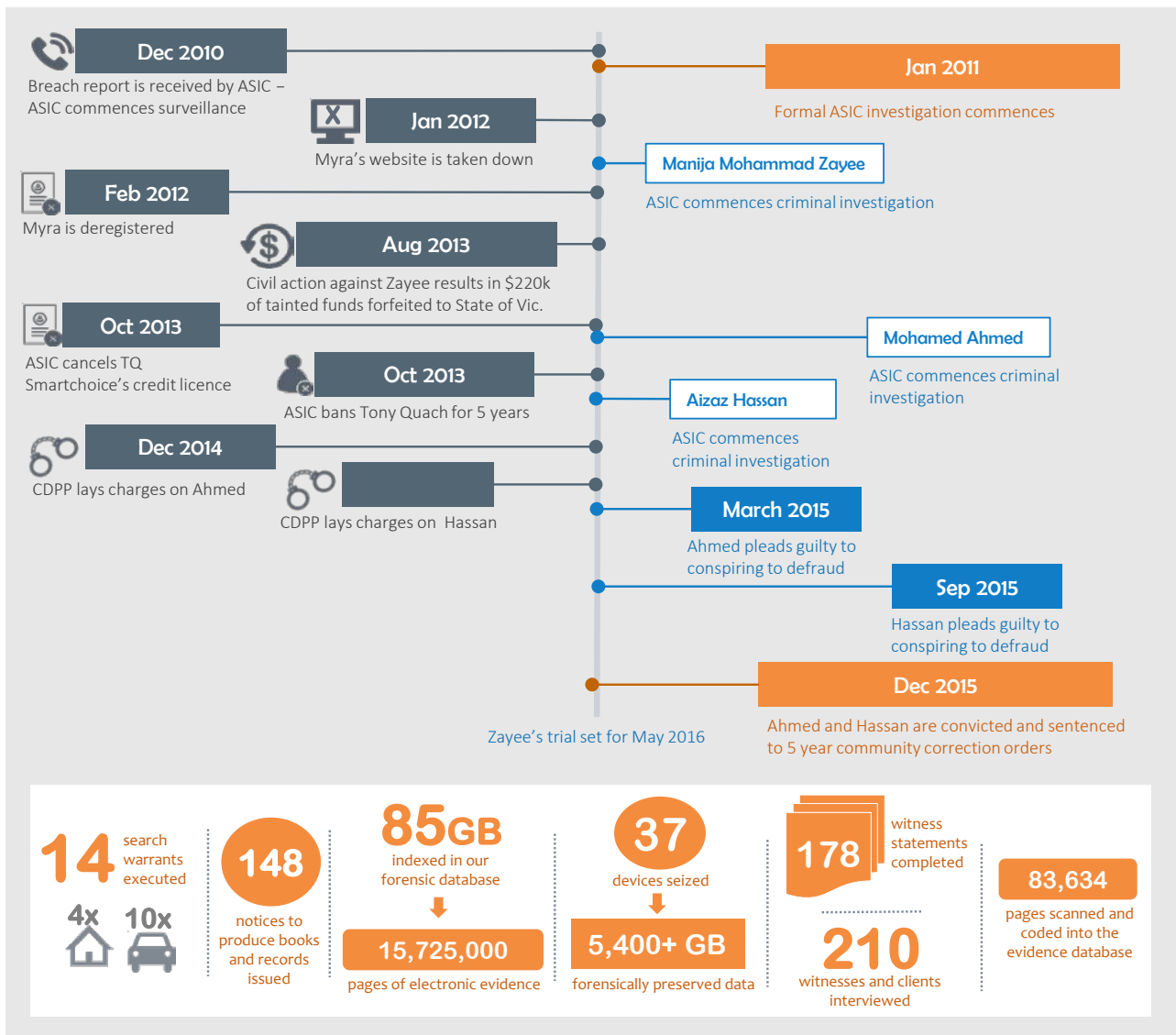
47 Our investigation into Myra centred on a conspiracy to defraud banks and other financial institutions by creating and using false documents to support loan applications submitted on behalf of Myra clients.

48 The false documents included bank statements, payslips, citizenship certificates and statutory declarations. These were predominantly used in support of applications for home loans for house and land packages, as well as for the purchase or refinance of existing homes. During the period in which it is alleged the conspiracy occurred, at least 350 loans valued at approximately \$110 million were submitted and approved on behalf of Myra clients.

49 The investigation into the fraudulent loans arranged by Myra has been conducted by ASIC over several years. It has necessarily been long and complex because of the large volume of evidentiary material that required analysis, the scale of the scale of the conduct and the conspiracy between the perpetrators.

50 Figure 3 shows the chronology of our investigation and criminal action, and the volume of electronic and hard copy material that was obtained following the execution of search warrants and compulsory notices.

Figure 3: ASIC’s investigation into Myra home loans



Note: See Table 15 and Table 16 in Appendix 2 for the data shown in this figure (accessible versions).

- 51 As a result of ASIC’s investigation, a number of individuals were charged by the Commonwealth Director of Public Prosecutions (CDPP), namely:
- (a) *Mr Aizaz Hassan* and *Mr Mohamed Radhi Maki Ebrahim Ahmed*—who both pleaded guilty to one count of common law conspiracy to defraud and were each sentenced to five years community correction orders;
 - (b) *Ms Manija Zayee*—for obtaining a financial advantage by deception. Ms Zayee’s trial is set for May 2016.

Jeremy (WA) Pty Ltd trading as Get Approved Finance

- 52 ASIC's investigation into Get Approved Finance, a car finance provider, found that between 2011 and 2014 brokers employed by Get Approved Finance engaged in unlawful conduct by having Esanda approve loans for vulnerable consumers with poor credit histories who were not otherwise eligible for credit.
- 53 Brokers arranged for a friend or relative of the consumer to become the nominated borrower by misleading that person about the effect of the documents they were signing. For example, many were told that they were a guarantor rather than the borrower. Some borrowers were also sold add-on products (e.g. insurance or warranties) without their knowledge or consent. The additional premiums increased the amount borrowed and therefore the risk of borrowers defaulting.
- 54 Loans worth more than \$1.38 million were financed by Esanda. Get Approved Finance received commissions from Esanda and the providers of the add-on products.
- 55 ASIC banned three brokers from providing financial services and engaging in credit activities. Mr Eric-John Larry Pryor and Mr Peter Lachlan McDonald were banned permanently and Ms Rana Turkington Hepi was banned for eight years.
- 56 Following engagement with ASIC, Esanda agreed to compensate 70 borrowers for car loans organised by Get Approved Finance.

Holding gatekeepers to account

Area of focus

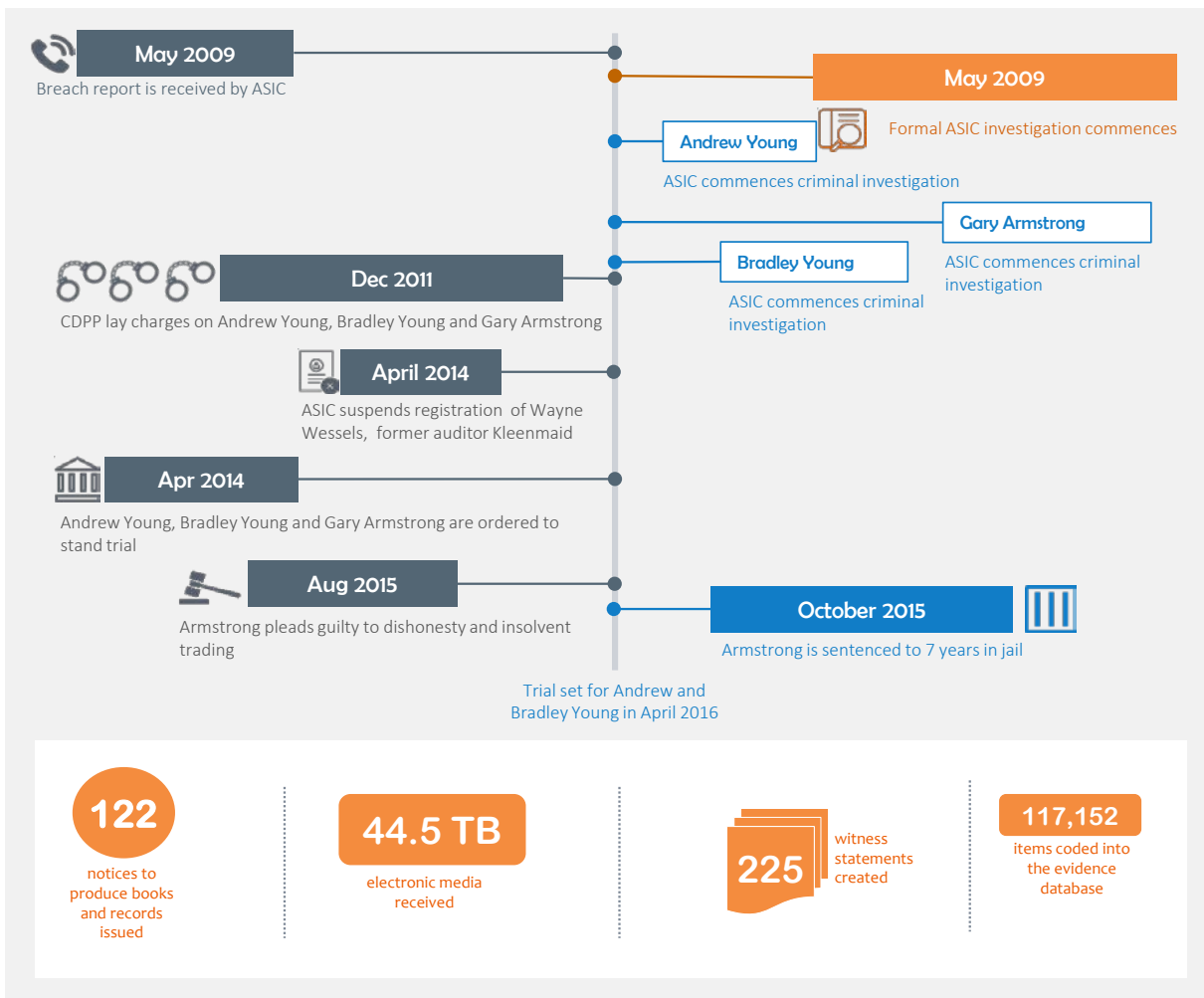
Balancing a free market-based system with investor and financial consumer protection

Senior executives are important gatekeepers in the financial system. Company directors and chief executives hold a position of responsibility and trust in any organisation and they are required to uphold their obligations.

Kleenmaid

- 57 Kleenmaid entered voluntary administration in 2009 and liquidators reported consolidated debts of almost \$100 million. The focus of ASIC's investigation centred on the solvency of Kleenmaid and a corporate restructure undertaken by the company's directors
- 58 ASIC alleges that Kleenmaid continued to trade despite becoming insolvent in 2008 and that three former directors of the company were complicit in insolvent trading of debts totalling more than \$4 million and a \$13 million fraud committed on Westpac Bank. Figure 4 shows the chronology of ASIC's investigation into Kleenmaid

Figure 4: ASIC’s investigation into Kleenmaid



Note: See Table 17 and Table 18 in Appendix 2 for the data shown in this figure (accessible versions).

- 59 Like many investigations into corporate collapses, the investigation into the former directors of Kleenmaid was complex and time-consuming. Adding to the difficulty was the lack of relevant legal authority on the area of criminal insolvent trading.
- 60 As a result of ASIC’s investigation:
- (a) *Mr Gary Armstrong*—pleaded guilty to one count of dishonestly gaining loan facilities totalling \$13 million and two counts of insolvent trading, and was sentenced to seven years jail;
 - (b) *Mr Wayne Wessels*—the former auditor of Kleenmaid, had his auditor registration suspended for three years following an application to the Companies Auditors and Liquidators Disciplinary Board; and
 - (c) *Mr Bradley Young* and *Mr Andrew Young*—were both charged with fraud and insolvent trading, and are due to face trial in April 2016.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Protecting retail investors and financial consumers

Area of focus

Retail margin FX trading

ASIC has taken a range of action against financial services businesses that provide margin FX and contracts for difference (CFD) broking services to retail clients—including against individuals involved in the operation of those businesses.

Andrew Jeffers

- 64 Mr Andrew Jeffers was banned from providing financial advice for three years after GTL Trade Up Pty Ltd (in liquidation) (GTL), a company of which he was a director, issued three Product Disclosure Statements that contained false or materially misleading statements. The statements of concern misled retail investors about the true trading position undertaken by GTL and affected investors' ability to make an informed decision about whether to invest with GTL.
- 65 Liquidators were appointed to GTL on 26 September 2013 after its main liquidity provider, a Dubai-based entity, failed to make funds available to GTL to meet client withdrawals. GTL owed about \$4.4 million to its retail clients.

Nigel Derek Heath

- 66 Following pleas of guilty to two charges, Mr Nigel Derek Heath was sentenced by the District Court to two years jail for a market manipulation offence and 18 months jail for a matched trade offence. In his original sentencing, Mr Heath was to be released on a recognizance release order

after serving nine months, with self-surety in the amount of \$10,000, to be of good behaviour for a period of 18 months.

- 67 Mr Heath filed an application for leave to appeal against his sentence on 25 November 2015.
- 68 On 25 February 2016, the Court of Criminal Appeal resented Mr Heath to 18 months jail for the market manipulation offence and 18 months jail for the matched trade offence. Mr Heath served five months jail and was released on 25 February 2016 on a recognizance release order, in the sum of \$10,000, to be of good behaviour for a period ending on 24 June 2017.
- 69 The charges against Mr Heath related to his trading in shares and CFDs in four resource companies between 16 February 2012 and 11 October 2013. Over these 20 months, Mr Heath traded through nine separate share trading and CFD trading accounts.

Area of focus

Vulnerable financial consumers

ASIC has taken a range of actions against financial services businesses that aim to take advantage of vulnerable consumers.

Make it Mine

- 70 Make it Mine Finance Pty Ltd (Make it Mine) supplies electronic devices and white goods to customers in receipt of Centrelink benefits. Make it Mine failed to disclose important information to its customers about the amount of interest being charged on top of the cash price—or market value—of the goods they were purchasing.
- 71 ASIC launched a civil action against the company. Make it Mine also voluntarily issued its own proceedings before the court. The Federal Court found that Make it Mine breached consumer credit laws, including the responsible lending obligations, and awarded penalties totalling \$1.25 million against the company.

Protecting investors from cyber crime

Area of focus

Digital disruption

As technology continues to replace traditional methods of investing, the likely increase in the incidence of cyber crime means that ASIC and other law enforcement agencies will focus on activities that ensure investors and consumers continue to be protected.

Operation Emerald

- 72 On 5 August 2015, the Supreme Court of New South Wales ordered more than \$77,000 to be restrained following a joint ASIC–AFP operation into the hacking of online accounts of retail investors.
- 73 Operation Emerald investigated an internet hacking, market manipulation and money-laundering operation involving a client account held overseas that traded through Morgan Stanley Australia Securities Limited (Morgan Stanley).
- 74 The suspicious trades, which occurred between 18 August 2014 and 21 October 2014, were detected by ASIC’s surveillance team and immediate action was taken (with the assistance of Morgan Stanley) to prevent the profits from being distributed.
- 75 Following an investigation, ASIC found that the unauthorised trades were made by a suspected Russian hacker who hacked into a number of retail client accounts held with Commonwealth Securities Limited, Etrade Australia and Australian Investment Exchange Limited. By using the hacked client accounts, the suspected Russian hacker targeted 13 penny stocks listed on the ASX and traded them in such a way that he created an artificially inflated price. Subsequent to this trading, the suspected Russian hacker traded out of the positions, collecting the profits generated.
- 76 Following ASIC’s investigation, it was decided that action should be taken in relation to the profits of the trades. Following a referral from ASIC, the Commissioner of the AFP made an application under the *Proceeds of Crime Act 2002* and the Supreme Court of New South Wales ordered \$77,429.61 to be restrained.

Appendix 1: Summary of enforcement results

Enforcement results—1 July 2015 to 31 December 2015

77 Table 5 to Table 8 show the results of our enforcement activity. These are reported by reference to specialist enforcement teams and grouped by category of misconduct. Results achieved include court determinations (criminal and civil), administrative remedies, criminal guilty pleas that are yet to be the subject of a sentencing decision by the court, and the acceptance of EUs.

78 These tables also include:

- (a) any regulatory action taken to secure compliance, about which we have made a public announcement; and
- (b) a number of outcomes in our ‘small business compliance and deterrence’ team, which we do not generally announce through a media release.

79 It should be noted that we also undertake a significant number of surveillances and investigations that result in a less formal or non-public result (e.g. a negotiated agreement). These may not be covered in this report.

Table 5: Market integrity—Results by misconduct type

Type of misconduct	Criminal	Civil	Admin	EU	Negotiated outcome
Insider trading	3	1	–	2	–
Market manipulation	2	–	–	–	–
Continuous disclosure	–	–	4	–	–
Market integrity rules	–	–	5	–	–
Other market misconduct	2	–	1	–	1
Total	7	1	10	2	1

Table 6: Corporate governance—Results by misconduct type

Type of misconduct	Criminal	Civil	Admin	EU	Negotiated outcome
Action against directors	3*	4	4	–	–
Action against auditors	–	–	5	–	–
Action against liquidators	–	–	–	2	4
Insolvency	1	–	–	–	–
Other corporate governance misconduct	–	1	10	–	1
Total	4	5	19	2	5

* Two of these are currently under appeal.

Table 7: Financial services—Results by misconduct type

Type of misconduct	Criminal	Civil	Admin	EU	Negotiated outcome
Unlicensed conduct	–	–	–	–	2
Dishonest conduct, misleading statements	–	9	18*	–	2
Misappropriation, theft, fraud	–	–	2	–	–
Credit	3	2	31**	1	3
Other financial services misconduct	–	1	16***	3	12
Total	3	12	67	4	19

* Three of these are currently under appeal.

** Two of these are currently under appeal.

*** Three of these are currently under appeal

Table 8: Small business—Results by misconduct type

Type of misconduct	Criminal	Civil	Admin	EU	Negotiated outcome
Action against directors	194	–	14*	–	–
Efficient registration and licensing	28	–	–	–	–
Total	222	0	14	0	0

* Two of these are currently under appeal.

Appendix 2: Data tables for figures

80 This appendix provides accessible versions of the data displayed in our figures in this report.

Data tables for Figure 1

Table 9: Summary of enforcement results

Type	Number (or value)
Investigations commenced	105
Investigations completed	86
Persons charged in criminal proceedings	6
Criminal charges laid	42
Individuals removed from financial services	27
Infringement notices issued	20
Infringement notices paid (value)	\$969,200
Compensation / remediation (value)	\$149m

Table 10: Market integrity results by misconduct type

Type of misconduct	Proportion of total (%)
Insider trading	29
Market manipulation	10
Continuous disclosure	19
Market integrity rules	24
Other market misconduct	19

Note: Percentages are rounded to the nearest unit.

Table 11: Corporate governance results by misconduct type

Type of misconduct	Proportion of total (%)
Action against directors	31
Insolvency	3
Action against liquidators	17
Action against auditors	14
Other corporate governance misconduct	34

Note: Percentages are rounded to the nearest unit.

Table 12: Financial services results by misconduct type

Type of misconduct	Proportion of total (%)
Unlicensed conduct	2
Dishonest conduct, misleading statements	28
Misappropriation, theft, fraud	2
Credit	38
Other financial services misconduct	30

Note: Percentages are rounded to the nearest unit.

Table 13: Small business results by misconduct type

Type of misconduct	Proportion of total (%)
Action against directors	88
Efficient registration and licensing	12

Note: Percentages are rounded to the nearest unit.

Data table for Figure 2

Table 14: Volume of forensic electronic data received by ASIC in 2013–15

Month	Volume of data (TB)
January 2013	35
February 2013	37
March 2013	37
April 2013	38
May 2013	43
June 2013	48
July 2013	51
August 2013	55
September 2013	57
October 2013	61
November 2013	61
December 2013	63
January 2014	58
February 2014	58
March 2014	60

Month	Volume of data (TB)
April 2014	61
May 2014	63
June 2014	81
July 2014	78
August 2014	84
September 2014	82
October 2014	96
November 2014	98
December 2014	99
January 2015	98
February 2015	99
March 2015	96
April 2015	101
May 2015	103
June 2015	107
July 2015	110
August 2015	115
September 2015	116
October 2015	118
November 2015	120
December 2015	124

Data tables for Figure 3

Table 15: Myra home loans—Timeline

Date	Events
December 2010	<ul style="list-style-type: none"> • Breach report is received by ASIC • ASIC commences surveillance
January 2011	Formal ASIC investigation commences
January 2012	Myra's website is taken down
February 2012	Myra is deregistered

Date	Events
May 2012	ASIC commences criminal investigation into Manija Mohammad Zayee
August 2013	<ul style="list-style-type: none"> • Civil action against Zayee results in \$220,000 of tainted funds forfeited to the State of Victoria • ASIC commences criminal investigation into Mohamed Ahmed
October 2013	<ul style="list-style-type: none"> • ASIC cancels TQ Smartchoice's credit licence • ASIC bans Tony Quach for 5 years
March 2014	ASIC commences criminal investigation into Aizaz Hassan
December 2014	CDPP lays charges on Ahmed
January 2015	CDPP lays charges on Hassan
March 2015	Ahmed pleads guilty to conspiracy to defraud
September 2015	Hassan pleads guilty to conspiracy to defraud
December 2015	Ahmed and Hasan are convicted to five year community correction orders
May 2016	Zayee's trial date set

Table 16: Myra Home Loans—Key statistics

Type	Number or amount
Search warrants executed	<ul style="list-style-type: none"> • 4 (house) • 10 (car)
Notices to produce books and records issued	148
Volume of data indexed in our forensic database	85 GB
Pages of electronic evidence	15,725,000
Devices seized	37
Forensically preserved data	5,400 GB
Witness statements completed	178
Witnesses and clients interviewed	210
Pages scanned and coded into the evidence database	83,634

Note: GB = gigabyte

Data tables for Figure 4

Table 17: Kleenmaid—Timeline

Date	Events
May 2009	<ul style="list-style-type: none"> Breach report is received by ASIC Formal ASIC investigation commences
June 2009	ASIC commences criminal investigation into Andrew Young, Bradley Young and Gary Armstrong
December 2011	CDPP lays charges on Andrew Young, Bradley Young and Gary Armstrong
April 2014	<ul style="list-style-type: none"> ASIC suspends the registration of Wayne Wessels, the former auditor of Kleenmaid Andrew Young, Bradley Young and Gary Armstrong are ordered to stand trial
August 2015	Armstrong pleads guilty to dishonesty and insolvent trading
October 2015	Armstrong is sentenced to seven years in jail
April 2016	Trial date for Andrew and Bradley Young

Table 18: Kleenmaid—Key statistics

Type	Number or amount
Notices to produce books and records issued	122
Electronic media received	44.5 TB
Witness statements created	225
Items coded into the evidence database	177,152

Note: TB = terabytes

Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A.
ASIC	Australian Securities and Investments Commission
ASIC's Corporate Plan	ASIC's Corporate Plan 2015–16 to 2018–19
CDPP	Commonwealth Director of Public Prosecutions
CFD	Contracts for difference
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
credit activities	Has the meaning given in s6 of the National Credit Act
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
enforceable undertaking (EU)	An enforceable undertaking that may be accepted by ASIC under reg 7.2A.01 of the Corporations Regulations
enforcement result	Any formal action to secure compliance, about which ASIC has made a public announcement
Federal Court	The Federal Court of Australia
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
FX	Foreign exchange
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
relevant period	1 June 2015 to 31 December 2015
s180 (for example)	A section of the Corporations Act (in this example numbered 180), unless otherwise specified

Related information

Headnotes

ASIC's strategic priorities, banning, credit activities, enforceable undertaking, enforcement result, EU, financial service, gatekeepers, infringement notice, misleading or deceptive conduct

Legislation

Corporations Act, s180–184, s588G and s590G

National Credit Act

Reports

[REP 281](#) *ASIC enforcement outcomes: July to December 2011*

[REP 299](#) *ASIC enforcement outcomes: January to June 2012*

[REP 336](#) *ASIC enforcement outcomes: July to December 2012*

[REP 360](#) *ASIC enforcement outcomes: January to June 2013*

[REP 383](#) *ASIC enforcement outcomes: July to December 2013*

[REP 402](#) *ASIC enforcement outcomes: January to June 2014*

[REP 421](#) *ASIC enforcement outcomes: July to December 2014*

[REP 444](#) *ASIC enforcement outcomes: January to June 2015*