



ANNUAL REPORT **2011–12**

- ♦ confident and informed investors and financial consumers
- ♦ fair and efficient financial markets
- ♦ efficient registration and licensing



ASIC

Australian Securities & Investments Commission

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ASIC

Australian Securities & Investments Commission

GREG MEDCRAFT

Chairman

100 Market Street, Sydney
GPO Box 9827 Sydney NSW 2001
DX 653 Sydney

10 October 2012

The Hon Bernie Ripoll, MP
Parliamentary Secretary to the Treasurer
Parliament House
CANBERRA ACT 2600

Dear Mr Ripoll

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2012.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* and the 'Requirements for Annual Reports' guide, approved by the Joint Committee of Public Accounts and Audit, and published by the Department of the Prime Minister and Cabinet on 28 June 2012.

I note that you are required under section 136 to cause the report to be tabled in each House within 15 sitting days of receiving it.

Yours sincerely

Greg Medcraft
Chairman

Chairman's report

In 2011–12, ASIC continued to focus on our strategic priorities, aligning the organisation and our performance management framework with these priorities, and increasing our transparency so that Australians know what they can expect from us.

Commission changes

The substantially new Commission brings deep knowledge of markets and consumer issues when leading their clusters. We welcomed new Commissioners Peter Kell, Greg Tanzer and John Price following the departures of Dr Peter Boxall and Shane Tregillis who took up new positions outside ASIC. We were deeply saddened by the passing of former Commissioner Michael Dwyer. Each Commissioner made a tremendous contribution and, on behalf of ASIC, I would like to acknowledge their service.

Strategic priorities

I place great emphasis on having the community understand what ASIC is doing and why. There should be no surprises for the regulated population when ASIC takes action because everything we do is premised on the following three priorities that were laid out in ASIC's Strategic Framework document in August 2011:

- Priority 1:** Confident and informed investors and financial consumers
- Priority 2:** Fair and efficient financial markets
- Priority 3:** Efficient registration and licensing.

ASIC is outcomes-focused. We have a number of tools available to achieve the desired outcomes. These are:

- ♦ engagement with industry and stakeholders
- ♦ surveillance
- ♦ guidance
- ♦ education
- ♦ enforcement
- ♦ policy advice.

Structure

We have aligned our corporate structure into three clusters to better reflect our priorities. The Investors and Financial Consumers cluster focuses on Priority 1 and is led by Commissioners Peter Kell and Greg Tanzer. The Markets cluster deals primarily with Priority 2 and is led by Deputy Chairman Belinda Gibson and Commissioner John Price. The Registry and Licensing cluster, with a focus on small business, is led by Commissioner Tanzer.

Transparency

We have improved the transparency and accountability of our enforcement work, by publishing information sheets that describe how, when and why we take enforcement action and the circumstances in which we may make public comment on it, by publishing bi-annual reports on enforcement action outcomes, and by reporting on the use of our compulsory information-gathering powers in the Annual Report (see page 150).

Business plans

We have also aligned our business plans with the strategic priorities. Our senior leaders are required to set out in detail how they will meet ASIC's priorities, which tools they will use to achieve this, and outcomes they will achieve. The organisation as a whole is expected to meet its business plans or be held accountable if it does not.

ASIC values and behaviours

We have refreshed our ASIC values which are now: Accountability, Professionalism and Teamwork – APT for short. The intent behind the values is that they will create a dynamic and supportive environment for achieving our strategic priorities. These values will permeate actions and business decisions, and they are part of every individual's performance agreement where we describe our personal commitment to living the values.

Employer value proposition

ASIC's employer value proposition, 'For Good Reason', was launched in May 2012 to support our goal of attracting, inspiring and retaining talented and committed staff. It recognises the critical role that our staff play in achieving our strategic priorities. We emphasise this message by placing it on our key materials as part of our employment initiative to attract the best and brightest.

Resources

A key challenge for ASIC as a regulator is how to allocate the resources that are available to us to best fulfil our mandate. In setting our priorities, we consider the following:

- ♦ our legislative responsibilities
- ♦ government policy
- ♦ systemic and regulatory risk
- ♦ stakeholder expectations.

We have established an Emerging Risk Committee to analyse risks that are on the horizon that might pose a threat to markets and consumers and to put in place appropriate strategies to monitor and mitigate them.

Engagement

It is critical for the regulator to keep its finger on the pulse and one way we do this is through our external committees and panels. The External Advisory Panel membership ranges from the head of Google Australia, Nick Leeder, to Jenni Mack, Chair of CHOICE. The membership provides a breadth and depth of knowledge that helps ASIC keep abreast of developments and systemic risks within industry and markets.



Greg Medcraft, Chairman

Highlights 2011–12

Confident and informed investors and financial consumers

Major outcomes in 2011–12 included:

Engagement with industry and stakeholders

- ♦ The Investors and Financial Consumers cluster held over 200 meetings with industry associations. Topics discussed ranged from the Future of Financial Advice to advertising.
- ♦ We consulted on topics such as good practice guidance on advertising credit products and credit services; a review of the external dispute resolution jurisdiction over consumer complaints in cases where members have commenced legal proceedings to recover debts from consumers; and improving disclosure for retail investors considering unlisted property schemes.

Surveillance

- ♦ ASIC conducted over 750 high-intensity surveillances of its regulated population including risk-based reviews of investment banks and major exchange traded fund issuers, and shadow shops of financial advisers.
- ♦ We also reviewed the sales practices of 15 authorised deposit-taking institutions (ADIs) that sold consumer credit insurance for home loans, personal loans and credit cards. From this work we identified problems such as a high proportion of related insurance claims being denied.

Guidance

- ♦ We released 19 new or revised regulatory guides relating to Priority 1. These included best practice guidance on advertising financial products, disclosure standards for unlisted property schemes, financial resource requirements for responsible entities, and guidance on the shorter product disclosure regime.
- ♦ In September 2011, we released the ePayments Code, a best-practice consumer protection regime for electronic payment facilities.

Highlights 2011–12 continued

Education

- ♦ ASIC's MoneySmart website was expanded and now underpins financial literacy activities, including school and Indigenous programs. It received 1.9 million unique visits and was rated Best Government Website at the 2011 Australian Web Awards and Best Service Delivery Website at the 2012 Excellence in e-Government Awards. In an April 2012 survey of MoneySmart users, 89% of respondents reported taking specific action as a result of visiting the site.
- ♦ The Helping Our Kids Understand Finance initiative has delivered a national learning package for primary schools to engage students, and we have a dedicated teaching website that is being trialled in 90 schools throughout Australia.
- ♦ We have produced financial education resources to assist newly-arrived Australians, including online content in 26 languages.
- ♦ ASIC's Indigenous Outreach Program provides Aboriginal and Torres Strait Islanders with tools to make decisions about all financial services. As well as producing targeted publications, we've visited over 30 Indigenous communities throughout Australia, promoting financial literacy, and following up complaints about financial services providers.

Enforcement

- ♦ Under this Priority, we completed 133 civil litigation actions, 118 investigations, 14 criminal proceedings, and secured 13 criminal convictions and 10 imprisonments.
- ♦ As a result of work done throughout the year we recently reached a settlement agreement with the Commonwealth Bank of Australia on the Storm Financial matter bringing the total compensation made available by the bank to approximately \$268 million.
- ♦ Through Operation Ark, ASIC took action to combat organised crime targeting unsuspecting and inexperienced Australian investors through online scams.

Policy advice and implementation

- ♦ ASIC contributed to the Government's Future of Financial Advice and Stronger Super reforms.
- ♦ ASIC made four public and two confidential policy submissions to the Government relating to Priority 1. The public policy submissions related to inquiries into the collapse of Trio Capital, the operation of the insurance industry, and the Future of Financial Advice reforms.

Fair and efficient financial markets

Major outcomes in 2011–12 included:

Engagement with industry and stakeholders

- ♦ The Markets cluster attended over 200 meetings and conferences with industry associations on topics ranging from market supervision cost recovery to insolvency law reform.
- ♦ We consulted on topics such as the proposed regulatory guidance on high-frequency automated trading, dark pools and further proposals on the Australian equity market structure.
- ♦ Leading up to the launch of Chi-X, ASIC worked closely with market operators, participants, vendors, the Market Supervision Advisory Panel, Treasury and third-party experts. Following the launch we conducted more than 50 meetings with stakeholders and held information sessions for industry bodies to ensure we issued workable rules and guidance.

Surveillance

- ♦ ASIC conducted over 700 high-intensity surveillances of its regulated population including listed entities engaging in control transactions, risk-based reviews of audit firms and market participants, practice reviews of liquidators, and annual assessments of market operators. We also reviewed financial reports of listed entities and prospectuses, intervening on 125 prospectuses and issuing 21 interim and 13 final stop orders.
- ♦ Through our real-time supervision of the Australian financial markets, ASIC identified over 20,000 trading alerts in the second half of 2011, with 131 matters requiring further inquiry.
- ♦ We made submissions on nine matters considered by the Takeovers Panel.

Guidance

- ♦ ASIC issued 10 new or updated regulatory guides relating to Priority 2.
- ♦ We issued new competition market integrity rules, which establish common standards for market operators; guidance clarifying ASIC's expectations on trading system controls; and recommended a number of improvements to ASX Group systems and processes
- ♦ Guidance for companies included guidance on preparing better prospectuses and on reporting and voting on remuneration for key management personnel.

Enforcement

- ♦ ASIC conducted enforcement actions on market manipulation, false or misleading statements, insider trading and other breaches of the *Corporations Act 2001* (Corporations Act). We completed 46 civil litigation actions, 65 investigations, 14 criminal proceedings, and secured 14 criminal convictions and 10 imprisonments.
- ♦ Decisions handed down in the Centro and James Hardie cases gave the Australian community greater certainty about what is expected of company directors. The Federal Court in Centro set a clear standard of care and diligence for directors when approving financial reports. The decision in James Hardie reinforced the proposition that directors have responsibility for the content of market announcements they approve.

Policy advice and implementation

- ♦ ASIC helped develop domestic and international policy. This included implementing the Group of Twenty (G20) Leaders' commitments on over-the-counter derivatives markets, including standards on data reporting and proposed margining requirements for non-cleared transactions.
- ♦ ASIC also made one public and eight confidential policy submissions to the Government relating to Priority 2. The public policy submission related to an inquiry into the post-global financial crisis banking sector.

Efficient registration and licensing

Major outcomes in 2011–12 included:

Engagement with industry and stakeholders

- ♦ We conducted 20 roadshows to introduce the national Business Names Register to industry and stakeholders.
- ♦ As part of improving how we deal with the public, we launched the ASIC Connect user interface which allows customers to conduct registry searches online more easily and cheaply. We saw significant growth in online interactions, including 20% more visits to the ASIC website.

Surveillance

- ♦ ASIC conducted desktop reviews and onsite audits of 32 credit licensees to confirm the information in their annual compliance certificates under the national consumer credit laws.
- ♦ ASIC also investigated 116 entities to determine if they were engaged in unlicensed credit activities.

Guidance

- ♦ ASIC issued 11 new or updated regulatory guides relating to Priority 3. These included guidance on how to apply for an Australian financial services (AFS) licence, and principles for cross-border financial regulation.
- ♦ ASIC developed guidance to prepare the financial services industry for emissions trading, including when an AFS licence will be required and details of which emissions units are financial products.

Enforcement

- ♦ ASIC disqualified or removed 84 directors from managing corporations as a result of being involved in two or more companies that have been placed into liquidation within seven years.

Policy advice and implementation

- ♦ We launched the national Business Names Register on 28 May 2012 to replace the eight previous state and territory services. More than 1.4 million active business names were transferred to the new register.
- ♦ ASIC transferred more than 1.5 million company charges to the Personal Property Securities Register which was implemented on 30 January 2012.

Chairman's report continued

Outlook

As I stated in my opening address at the 2012 ASIC Summer School, our annual industry conference, there are three key challenges facing ASIC over the next decade to build resilience in the Australian financial system. These are:

- ♦ the growing regulatory perimeter, particularly with the exponential growth in superannuation – more products, more investors and greater investment funds increases risk in the financial system;
- ♦ the increasing complexity of the financial system – products, methods of distribution, information channels and financial markets are increasing in complexity which again increases risk in the system; and
- ♦ leveraging ASIC's resources to be proactive, because it is through proactive regulation that you build resilience. Stakeholder engagement, surveillance, education and guidance are central to maintaining confidence in Australia's financial system.

To address these challenges we will continue to focus on our three priorities and make the most of the tools at our disposal. We are also consulting closely with relevant industry parties and working with other regulators in Australia and overseas regulators through the International Organization of Securities Commissions (IOSCO).

Our people

On behalf of the Commission, I would like to thank all of ASIC's staff members for the exceptional contribution they made over the past year.

Spread across nine offices in Australia, ASIC staff played a key role in enabling us to support and improve the nation's business and economic environment. Their dedication was central to the successful completion of the many initiatives outlined above and in this report, many of which represent an expansion of ASIC's traditional responsibilities.

Our team is also generous. Over the year, ASIC staff donated \$134,965 to not-for-profit organisations. We have one of the largest workplace-giving programs in the Australian Public Service. ASIC also supported the community as volunteers and helped ensure the success of a range of ASIC's environmental efficiency initiatives.

The priorities on which all our work is based are supported by the pledge that we will continue to take on the big and difficult cases, no matter where they are or who they involve. ASIC staff and the Commission know that the Australian public would expect nothing less and this annual report shows the strides we have made to meet that pledge.



Greg Medcraft
Chairman

TRIBUTE TO MICHAEL DWYER

Michael Dwyer was appointed as an ASIC Commissioner in 2009 and completed his three-year term on 11 December 2011. He passed away in March 2012. Michael was a valued friend and colleague who made an important and lasting contribution to Australia's corporate governance framework. His experience – especially in the insolvency, accounting and financial reporting areas – was significant and of tremendous benefit to ASIC, particularly through periods of parliamentary scrutiny and the challenges of the global financial crisis.



Commissioners

Greg Medcraft

Chairman, BComm

Greg Medcraft was appointed ASIC Chairman on 13 May 2011 for a five-year term.



Greg joined as ASIC Commissioner in February 2009. Prior to ASIC, Greg was Chief Executive Officer and Executive Director at the Australian Securitisation Forum (ASF).

Greg spent nearly 30 years in investment banking at Société Générale in Australia, Asia, Europe and the Americas. More recently, he was the Managing Director and Global Head of Securitisation, based in New York.

In 2002, Greg co-founded the American Securitization Forum and was its Chairman from 2005 until 2007 when he returned to Australia. The American Securitization Forum is an industry group representing some 350 member institutions comprising all major stakeholders in the US\$1 trillion US securitisation market. In January 2008, he was appointed Chairman Emeritus of the Forum.

Greg is the Chair elect of the International Organization of Securities Commissions (IOSCO) with his term due to commence in March 2013.

Belinda Gibson

Deputy Chairman, BEc, LLB (Hons), LLM (Hons)

Belinda Gibson joined ASIC as a Commissioner on 5 November 2007 and was appointed Deputy Chairman on 7 May 2010.



She is a member of the Financial Reporting Council and, until recently, the Corporations and Markets Advisory Committee.

Before joining ASIC, Belinda was a partner at the law firm Mallesons Stephen Jaques from 1987 to 2007, specialising in corporate and securities law and transactional advice. She was partner in charge of the Sydney office from 2000 to 2003. She was a director of Airservices Australia

(Australia's air traffic control authority) from 2000 to 2004, and of the charitable body, the Menzies Foundation, from 1990 to 2007.

Belinda currently has responsibility within the Commission for overseeing capital markets, including exchange traded markets and broker supervision functions and associated enforcement teams. This group recently managed the introduction of market services competition in Australia.

Belinda also oversees the team supervising insolvency practitioners. The Insolvency Practitioners team has recently been given powers to wind up companies, and their annual publication of corporate insolvencies provides detailed statistics to help consumers with matters such as identifying causes of failure and likely dividends to unsecured creditors.

Peter Kell

BA (Hons)

Peter Kell commenced as an ASIC Commissioner on 7 November 2011.



From August 2008, Peter was Deputy Chair of the Australian Competition and Consumer Commission (ACCC). He was President of the International Consumer Protection Enforcement Network in 2009–10, and also served on the Consumer Policy Committee of the Organisation for Economic Co-operation and Development (OECD). Peter has been on the Australian Government Financial Literacy Board since its establishment, and is a member of the Commonwealth Consumer Affairs Advisory Committee.

Before joining the ACCC, Peter was Chief Executive of CHOICE (formerly the Australian Consumers Association) and a board member of the global consumer organisation Consumers International.

Between 1998 and 2004, he was ASIC's Executive Director of Consumer Protection and its New South Wales Regional Commissioner.

Commissioners *continued*

John Price

BA, LLB (Hons)

John Price commenced as an ASIC Commissioner on 21 March 2012.

Since joining ASIC in 1999, John has held a number of senior roles including, most recently, as Senior Executive Leader, Strategy and Policy. His previous roles at ASIC include Senior Executive Leader, Corporations; Acting Executive Director, Regulation; and Director, Applications and Licensing.

In these roles, John has been closely involved in developing and implementing regulatory policy and the regulatory aspects of major transactions, as well as identifying and developing regulatory responses to emerging issues and risks. His regulatory experience includes matters relating to fundraising, mergers and acquisitions, financial services, and accounting and audit.

Prior to joining ASIC, John worked in the Gold Coast and Brisbane offices of Corrs Chambers Westgarth, a national law firm.



Greg Tanzer

BEd, LLB (Hons)

Greg Tanzer commenced as an ASIC Commissioner on 5 March 2012.

He served as Secretary General of IOSCO from 2008 until early 2012.

Greg was previously Executive Director, Consumer Protection and International at ASIC, where he worked in various senior positions from 1992 to 2008.

Before joining ASIC, Greg worked in the Australian Government Attorney-General's Department and the Department of Finance.



ASIC Commissioners, June 2012



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ASIC's role

ASIC is Australia's corporate, markets and financial services regulator.

ASIC contributes to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and efficient, supported by confident and informed investors and consumers.

The *Australian Securities and Investments Commission Act 2001* requires ASIC to strive to:

- ♦ maintain, facilitate and improve the performance of the financial system and entities within it in the interests of commercial certainty, reducing business costs, increasing efficiency and developing the economy
- ♦ promote confident and informed participation by investors and consumers in the financial system
- ♦ administer the law effectively and with a minimum of procedural requirements
- ♦ receive, process and store – efficiently and quickly – the information that it receives
- ♦ make information about companies and other bodies available to the public as soon as practicable
- ♦ take whatever action it can, and which is necessary, to enforce and give effect to the law.

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection under the:

- ♦ *Australian Securities and Investments Commission Act 2001* (ASIC Act)
- ♦ *Business Names Registration Act 2011*
- ♦ *Business Names Registration (Transitional and Consequential Provisions) Act 2011*
- ♦ *Corporations Act 2001* (Corporations Act)
- ♦ *First Home Saver Accounts Act 2008*
- ♦ *Insurance Contracts Act 1984*
- ♦ *Life Insurance Act 1995*
- ♦ *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- ♦ *National Consumer Credit Protection Act 2009* (National Credit Act)
- ♦ *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*
- ♦ *Retirement Savings Accounts Act 1997*
- ♦ *Superannuation (Resolution of Complaints) Act 1993*
- ♦ *Superannuation Industry (Supervision) Act 1993.*

Other regulators

ASIC is a member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies. Other members are the Australian Prudential Regulation Authority (APRA), Treasury and the Reserve Bank of Australia (RBA). ASIC maintains an operational and policy relationship with the Australian Competition and Consumer Commission (ACCC). ASIC is also a member of the International Organization of Securities Commissions (IOSCO).

Responsible Ministers

At 30 June 2012, the Ministers responsible for ASIC are the Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services and Superannuation, the Hon Bill Shorten MP, and the Parliamentary Secretary to the Treasurer, the Hon Bernie Ripoll MP.

Parliamentary oversight

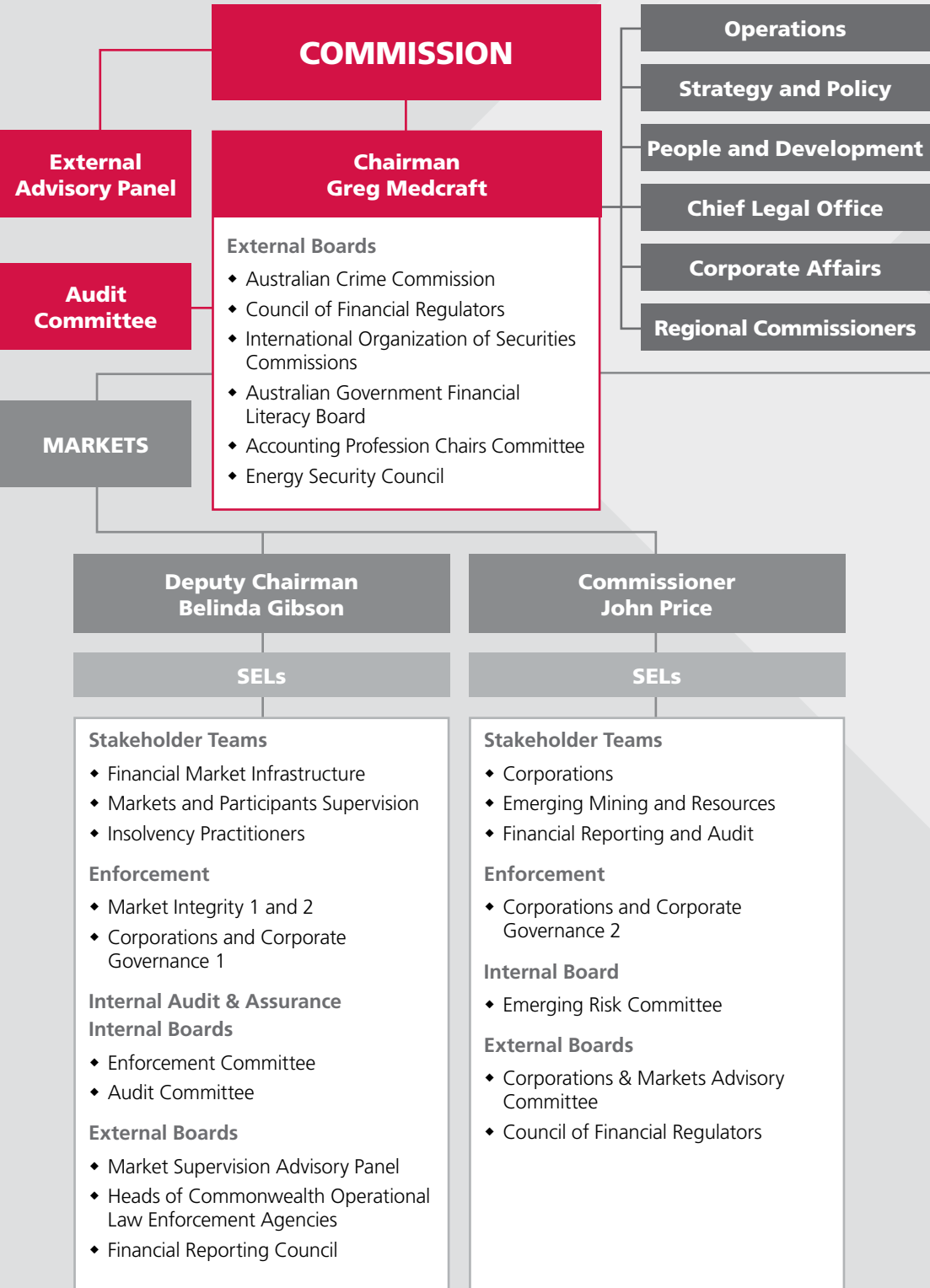
The Parliamentary Joint Committee on Corporations and Financial Services provides parliamentary oversight of ASIC. ASIC also appears before the Senate Standing Committee on Economics. ASIC appears before other parliamentary committees and inquiries as required.

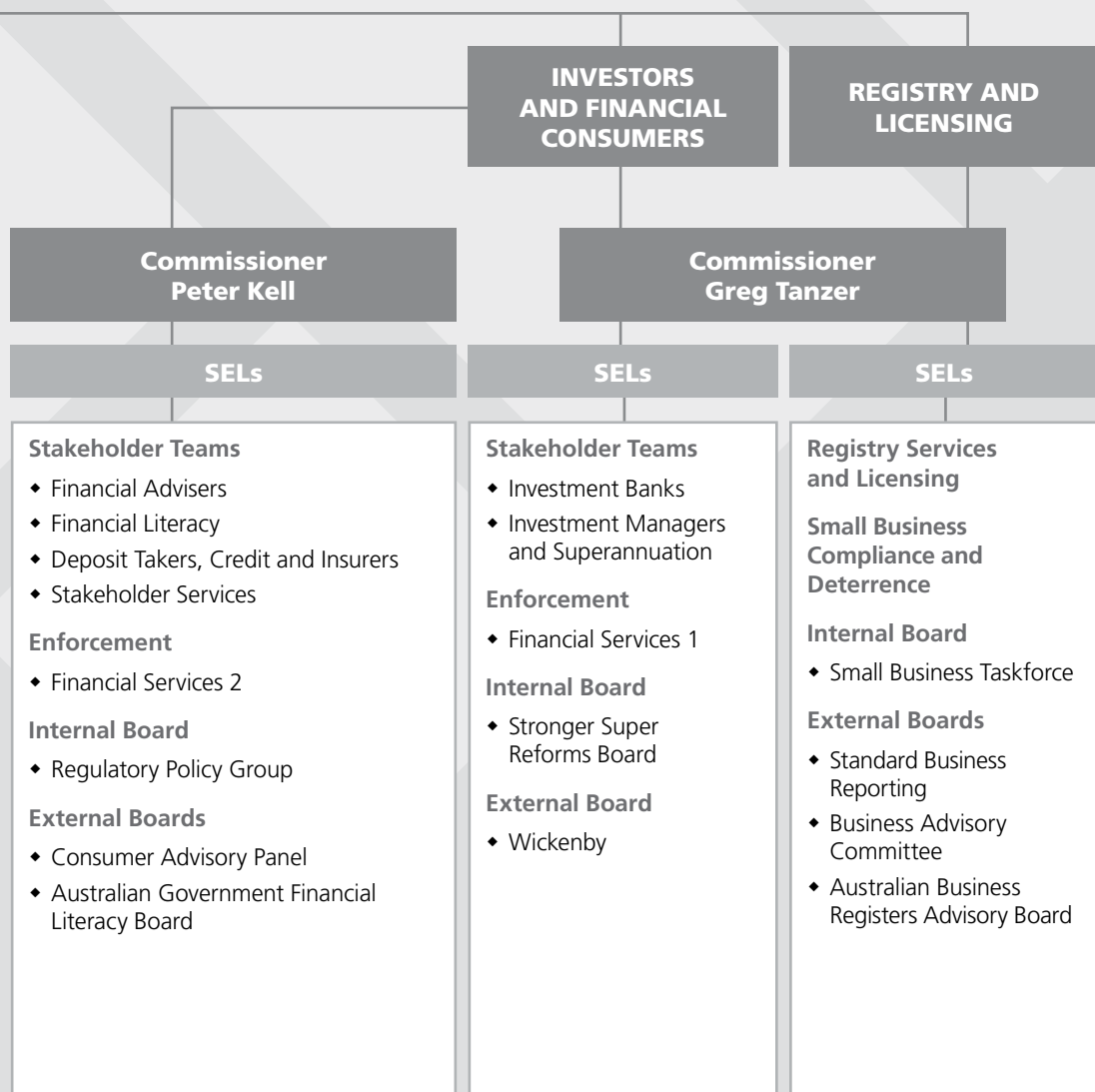
Relationship with states and territories

ASIC is a member of the Legislative and Governance Forum for Corporations, which provides oversight for Council of Australian Governments (COAG) ministers on legislation, inter-governmental agreements and treaties.

'ASIC contributes to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and efficient.'

Corporate structure at 30 June 2012





Regulated populations and key responsibilities, 2011–12¹

MARKETS

Corporations (including emerging mining and resources companies)

1.92 million registered companies, of which 2,200 are listed entities (including registered schemes and foreign companies)

ASIC staff: 54

- Improving market integrity by influencing fair and transparent behaviour by companies in fundraising, mergers and acquisitions, and other key transactions, focusing on large and complex transactions by listed entities.
- Promoting confident and informed market participation by ensuring appropriate disclosure for investors.

Financial market infrastructure

17 authorised financial markets; 5 licensed clearing and settlement facilities

ASIC staff: 28

- Promoting fair, orderly and transparent financial markets and fair and effective clearing and settlement facilities, by supervising and annually assessing market operators for compliance with statutory obligations.
- Advising the Minister on applications for market licences, market licence exemptions and operating rules.



Insolvency practitioners

680 registered liquidators; 10,757 companies entering external administration per annum

ASIC staff: 24

- Ensuring that practitioners comply with the law.
- Promoting a fair and efficient insolvency market, confidence in insolvent company administration and ASIC's supervision of registered liquidators.
- Implementing insolvency reforms and initiatives.
- Administering the Assetless Administration Fund.

Financial reporting and audit

4,985 registered company auditors; 28,900 companies which are required to produce financial reports

ASIC staff: 40

- Promoting market confidence in quality of financial reports by ensuring that financial reports and auditors comply with the law.

Market and participant supervision

137 market participants; 800 indirect participants; supervision of 7 markets

ASIC staff: 54 (includes market supervision)

- Ensuring that market participants and indirect participants comply with the law and meet their obligations as AFS licensees and under the market integrity rules (for participants).
- Supervising equities and derivatives markets for instances of market misconduct that disrupt market integrity which include market manipulation, insider trading, breaches of continuous disclosure obligations, and abnormal algorithmic trading.

Enforcement

Market integrity and corporate governance

ASIC staff: 194²

- Investigating suspected misconduct and taking enforcement action to achieve criminal convictions (via Commonwealth Director of Public Prosecutions [CDPP]), civil penalties or administrative sanctions.
- Corporate governance: investigating misconduct by company officers, advisers, liquidators and auditors.
- Market integrity: focus on alleged insider trading, market manipulation, continuous disclosure, making of false and/or misleading statements, contraventions of market integrity rules.

INVESTORS & FINANCIAL CONSUMERS

Deposit-takers, credit and insurers

*176 authorised deposit-takers;
6,004 credit providers (Australian credit licensees);
24,000 credit representatives;
\$68 billion in insurance premiums*

ASIC staff: 64 (includes credit reform)

- ♦ Ensuring deposit-takers, credit providers, intermediaries and trustee companies are complying with the law.
- ♦ Implementing national consumer credit reforms.

Financial literacy

Approximately 18 million financial services consumers³

ASIC staff: 39 (includes credit reform)

- ♦ Leading financial literacy strategy, supporting the Financial Literacy Board.
- ♦ Providing consumer and retail investor advice, information and education.
- ♦ Credit outreach program.

Financial advisers

AFS licensees licensed to provide personal advice (3,343 licensees) or general advice (1,316 licensees)

ASIC staff: 29

- ♦ Ensuring that research houses, financial advice licensees and their representatives comply with the law.
- ♦ Implementing and assisting industry with the Future of Financial Advice law reforms.
- ♦ Conducting projects on topical issues such as online advice, self-managed superannuation funds and consumer issues.
- ♦ Advising on and developing standards for internal / external dispute resolution schemes and industry standards for advisers.

Investment banks

*24 investment banks; 220 hedge fund managers;
44 retail OTC derivative providers;
25 credit rating agencies and research houses*

ASIC staff: 26

- ♦ Ensuring that investment banks, hedge funds, private equity providers, over-the-counter derivative providers and credit rating agencies comply with the law.
- ♦ Monitoring disclosure for complex products.

Misconduct and breach reporting

ASIC staff: 90

- ♦ Receiving and assessing reports of misconduct (12,454 received and 12,516 finalised in 2011–12).
- ♦ Receiving and assessing statutory reports (11,404 received and assessed in 2011–12).
- ♦ Receiving and assessing breach reports (1,344 received and 1,363 assessed in 2011–12).
- ♦ Handling requests to and from foreign regulators (429 received and 251 sent by ASIC in 2011–12).

Financial services (includes consumer credit)

ASIC staff: 128²

- ♦ Financial services: investigating suspected misconduct and taking enforcement action to achieve criminal convictions (via CDPP), civil penalties or administrative sanctions. Focus on financial and credit products.

Investment managers and superannuation

More than \$1.0 trillion funds under management; 230 super fund trustees; 589 responsible entities; 4,289 registered managed investment schemes; 560 foreign financial service providers; 680 custodial service providers

ASIC staff: 43

- ◆ Ensuring that responsible entities, superannuation trustees and custodians comply with the law.
- ◆ Regulation and registration of managed investment schemes, including managed funds, listed and unlisted property trusts, mortgage funds, infrastructure schemes and agribusiness schemes.
- ◆ Managing implications of frozen funds
- ◆ Regulating exempted foreign financial service providers and foreign collective investment schemes and operators.

REGISTRY & LICENSING SERVICES

Registry and licensing services, Client Contact Centre, property law and unclaimed monies

71.2 million searches of ASIC registers. Licensing and registration services for 1.92 million companies, 1.48 million business names, 4,955 AFS licensees, 6,004 credit licensees, 4,985 registered company auditors, 680 registered liquidators 4,289 managed investment schemes. Over 600,000 calls handled by Client Contact Centre. 16,122 claims for unclaimed money received and \$56.8 million paid to owners. 1,552 new matters received and 1,390 matters finalised regarding property of deregistered companies

ASIC staff: 271 (includes registry, licensing, Client Contact Centre, property law, unclaimed money)

- ◆ Providing registry and licensing services for companies, AFS and credit licensees, liquidators and auditors, personal property securities, managed investment schemes.
- ◆ Providing public and non-public access to registry information.
- ◆ Providing Client Contact Centre for the public, consumers, regulated populations.
- ◆ Administering property of deregistered companies, resolving cases.
- ◆ Administering unclaimed money.
- ◆ Administering the National Business Names register.

¹ Data is indicative. See relevant sections of annual report for 2011–12 data. All staff figures are FTE and represent staff dedicated to respective populations. Excludes Strategy, Shared Services, People and Development, and statutory bodies.

² Plus 140 staff providing enforcement support services, legal counsel.

³ ABS, 2009.

Small business compliance and deterrence

ASIC staff: 33²

- ◆ Investigating alleged misconduct and failure to meet statutory requirements in licensing and registration by licensees, companies, other entities, directors and company officers.



Financial summary and expenditure

Appropriations and revenue

ASIC received \$304 million in appropriation revenue, compared with \$324 million in 2010–11, and it received \$35 million in other revenue, compared with \$24 million in 2010–11. The decrease in appropriation revenue relates to a reduction in investigative matters funded from the Enforcement Special Account. The decrease in appropriation revenue was partially offset by a one-off increase in other revenue for specific projects and an increase in court cost recoveries in 2011–12.

Revenue for the Commonwealth

ASIC raised \$664 million for the Commonwealth in fees and charges, up 7% in 2011–12, largely due to the fee indexation increase (based on the CPI) for fees and charges levied under the Corporations Act, a full year of fees collected by ASIC from market operators and, from 28 May 2012, the collection of revenue for business names registration.

ASIC expenses

ASIC expenses were \$384 million in 2011–12, which was slightly lower than 2010–11.

ASIC’s operating expenses, together with fees and charges raised for the Commonwealth, are summarised in the following table.

ASIC’s use of taxpayers’ money for the outcomes approved by Parliament

	2011–12	2010–11	2009–10
Operating expenses			
Total	\$384m	\$385m	\$387m
Annual change on previous year	–	-1%	+31%
Fees and charges raised for the Commonwealth			
Total	\$664m	\$622m	\$582m
Annual change on previous year	+7%	+7%	+5%

Outcomes and expenditure

Parliament funds ASIC to achieve the following outcomes:

- ♦ improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks
- ♦ streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services.

ASIC outcomes and expenditure by year are summarised in the following table.

Additional funding for future years for specific initiatives

In the Portfolio Budget Statements for 2012–13 ASIC received additional funding over four years of:

- ♦ \$101.9 million increased operational funding
- ♦ \$43.7 million for enhanced market supervision
- ♦ \$23.9 million to implement the Future of Financial Advice reforms
- ♦ \$11.4 million for the modernisation and harmonisation of the insolvency practitioners' regulatory framework
- ♦ \$10.7 million to implement and maintain a database of self-managed superannuation fund (SMSF) auditors and develop a competency program for auditors
- ♦ \$1.3 million to continue Project Wickenby – a cross-agency tax compliance initiative to prevent abuse of secrecy jurisdictions.

ASIC outcomes and expenditure by year

Outcome	2011–12	2010–11	2009–10
Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks	\$249m	\$297m	\$302m
Streamlined and cost-effective interaction and access to information for business and the public through registry, licensing and business facilitation services	\$135m	\$88m	\$85m

Internal service costs are apportioned to these outcomes (see pages 127–128).

ASIC's surveillance coverage of regulated populations in 2011–12

This chart provides a snapshot of ASIC's surveillance coverage in 2011–12. The chart shows the regulated population and the number of years it would theoretically take to cover the entire population through high intensity surveillances, based on the number of surveillances ASIC conducted in the 2011–12 financial year. In practice, ASIC's risk-based approach to surveillance means that some portion of the population would be touched multiple times while others would not be touched at all. This data is indicative only.

Only high intensity surveillances are shown. A surveillance is high intensity if it lasted for more than two days, and includes both on-site visits and desk-based reviews.

MARKETS

Corporations (including emerging mining and resources companies)

ASIC staff: 54

Surveillance coverage:

- ♦ 21,000 public companies, including 2,200 listed entities
 - ♦ All control transactions for listed entities
 - ♦ A significant proportion of prospectuses
 - ♦ A small sample of entities in areas of emerging risk – *every year*
- ♦ Remaining entities – *reactive surveillances only*

32
industry meetings

Insolvency practitioners

ASIC staff: 24

Surveillance coverage:

- ♦ 680 registered liquidators – *4 years on average*

18
industry meetings

Financial market infrastructure

ASIC staff: 28

Surveillance coverage:

- ♦ 17 authorised financial markets – *every year*
- ♦ 5 licensed clearing and settlement facilities – *every year*

31
industry meetings

Financial reporting and audit

ASIC staff: 40

Surveillance coverage:

- ♦ 86 audit firms
 - ♦ Big 4 – audit 94% of listed entities by market capitalisation – *1.5 years on average*
 - ♦ Next 10 – audit 5% of listed entities by market capitalisation – *2.5 years on average*
 - ♦ Remaining 72 – audit 1% of listed entities by market capitalisation – *10.3 years on average*
- ♦ Financial reports of 2,000 listed entities (excludes foreign companies) and 26,900 unlisted entities
 - ♦ Top 500 listed entities – *3 years on average*
 - ♦ Remaining 1,500 listed entities (excludes foreign companies) – *12 years on average*
 - ♦ 100 unlisted entities with larger numbers of users – *every year*
 - ♦ Remaining 26,800 unlisted entities – *reactive surveillances only*

74
industry meetings

Market and participant supervision


ASIC staff: 54
(includes market supervision)

Surveillance coverage:

- ♦ Monitoring of the ASX, Chi-X, NSX and ASX24 markets – *every day*
- ♦ 137 market participants – *3.3 years on average*
- ♦ 800 indirect market participants
 - ♦ 100 larger entities (clients and volumes) – *4 years on average*
 - ♦ 700 smaller entities – *reactive surveillances only*

47
industry meetings

Staff numbers are shown as full-time equivalents and represent total staff for that team. However, not all the staff are engaged in surveillance work. Surveillance is only one aspect of the work that each team undertakes.

 This chart also shows the number of times each team met with industry associations as part of ASIC's regular dialogue with industry. Engaging with industry ensures ASIC keeps abreast of developments and systemic risks within industry and the markets.

INVESTORS & FINANCIAL CONSUMERS

Financial advisers

ASIC staff: 29

Surveillance coverage:

- ◆ 3,343 Australian financial services licensees authorised to provide personal advice
 - ◆ Top 20 – 26% of all advisers – *1.7 years on average*
 - ◆ Next 30 – 10% of all advisers – *3.8 years on average*
 - ◆ Remaining 3,293 – *primarily reactive surveillances*
- ◆ 1,316 Australian financial services licensees authorised to provide general advice – *reactive surveillances only*
- ◆ 3 external dispute resolution schemes – *every year*

67
industry meetings

Investment managers and superannuation

ASIC staff: 43

Surveillance coverage:

- ◆ 589 responsible entities
 - ◆ Top 25 – 70% of funds under management – *every year*
 - ◆ 4 identified as most at risk of non-compliance – *every year*
 - ◆ 20 responsible entities in sectors where risks have been identified or where we have concerns – *21.6 years on average*
 - ◆ Remaining 540 – *reactive surveillances only*
- ◆ 230 super fund trustees
 - ◆ 3 identified as most at risk of non-compliance – *every year*
 - ◆ Remaining 227 – *reactive surveillances only*
- ◆ 20 major custodians – *2.9 years on average*

46
industry meetings

Investment banks

ASIC staff: 26

Surveillance coverage:

- ◆ 24 investment banks – *1.3 years on average*
- ◆ 220 hedge fund investment managers / responsible entities – *6.6 years on average*
- ◆ 44 retail OTC derivative providers – *every year*
- ◆ 6 credit rating agencies – *every year*

34
industry meetings

Deposit-takers, credit and insurers

ASIC staff: 64
(includes credit reform)

Surveillance coverage:

- ◆ 176 authorised deposit-taking institutions
 - ◆ Big 4 – *every year*
 - ◆ Remaining 172 – *13 years on average*
- ◆ 135 insurers – *7 years on average*
- ◆ 652 licensed non-cash payment facility providers – *primarily reactive surveillances*
- ◆ 28 trustee companies – *14 years on average*
- ◆ 5,828 non-ADI credit licensees (lenders and intermediaries) with 24,000 credit representatives – *37 years on average*

61
industry meetings

ASIC at work



Registry Services senior manager Sophie Morell demonstrating new online services to Chairman Greg Medcraft and Commissioner Greg Tanzer.



ASIC lawyer Daniel O'Neill printing out witness statements during an investigation in the Pilbara region, March 2012.



Each year ASIC hosts a forum for the financial services industry to share experiences, present ideas and engage in debate of topical regulatory issues.



Engaging with the media is an important way to shape behaviour and deter wrongdoing. Deputy Chairman Belinda Gibson discussing insider trading on the ABC's News24 channel.



ASIC takes its consumer advice and education services to rural areas throughout Australia. Lisa Millson, a member of ASIC's graduate program, at Farmworld Field Day, Victoria.

Everything ASIC does is based on our three priorities.

Priority 1: Confident and informed investors and financial consumers

Priority 2: Fair and efficient financial markets

Priority 3: Efficient registration and licensing

We use a number of tools to achieve our desired outcomes:

- ♦ engagement with industry and stakeholders
- ♦ surveillance
- ♦ guidance
- ♦ education
- ♦ enforcement
- ♦ policy advice and implementation.

2

Outcomes in detail

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Priority 1 – Confident and informed investors and financial consumers

Engagement with industry and stakeholders

The Investors and Financial Consumers cluster held over 200 meetings with industry associations. Topics discussed ranged from the Future of Financial Advice reforms to the advertising of financial products and services. The diversity of our regulated population is demonstrated by those we meet with, from the Hedge Funds Standards Board to Greyhounds Australia.

Improving advice

In March 2012, ASIC released a report assessing 64 retirement financial plans, benchmarked against criteria set by an expert industry reference panel.

The report revealed that 39% of the pieces of advice reviewed were graded as 'poor', 58% were 'adequate' and only 3% were 'good'. Much of the advice given was criticised as being too generic or overly product-focused. Conflicts of interest were also highlighted as a problem.

Also worrying was the finding that consumers often found it hard to spot poor advice, with an adviser's confidence and friendliness having a bigger effect on how the quality of advice is judged compared to the actual impact on the consumer's financial well-being.

Since the report's publication, ASIC has worked closely with professional and industry associations to drive positive change and communicate its expectations to licensees. Activities have included a series of industry roadshows with the Financial Planning Association and the Association of Financial Advisers. ASIC has also enhanced the consumer information on the MoneySmart website about seeking financial advice.

Financial adviser training and assessment

ASIC continued to develop an assessment and professional development framework for financial advisers. The proposed framework is designed to ensure that all financial advisers achieve a uniform minimum standard of training and expertise, to increase consumer confidence in the financial advice industry and improve the quality of advice provided to consumers and retail investors.

ASIC consulted with the financial advice industry about whether a national exam for financial advisers should be implemented and whether a self-regulatory organisation should develop and administer such an exam. Industry participants were broadly in favour of the proposal, but opinions varied as to who should administer it.

Wealth management

ASIC promoted best practice in the wealth management industry by developing 11 regulatory and compliance educational workshops for representatives of the largest 100 advice licensees.

Consultation

Consultation Papers ASIC released in 2011–12 covered topics such as good practice guidance on advertising credit products and credit services; a review of the external dispute resolution jurisdiction over consumer complaints in cases where members have commenced legal proceedings to recover debts from consumers; and improving disclosure for retail investors considering unlisted property schemes.

'ASIC continued to develop an assessment and professional development framework for financial advisers.'

Surveillance

As part of its proactive approach, ASIC undertakes extensive surveillance to monitor the activities of individuals and entities within the populations that it regulates (see pages 18–19).

ASIC takes a risk-based approach to surveillance, identifying significant and strategically important key market participants or ‘gatekeepers’ to analyse.

Financial advisers

ASIC’s risk-based surveillance of financial advice continued in 2011–12, focusing this year on licensees who rapidly grow by acquiring other financial advice businesses, quality of advice and managed discretionary accounts.

As a result of this work ASIC:

- ♦ reviewed approximately 579 pieces of financial advice
- ♦ banned six advisers
- ♦ imposed licence conditions on three licensees, covering areas such as conflicts of interest, monitoring and supervision of representatives
- ♦ cancelled or suspended six AFS licences for reasons including failure to remain a member of an external dispute resolution scheme, non-lodgement of financial accounts and ceasing to operate a financial services business.

In 2010–11, ASIC reviewed the 20 largest AFS licensees. Our approach was to closely examine their compliance systems and the review informed our analysis of the risks facing the financial advice industry. In 2011–12, ASIC continued its risk-based review of financial advice industry practice and requested information from the next 30 largest licensees.

Superannuation

ASIC undertook a key surveillance project in the superannuation industry, involving onsite visits to superannuation trustees and responsible entities. Concerns were identified for three entities ASIC visited as a part of this project, and remedial action is being reviewed.

ASIC also reviewed a number of Product Disclosure Statements and advised on how to produce more meaningful disclosure so that fund members can better understand their investment choices.

Investment products and services

ASIC carried out a number of investigations into various aspects of investment products and services, including:

Exchange traded funds (ETFs)

Surveillance of all major ETF issuers in Australia has helped ensure appropriate disclosure for retail investors. Our investigation also informed a report detailing ASIC’s views for use in developing international standards for ETFs.

Investor-directed portfolio services and similar schemes

More than \$100 billion of funds other than superannuation are now under management in investor-directed portfolio services schemes and similar offerings (collectively known as ‘platforms’). ASIC undertook surveillance of nine established and emerging platform operators and engaged with industry associations, identifying two key growing risks in the sector:

- ♦ the emergence of less mature and less experienced platform operators
- ♦ shifting investor behaviour, with increasing demand for new investment types on platforms and new means of interacting with platforms.

This work has informed a review where we sought public comment on Consultation Paper 176 *Review of ASIC policy on platforms: Update to RG 148*. The new guidance will be released in 2012–13.

Managed discretionary account services

The use of managed discretionary account services is expanding. ASIC undertook surveillance of nine established and emerging managed discretionary account service operators within financial advisory and stockbroking businesses. This surveillance will inform a review of ASIC’s regulatory approach to managed discretionary account services.

Hedge funds

ASIC assessed 95 hedge funds against a set of fraud ‘red flags’ to produce a list of 15 funds that were subject to detailed desk research and (in some cases) site visits. The asset valuation practices of a further five hedge funds were subject to additional analysis. We focused on the security of fund assets, the accuracy of reported returns and fee calculation, and the valuation of illiquid assets.

Priority 1 – Confident and informed investors and financial consumers continued

Issuers of CFDs and FX contracts

ASIC reviewed the client money handling and reconciliation practices of 25 out of 44 issuers of CFDs and FX contracts. We found that eight issuers failed to pay client money into a properly designated trust account where required, and six issuers failed to pay client money into a compliant account on the day it was received or within one business day.

Credit products and services

Following the implementation of the new consumer credit regime in 2010–11, ASIC focused on ensuring that consumers could commit to and use products with confidence.

Responsible lending

Responsible lending obligations are central to the new national credit regime. To ensure industry compliance, ASIC reviewed mortgage brokers providing credit assistance for home loans, and reviewed the practices of payday and other short-term, small-amount lenders.

We found that while the majority of those reviewed were aware of their new responsible lending obligations – and were taking steps to comply with them – further improvements needed to be made. Problems included lenders not recording the actual purpose of loans, undertaking very limited verification of consumers' financial circumstances, and not taking steps to clarify conflicting information in loan applications.

'ASIC focused on ensuring that consumers could commit to and use products with confidence.'

Advertising financial products

ASIC paid close attention to how financial products and services were advertised during the year, in an effort to ensure consumers could make financial decisions based on sound information.

In February 2012, we issued Regulatory Guide 234 *Advertising financial products and advice services: Good practice guidance* and worked with industry to ensure these guidelines were understood.

We also proactively monitored advertising campaigns to identify misleading advertisements, and took action against a number of advertisements and promotional claims. This included clamping down on terms such as 'stress-free' when used in relation to potentially risky products such as margin loans, exchange traded funds and self-funding instalments. Other targets involved disingenuous home loan discount offers and promoters using terms such as 'guaranteed finance' and 'no application refused'. ASIC's actions resulted in over 80 advertisements or campaigns being withdrawn or amended.

Investment banks

ASIC initiated 15 reviews of investment banks out of 24 identified in our current stakeholder population. ASIC monitored the practices of those banks in relation to compliance, corporate governance, new product approval processes, conflicts of interest and confidential information.

While we identified no issues requiring enforcement action, ASIC succeeded in modifying the behaviour of investment banks, where appropriate, and highlighted areas for improvement in industry practice.

ASIC also established regular informal lines of communication with stakeholders to maintain dialogue and aid future surveillance.

Credit rating agencies

ASIC received its first Annual Compliance Reports from six credit rating agencies, after announcing this reporting requirement on 13 December 2011. A key area of focus was the agencies' procedures for managing potential conflicts of interest.

Review of consumer credit insurance

In October 2011, ASIC issued Report 256 *Consumer credit insurance: A review of sales practices by authorised deposit-taking institutions*. ASIC reviewed the sales practices of 15 authorised deposit-taking institutions (ADIs) that sold consumer credit insurance for home loans, personal loans and credit cards.

This review identified a number of concerns about how consumer credit insurance is sold by ADIs in areas such as sales practices, disclosure and monitoring systems. ASIC also identified that a relatively high proportion of claims relating to this form of insurance were denied by the insurer. In response, the report set out 10 best practice recommendations to reduce the risk that consumer credit insurance might be mis-sold.

The 15 ADIs reviewed agreed to implement these recommendations.

Financial services and Indigenous communities

As well as providing information and advice to Indigenous people about financial services (see page 27), ASIC's Indigenous Outreach Program team gathers intelligence from consumers in urban, rural and remote locations, follows up complaints about financial services providers, conducts surveillance activities and refers serious matters to Enforcement for investigation. In 2011–12, the team undertook surveillance activities and assisted in investigations of credit activities, specifically in relation to white goods, motor vehicle finance and book-up (informal credit offered by stores and other traders) in rural and remote Western Australia, South Australia and Queensland. This included assisting with community liaison, gathering intelligence and evidence, as well as providing cultural and linguistic advice.

Guidance – setting rules, standards and expectations

We released 19 new or revised regulatory guides in relation to Priority 1. These included best practice guidance in advertising financial products, disclosure standards for unlisted property schemes, financial resource requirements for responsible entities and guidance on the shorter product disclosure regime.

Advice to the advising industry

In September 2011, ASIC also released a report highlighting issues in the financial advice industry across the following five key categories:

- ♦ licensee business models and managing conflicts of interest
- ♦ adviser training
- ♦ monitoring and supervising advisers, including checking references at recruitment
- ♦ product and strategic advice, including educating clients about risk and return
- ♦ complaints handling and compensation.

The ePayments Code

In September 2011, ASIC released the new ePayments Code, a best-practice consumer protection regime for electronic payment facilities in Australia.

The code regulates consumer electronic payments including ATM, EFTPOS, debit and credit card transactions, online payments, internet banking and BPAY. It assists consumers in cases of fraud and unauthorised transactions.

The code incorporates a tailored set of 'light touch' requirements for products up to a value of \$500, and introduces a new regime to resolve mistaken internet banking payments.

The release of the code concluded an extensive review of the previous Electronic Funds Transfer (EFT) Code of Conduct, which involved wide consultation with industry and consumers.

New bank account switching rules

ASIC released new guidelines in June 2012 to support bank account switching reforms. The guidelines updated the ePayments and EFT industry codes to reflect the introduction of new rules designed to make it easier for consumers to move accounts from one bank to another.

Priority 1 – Confident and informed investors and financial consumers continued

Under the new rules, a financial institution (bank, building society or credit union) is now required to provide a list of regular direct debits and credits to a new financial institution at a customer's request. ASIC's guidelines will give consumers and financial institutions confidence in their rights and responsibilities when switching accounts from 1 July 2012.

New and revised guidance on disclosure obligations

ASIC published updated and new guidance for entities on their disclosure obligations, including 'if not, why not' disclosure benchmark policies for:

- ♦ unlisted property schemes – highlighting particular risks such as gearing, valuations, liquidity, distributions and diversification of the scheme's portfolio.
- ♦ mortgage schemes – highlighting that investors need to understand risks so that they can better align their expectations with the features of these schemes.
- ♦ infrastructure entities – to ensure consistent and clear information about the key characteristics and risks, such as whether all the units or shares in the infrastructure entity are fully paid and have the same rights.
- ♦ agribusiness managed investment schemes – highlighting risks such as those flowing from the fact these schemes do not use a traditional trust structure.

We also published guidance on making prospectuses more useful for investors, addressing problems ASIC has identified in the past and providing tools to assist in producing clear, concise and effective prospectus disclosure.

Financial resource requirements for responsible entities

In November 2011, ASIC released new financial resource requirements for responsible entities. The requirements aim to ensure that responsible entities have adequate resources to meet operating costs and that there is appropriate alignment with the interests of investors. As Australia raises its profile as a leading financial centre, increasing minimum responsible entity capital requirements to a level that is globally comparable improves confidence in the integrity of our markets. There is a 12-month transition period for the changes.

Shorter Product Disclosure Statements

ASIC made significant preparations for the introduction of the new shorter Product Disclosure Statement (PDS) regime. This reform, which aims to make PDSs simpler, came into force on 22 June 2012.

Review of general insurance

In August 2011, ASIC issued Report 245 *Review of general insurance claims handling and internal dispute resolution procedures*. ASIC asked eight general insurers – representing 20 motor vehicle industry (MVI) brands and approximately 75% of the direct retail MVI market – to provide statistics and internal documents on claims handling and internal dispute resolution procedures for MVI policy claims lodged between 1 January 2009 and 31 December 2009.

The findings were generally positive. Only a very small number of MVI claims were formally denied and the number of claims-related complaints was relatively low. Even so, ASIC made some recommendations on claims handling and internal dispute resolution procedures to reflect best practice and to help ensure consumers receive adequate information.

External dispute resolution

In December 2011, ASIC began a review of external dispute resolution (EDR) jurisdiction over consumer complaints in cases where EDR members have commenced legal proceedings to recover debts from consumers. The EDR framework is a key element in ASIC's strategy to ensure consumers have an avenue for complaining or seeking help when they most need it.

'ASIC's MoneySmart website has been a major success. It is also central to much of ASIC's education activity.'

Education

MoneySmart

ASIC's MoneySmart website has been a major success. The website, launched in March 2011, is a key plank of the multi-agency National Financial Literacy Strategy. It is also central to much of ASIC's education activity.

User participation and satisfaction with the website grew significantly this year. As at 30 June 2012, over 1.9 million visitors had visited MoneySmart since its launch in March 2011, and the site averaged around 10,000 visitors a day. By April 2012, it had reached 7% of adult Australian internet users. User surveys in August 2011 and April 2012 showed that 79% of users rated the site useful and 90% had taken action as a result of visiting the site.

MoneySmart was named Best Government Website at the 2011 Australian Web Awards, and Best Service Delivery Website at the 2012 Excellence in e-Government Awards. It was also one of only 10 investor protection sites (out of 200 globally) called 'outstanding' and given a 5/5 rating by IOSCO.

Many MoneySmart calculators are now available for mobile phones and tablets, and users can save and retrieve results for many of the site's most popular calculators. The site also features an online map search tool allowing people to find their nearest financial counsellor.

Financial literacy in schools

ASIC developed a range of quality teaching resources as part of the Helping Our Kids Understand Finance initiative. It also facilitated the revision and national endorsement of the National Consumer and Financial Literacy learning framework, in partnership with state and territory education authorities.

Key resources developed by ASIC included a national professional learning package for primary schools to engage students with real-life consumer and financial literacy content, and the MoneySmart Teaching website for educators (www.teaching.moneysmart.gov.au). This dedicated website ensures that teachers have access to online professional learning and quality resources. It is being trialled in 90 schools throughout Australia ahead of a national roll-out in 2013.

Additionally, ASIC created and trialled an Aboriginal and Torres Strait Islander program for primary and secondary schools, called Milba Djunga ('Smart Money'), with the Western Australian, Northern Territory and Queensland Departments of Education.

Credit outreach campaigns

In September 2011, ASIC ran a mortgage health campaign which encouraged people to carry out a mortgage health check on MoneySmart. The campaign included media promotion, online information and a brochure titled *Problems paying your mortgage?* The brochure was distributed to 75,000 people.

In March 2012, ASIC released a comprehensive money management kit for settlement workers who help newly-arrived, culturally and linguistically diverse communities settle into Australia. The kit contains written, audio and video content in 26 languages. ASIC has trained more than 600 settlement workers to use the kit, which is also available on MoneySmart.

ASIC also ran 173 education and training sessions about credit and debt, attended by over 2,000 community workers, and participated in 131 regional activities with communities throughout Australia.

Indigenous outreach

ASIC's Indigenous Outreach Program assists Aboriginal and Torres Strait Islander consumers to be confident and informed consumers when making decisions about financial services including banking, credit, insurance and superannuation.

It does this by providing information and publications specifically for Indigenous people, answering inquiries and taking complaints about financial services from Indigenous consumers in urban, rural and remote locations. In 2011–12, the Indigenous Outreach Program team met with Indigenous consumers and organisations in over 30 communities throughout Australia, promoting financial literacy, and following up complaints about financial service providers.

ASIC's Indigenous Outreach Program also contributes to the National Indigenous Consumer Strategy (NICS) Reference Group and the Indigenous Financial Services Network (IFSN), a national network facilitated by Reconciliation Australia.

Priority 1 – Confident and informed investors and financial consumers continued

International financial literacy education

ASIC participated in representing Australia on two expert groups sponsored by the Organisation for Economic Co-operation and Development (OECD): the International Network on Financial Education (INFE) and the Programme for International Student Assessment (PISA).

ASIC helped develop the first PISA financial literacy test, which 15-year-old students from all states and territories in Australia sat for the first time in 2011–12.

Enforcement

ASIC takes enforcement action to detect and deal with unlawful conduct, to recover money in appropriate circumstances and sometimes to prevent unlawful conduct before it happens. By doing this we deter misconduct. In particular, we focus on the actions of key market participants or ‘gatekeepers’.

Enforcement action against gatekeepers is consistent with community expectations that they will act with honesty, diligence, competence and independence in the performance of their duties.

Enforcement action to recover money helps to minimise losses resulting from allegedly unlawful or inappropriate conduct.

Increased transparency and accountability

As part of ASIC’s commitment to improving the transparency and accountability of our enforcement action and increasing public awareness of why, when and how we exercise these powers, we released a number of publications during the year that explain our approach to enforcement and report on our enforcement actions.

In February 2012, we published Information Sheet 151 *ASIC’s approach to enforcement*, which describes how ASIC approaches enforcement and why it responds to breaches of the law in different ways; Information Sheet 152 *Public comment*, which explains when ASIC may comment publicly on investigations and enforcement actions; and Regulatory Guide 100 *Enforceable undertakings*,

which explains what an enforceable undertaking is and when ASIC will consider accepting an enforceable undertaking.

We also published Report 281 *ASIC enforcement outcomes: July to December 2011* and Report 299 *ASIC enforcement outcomes: January to June 2012*. These reports identify categories of gatekeepers against whom enforcement action was taken and highlight examples of conduct that was targeted during the reporting period.

Since 2010–11, we have also publicly reported on the use of our compulsory information-gathering powers in our Annual Report (see page 150).

Enforcement action in 2011–12

ASIC’s focus in 2011–12 under Priority 1 was on gatekeepers who have an important role in ensuring that investors and consumers remain confident and informed in their decisions. These included financial advisers, insurance brokers, responsible entities and their officers (who operate managed investment schemes) and credit licensees.

Examples of these actions are listed below. For a statistical summary of major enforcement outcomes in 2011–12, see page 151.

Honesty

Behaviours that breach the required standards of honesty and against which we took enforcement action in 2011–12 include knowingly issuing misleading statements, stealing from clients and falsifying documents.

Opes Prime

Lirim Emini and Anthony Blumberg, two former directors of Opes Prime Stockbroking Ltd, were jailed in July 2011 following an ASIC investigation into the stock lender’s 2008 collapse. Mr Emini, the company’s former CEO, was convicted of two charges of dishonestly using his position as a director in relation to the transfer of securities between companies which he controlled and one charge of recklessly using his position as a director of Opes Prime to secure bank finance. Mr Blumberg was convicted of one charge of dishonestly using his position as a director in relation to the signing of the same documentation to secure bank finance.

Mr Emini was sentenced to 24 months imprisonment and was ordered to serve 12 months before being released on a recognisance release order. Mr Blumberg was sentenced to 12 months imprisonment and was ordered to serve six months before being released on a recognisance release order.

Sonray

The former CEO of Sonray Capital Markets Pty Ltd (Sonray), Scott Murray, was sentenced to five years in jail after pleading guilty in the Victorian Supreme Court to:

- ♦ six charges of false accounting involving fictitious deposits totalling \$36,439,588 and US\$9,779,395, and false withdrawals totalling \$7,800,923
- ♦ two charges of theft totalling \$2,256,500
- ♦ one charge of obtaining a financial advantage by deception
- ♦ one charge of misleading an auditor concerning a capital injection of \$5,200,000.

Mr Murray will serve a minimum of two years and six months before he is eligible for parole. The sentence takes into account his early guilty plea and his cooperation in these proceedings. Russell Johnson, the sole director of Sonray, has also been committed to stand trial in the Victorian Supreme Court after his arrest on 24 criminal charges relating to conspiracy, theft and submission of a false document to ASIC. Mr Johnson has pleaded not guilty to the charges.

Operation Ark

ASIC took action to combat organised crime targeting unsuspecting and inexperienced Australian investors throughout 2011–12 in a project code-named 'Operation Ark'. These scams typically involved a number of businesses that claimed to offer financial services cold-calling victims and enticing them to invest via an elaborate, internet-related fraud. In some instances, the operators represented they were legitimate and licensed financial services businesses, when that was not the case.

Examples of enforcement action arising out of Operation Ark include:

- ♦ Golden Sparrow Pty Ltd: we obtained interim court orders restraining Golden Sparrow and its sole director Michelle Bruhn from promoting or carrying on any other financial services business including dealing with funds held in five bank accounts. The Supreme Court of Queensland ordered the winding up of Golden Sparrow in February 2012. Investors were defrauded of in excess of \$350,000 by this unlicensed financial services business.
- ♦ Goldsmith & Associates Pty Ltd: we took urgent injunctive action restraining Goldsmith from carrying on a financial services business and from transferring or disposing of funds raised from investors. Investors had deposited a total of \$364,000 into a bank account operated by Goldsmith. Approximately \$81,500 has been ordered to be returned to investors following ASIC's action.

Public warning notices

In an effort to protect the public and prevent consumer losses before they occur, ASIC issued public warning notices about individuals and businesses who we have reasonable grounds to suspect are attempting to scam investors, such as:

- ♦ Dellingworth Pty Ltd: we issued a public warning notice urging consumers to be wary of this unlicensed financial services business offering investors returns of up to 50%.
- ♦ Connaught Investment Group: we issued a consumer alert urging consumers to be wary of this unlicensed financial services business offering fake investment opportunities.

Diligence

People providing financial products and services must do so with appropriate diligence. This means that advice, decisions or actions must be properly considered and appropriate in the circumstances. Examples of ASIC enforcement action against providers who failed to do so include the following:

Commonwealth Financial Planning

Following an ASIC investigation into the advice provided by several advisers employed by Commonwealth Financial Planning (CFP), a wholly owned subsidiary of the Commonwealth Bank of Australia, a number of former advisers have been

Priority 1 – Confident and informed investors and financial consumers continued

removed (or have agreed to withdraw) from the financial services industry. ASIC was concerned that in several instances, the advice given by these individuals was deficient, for reasons including that it failed to consider the personal circumstances of the clients, did not have a reasonable basis, did not provide appropriate documentation or disclose fees. Their removal seeks to protect the public, deter similar conduct and maintain consumer confidence in the industry.

CFP has also agreed, under an enforceable undertaking, to conduct a comprehensive review of its compliance and risk management framework, as well as its legal and regulatory obligations regarding the provision of financial services and financial advice, and the monitoring and supervision of its representatives.

Equititrust Limited

ASIC took enforcement action against Equititrust Limited for failing to comply with a number of key obligations as a financial services licensee, including failing to hold sufficient net tangible assets and failing to lodge audited financial reports. Equititrust was the responsible entity for two registered managed investment schemes. The principal scheme had around 1,400 members who had invested a total of \$247.5 million.

ASIC played a key role in appointing a receiver to the schemes when they were wound up by the Queensland Supreme Court in November 2011. The receiver of the schemes continues to work towards returning funds to investors. ASIC also obtained injunctions to prevent Equititrust from operating the schemes in a way that could affect scheme assets and harm investors. Equititrust's AFS licence was suspended in December 2011 and the company was placed into liquidation in April 2012.

Trio Capital Limited

A responsible entity must take responsibility for operating its managed investment schemes. The responsibilities of directors and officers of responsible entities are not diminished through outsourcing to third parties such as investment managers.

ASIC entered into enforceable undertakings with the former CEO, director and secretary of Trio Capital Limited (Trio), Rex Phillpott, and four former non-executive directors of Trio. Trio was formerly the trustee of five superannuation entities and the responsible entity for 25 managed investment schemes, including the Astarra Strategic Fund. The Astarra Strategic Fund invested in several overseas hedge funds, mostly based in the Caribbean. ASIC commenced an investigation into Trio in October 2009 over concerns about the legitimacy of its investments. This action is one of many arising from ASIC's investigation of Trio and its related entities.

Competence

All AFS and credit licensees must meet legislative and regulatory requirements for training, licensing, registration and conduct. Licensees are responsible for ensuring that they understand and comply with these requirements. Where necessary, additional conditions may be added to a licensee's existing obligations to address concerns about the licensee's conduct. An important part of ASIC's work in this area is also taking action against unlicensed operators.

- ♦ John Vafiadis was sentenced to six months imprisonment after an ASIC investigation found he provided unlicensed financial advice to investors. The court also ordered Mr Vafiadis to pay compensation to the investors.
- ♦ Following an investigation, ASIC reached an agreement with Saxo Bank A/S, the former provider of the trading platform for collapsed broker Sonray Capital Markets Pty Ltd (in liq), that additional requirements be included on its AFS licence.

Independence

AFS and credit licensees must have adequate arrangements for managing conflicts of interest that may arise in relation to the provision of financial services or credit services by the licensee or its representatives. Failure to have these arrangements in place may lead to suspension or revocation of a licence.

- ♦ ASIC cancelled FP Investment Partners Pty Ltd's AFS licence after the company failed to meet its obligations. ASIC's investigation and subsequent hearing found that FP Investment Partners had failed to ensure that adequate arrangements for the management of conflicts of interest were in place and that one of its previous authorised representatives, Joshua David Fuoco, had not complied with financial services laws.

Compensation for investors

Enforcement action to recover money helps to minimise losses resulting from allegedly unlawful or inappropriate conduct. We will ordinarily only take action to recover damages or property on a person's behalf if this would be in the public interest, beyond the interests of the affected consumers. We encourage investors to consider alternative options to recover damages or property from wrongdoers where possible, such as by lodging a dispute with the Financial Ombudsman Service or taking private legal action.

Storm Financial Limited

ASIC continued with its prosecution of its various legal actions arising out of the collapse of Storm Financial, a Townsville-based financial advice company that went into liquidation in March 2009, leaving many thousands of its clients facing significant losses.

ASIC filed three separate legal proceedings in December 2010, the first action being on behalf of Barry and Deanna Doyle who were seeking compensation from Bank of Queensland, Senrac Pty Limited (the owner and franchisee of Bank of Queensland's North Ward branch) and Macquarie Bank.

The second action argues that the Storm model amounted to the operation of an unregistered managed investment scheme that should have been registered under the Corporations Act. ASIC alleges that Storm operated the managed investment scheme and that the Bank of Queensland and Macquarie Bank were knowingly involved in the operation of that scheme.

ASIC also filed proceedings in the Federal Court of Australia against Emmanuel Cassimatis and Julie Cassimatis, the founding and former directors of Storm, alleging that they breached their duties as directors of Storm Financial.

Westpoint

The Westpoint property development group collapsed in 2006, owing approximately \$388 million and leaving more than 3,500 investors with significant losses.

ASIC has mounted several actions against the former directors, its auditor KPMG and financial advisers over subsequent years. Recovered money currently stands at more than \$160 million, around \$93 million of which is compensation as a result of ASIC actions.

In December 2011, ASIC reached a settlement of its Federal Court proceedings against Strategic Joint Partners Pty Ltd (SJP), concerning a claim for compensation on behalf of SJP clients who invested in the Westpoint group. SJP clients received over \$1.39 million in compensation.

On 9 September 2011, the former Westpoint chief financial controller Graeme Rundle was sentenced to two 18-month suspended sentences (to be served concurrently) for two offences under the *Crimes Act 1900* (NSW). The charges concerned statements made to a financial institution in relation to obtaining a \$71 million construction finance facility. Mr Rundle is appealing his conviction.

Priority 1 – Confident and informed investors and financial consumers continued

Policy advice and implementation

Contribution to FOFA reforms

The Government's Future of Financial Advice (FOFA) reforms aim to improve the conduct of financial advisers and the way that retail clients engage with advisers and advice. Some elements of the reforms came into force on 1 July 2012, with compliance mandatory from July 2013.

ASIC began work on implementing the reforms through guidance on:

- ♦ the duty to act in the best interests of investors
- ♦ scaled advice
- ♦ conflicted remuneration
- ♦ ASIC's amended licensing and banning powers.

Stronger Super

ASIC has provided contributions to Treasury across a number of areas covered by the Government's 'Stronger Super' reforms, which are designed to improve the superannuation system. Key measures include establishing a new default superannuation product called MySuper, faster processing and improved governance throughout the superannuation system.

ASIC has focused on building the forthcoming SMSF auditor register, improving disclosure in MySuper and SuperStream, and strengthening superannuation governance in general.

ASIC has also provided comments on draft legislation and explanatory memoranda, contributed at cross-agency meetings, and built networks with other regulators that will be instrumental in implementing Stronger Super.

International regulation

ASIC worked with overseas regulators, the International Organization of Securities Commissions (IOSCO) and international regulatory bodies to develop an appropriate framework for assessing regulatory regimes for collective investment schemes.

ASIC is also a member of the IOSCO Task Force on Unregulated Entities including hedge funds and has participated in its deliberations on systemic risk issues during the year.

ASIC worked with the European Securities and Markets Authority (ESMA) on two projects. It signed an agreement to share information and cooperate more closely when supervising credit rating agencies and agreed to refine proposed rules for non-European Union fund manager access to EU markets under the EU's Alternative Investment Fund Managers Directive.

'ASIC has focused on building the forthcoming SMSF auditor register, improving disclosure in MySuper and SuperStream.'

Priority 2 – Fair and efficient financial markets

Engagement with industry and stakeholders

The Markets cluster attended over 200 meetings and conferences with industry associations on topics such as cost recovery for market supervision. We attended regular liaison meetings with key stockbroking and legal bodies and held bi-monthly meetings with insolvency discussion groups. We supported industry bodies in developing guidance, including the best practice guidelines on handling confidential and price-sensitive information and market soundings published by Australian Financial Markets Association Ltd (AFMA).

Launch of exchange competition

One of the most significant changes to the Australian financial landscape was the launch of the first competitor to the Australian Securities Exchange (ASX), Chi-X Australia Pty Ltd (Chi-X), on 31 October 2011.

The Government welcomed the launch as ‘the start of a new era for Australia’s financial market and [fulfilling] the Government’s promise to open up Australia’s equity market to competition’.

In the months leading up to the launch, ASIC closely monitored Chi-X’s readiness and maintained constant communication with market operators, participants, vendors, the Market Supervision Advisory Panel, Treasury and third-party experts. The launch, including the transition from ‘soft’ to full launch, took place without incident.

Emerging trading issues

Following the launch of Chi-X, ASIC has continued to work on enhancing the market framework and addressing emerging trading issues.

We consulted with the market on our proposed approach to regulating emerging issues such as the increasingly automated nature of trading and the move towards more frequent, smaller trades completed away from public markets. We considered automated and high-frequency trading, extreme price movements, enhanced data for market surveillance, best execution, and pre-trade and post-trade transparency and price formation (including dark liquidity).

We conducted more than 50 meetings with stakeholders, and held information sessions for industry bodies. Based on this engagement, we refined our proposals and issued drafts of market integrity rules and guidance for comment.

Elements of the market integrity rules include:

- ♦ automated and high-frequency trading
- ♦ extreme price movements
- ♦ enhanced data for surveillance
- ♦ pre-trade and post-trade transparency.

Surveillance

Market supervision

ASIC’s responsibility for market supervision has delivered numerous benefits from a market integrity perspective.

We bedded down processes relating to identifying and investigating possible misconduct, and how misconduct is referred to ASIC’s enforcement groups. This has halved the average number of days involved from identifying misconduct to starting investigations, resulting in more timely and better outcomes. We are also refining the parameters for real-time surveillance to ensure analysts can concentrate their time on genuine market misconduct issues.

On 13 July 2011, we published our second report on the supervision of markets and participants, which identified 23,494 trading alerts during the period January to June 2011, with 121 matters requiring further consideration.

On 7 February 2012 we published our third markets and participants supervision report, which identified 20,029 trading alerts during the period July to December 2011, with 131 matters requiring further consideration.

ASIC’s surveillance, including these alerts, focuses on insider trading, market manipulation and continuous disclosure. We are also reviewing issues arising from new technologies and trading approaches, including high-frequency trading systems and dark pools of liquidity.

Market assessment reports

In 2011–12, we published a total of 25 market assessment reports. These reports, which assess whether the licensee has adequate arrangements to supervise its market and/or clearing and settlement facilities, are one of the ways ASIC is increasing its engagement with industry and providing education and guidance to participants.

Priority 2 – Fair and efficient financial markets continued

ASX Group

ASIC's supervision of ASX Group has highlighted a number of improvements that could be made to ASX systems and processes. The issues identified, although important, did not cause ASIC to qualify the conclusion that ASX adequately met its obligations during the reporting period.

These were highlighted in a market assessment report published on 5 July 2012 covering the period July 2010 to November 2011, which called on ASX to review its technology after a market outage on 27 October 2011. ASX has conducted a thorough review of its trading system support and testing frameworks and plans to make enhancements. These include requiring its trading system vendor to establish an office in Australia to provide better support, and running more 'live' tests of its backup facilities.

We required ASX to address how it handles conflicts of interest, particularly regarding its arrangements for managing those entities with which it has a real or perceived conflict.

In addition, ASIC reviewed arrangements in respect of ASX's CEO and his board membership of another ASX-listed company. While ASIC's view is that ASX's arrangements meet the requirements of the Corporations Act, ASX has agreed to make changes including greater disclosure.

Finally, we looked at how ASX monitors and enforces compliance with its operating rules, especially when admitting participants to its markets. ASX has agreed to make changes, including implementing a more rigorous process for considering applications and communicating with the market about admissions.

Improved disclosure

ASIC intervened on 125 prospectuses to deliver better disclosure for investors, including issuing 21 interim and 13 final stop orders.

ASIC also reviewed a number of notices of meetings and explanatory memoranda, independent expert reports and PDSs throughout the year. These reviews resulted in improved and more meaningful disclosure for investors.

We also took action to improve disclosure on hybrid debt offerings (especially about risks) to retail consumers. This included publishing guidance on the MoneySmart website about the risks associated with investing in hybrids.

ASIC's review of PDSs focused on whether documents met expected standards of being clear, concise and effective.

ASIC intervened in relation to a number of control transactions (including takeovers and schemes of arrangement) to promote consistency with the Eggleston principles that govern mergers. These interventions led to changes in the structure of the particular transaction or changes in disclosure provided to shareholders.

Financial reporting

ASIC reviewed 450 financial reports of listed entities and some larger unlisted entities. We publicly released the findings of those reviews, suggesting areas on which directors and auditors should focus. In addition, further reviews were also conducted on the basis of complaints and market intelligence.

Audit firm inspections

ASIC inspected firms that audit entities of significant public interest, focusing on audit engagement file reviews and quality control systems. ASIC found that the areas of audit evidence and professional scepticism required ongoing improvement. ASIC also conducted surveillance of individual audits and auditors, based on market intelligence and other information.

Insolvency

In November 2011, ASIC published its annual overview of corporate insolvencies for the 2010–11 financial year, based on statutory reports lodged by administrators. The report is part of ASIC's efforts to provide better insolvency statistics, and includes details such as industry types, numbers of employees, causes of failure, and likely dividends to unsecured creditors.

ASIC undertakes significant work in regulating registered liquidators to help ensure creditors have confidence in the administration of insolvent companies. In 2011–12, ASIC initiated 18 proactive practice reviews, finalised a further 10 activities and escalated five activities for enforcement action.

In our remuneration monitoring work we completed 200 reviews resulting in better disclosure to creditors, registered liquidators agreeing to reduce their fees, and registered liquidators adjourning meetings of creditors to provide further information to all creditors.

Certain external administrators are required by law to prepare declarations about relationships and indemnities to fully inform creditors. During the year, we completed 62 activities that involved reviewing the adequacy of declarations. In 52% of cases, we found the declarations were inadequate in some way, requiring registered liquidators to issue replacement declarations. Our work in this area will continue in 2012–13 with a primary aim of educating the insolvency profession and improving standards.

Guidance – setting rules, standards and expectations

New market integrity rules

Alongside the launch of Chi-X, ASIC also published new competition market integrity rules, which establish common standards for market operators.

ASIC provided extensive guidance to the industry on applying these rules through:

- ♦ FAQs on the ASIC website
- ♦ joint market event scenario testing exercises with market operators
- ♦ active engagement with stakeholders to help facilitate the industry's smooth transition to the new environment.

We guided participants through their obligations in relation to new and existing rules. In addition to certifying automated order processing systems to ensure compliance with market integrity rules, ASIC guided participants on how to develop robust policies and procedures, provide best execution disclosures to clients, and monitor and prove best execution. We also educated participants on exceptions to the pre-trade transparency rule and how to report to other market operators.

The commencement of competition has created an incentive for rapid innovation among market operators. As a result, the number of market operating rule changes doubled in 2011–12 compared to 2010–11.

Regulation of emissions units

In July 2011, the Federal Government announced details regarding Australia's carbon pricing mechanism as part of its Clean Energy Legislative Package. This legislation is intended to create incentives to reduce pollution and encourage companies to invest in clean energy by putting a price on carbon. The system introduces a fixed price per tonne of carbon in 2012, before moving to a full emissions trading scheme by 2015.

ASIC is responsible for regulating emissions units, which are recognised under the legislation package as financial products. This includes licensing those who provide financial services or operate a financial market for emissions units.

During the year, ASIC developed guidance to help the industry prepare for a transitional registration system, and become licensed to provide financial services relating to emissions units. This included publishing and updating regulatory guides and fact sheets, and delivering industry presentations.

Financial reports

In December 2011, ASIC issued a regulatory guide to help directors provide useful and meaningful information in financial reports, as well as reduce the risk that financial information (other than that produced in accordance with accounting standards) could be misleading.

Remuneration reporting

In 2011–12 we continued to focus on improving companies' disclosure of remuneration policy and arrangements for their key management personnel. Our survey of 50 remuneration reports of ASX 300 companies for the year ended 30 June 2011 revealed some improvements compared to the previous year's review, but also scope for further improvement. In February 2012 we published examples of effective disclosure in the areas our review identified as needing particular attention. We also commented on our observations of voting procedures for remuneration resolutions at annual general meetings, and supported Chartered Secretaries Australia in its development of guidance on executive remuneration.

Priority 2 – Fair and efficient financial markets continued

Enforcement

Participants in Australia's financial markets have a responsibility to uphold the integrity and fairness of the market. ASIC undertook a range of enforcement activities throughout the year targeting misconduct by gatekeepers which has the potential to damage confidence in the market.

Honesty

The fairness and efficiency of financial markets depends on gatekeepers not using their positions to gain an improper advantage for themselves or for someone else. ASIC enforcement actions in 2011–12 included actions against insider trading, market manipulation and false or misleading statements.

Insider trading

Insider trading damages investor confidence in a fair and efficient market. ASIC took action to ensure that laws prohibiting insider trading are complied with, including:

- ♦ Former Pricewaterhouse Coopers senior consultant Nicholas Glynatsis pleaded guilty to nine insider trading charges relating to trades he conducted when in possession of confidential information acquired from PwC databases. He has yet to be sentenced, and has agreed to repay the \$50,826 he made from the trading.
- ♦ Justin O'Brien, former director of business development of the strategic shareholder consulting services company, Georgeson, was sentenced to two years imprisonment to be served by intensive correction order after pleading guilty to four charges of insider trading. He was also ordered to repay the \$54,748 profit he made from the trading.

Market manipulation

ASIC's continuing focus on maintaining fair and efficient markets saw it take action against market participants whose actions detracted from this goal, such as:

- ♦ Hoong Kee Tang, a former director of Wintech Group Limited, was convicted of four charges of market manipulation and one charge of making false or misleading statements to ASIC in December 2011. Mr Tang was also fined \$10,000 and automatically disqualified from being involved in the management of a corporation for five years.

False or misleading statements

ASIC pursued criminal charges for dishonest conduct resulting in conviction and imprisonment for these gatekeepers:

- ♦ Three former Australian Capital Reserve (ACR) directors pleaded guilty to charges relating to false or misleading statements in the company's accounts and a prospectus. Samuel Pogson and Murray Lapham were each sentenced to two years imprisonment to be served by intensive correction order. Mr Pogson was also sentenced to a further one year's imprisonment to be served by intensive correction order and served concurrently with the other charge. Steven Martin was sentenced to one year and four months imprisonment to be served by intensive correction order. The Commonwealth Director of Public Prosecutions has appealed against these sentences.
- ♦ Stuart Ariff was jailed for six years on 19 December 2011 following his conviction on 19 criminal charges. The charges related to Mr Ariff's conduct while he was the liquidator of HR Cook Investments Pty Ltd between 9 June 2006 and 29 March 2009. Mr Ariff was also found guilty on six charges of making false statements in documents lodged with ASIC.



Asher Brooks and Kathryn Flanagan at work in ASIC's Traralgon office.

Phoenix companies

ASIC takes the issue of fraudulent 'phoenix' company activity seriously. Phoenix activity refers to directors moving assets to new companies and liquidating the old ones, leaving behind the liabilities.

- ASIC relies on statutory reports provided by liquidators to support its decisions to disqualify directors from managing corporations.
- ASIC receives and acts on requests for assistance from liquidators where directors are failing to comply with their statutory obligations to provide reports, books and records to liquidators when companies fail. In 2011–12, ASIC received 1,410 requests for assistance. Many of the requests for assistance received relate to companies where there have been allegations of phoenix activity.
- Where a director fails to assist a liquidator, ASIC may prosecute the director. ASIC obtained compliance from directors on 441 occasions – a compliance rate of 44%, up from 40% in 2010–11. A total of 402 directors were prosecuted for 817 offences in 2011–12, resulting in fines and costs of \$1.05 million.
- ASIC can also take administrative action to disqualify directors if they have been involved in two or more companies that have been placed into liquidation within seven years. In 2011–12, 84 directors were disqualified or removed from managing corporations. Half of those disqualifications arose as a result of funding through the Assetless Administration Fund, which finances preliminary investigations and reports by liquidators regarding the failure of companies with few or no assets.

Diligence

Significant judicial decisions in court proceedings brought by ASIC against directors and senior executives during the year brought into focus the standard of diligence expected of these gatekeepers.

Centro

In August 2011, the Federal Court of Australia handed down its penalty decision against eight directors and former executives of Centro Properties Group. In a landmark decision in June 2011, the Court found that the defendants had failed to discharge their duties with the degree of care and diligence required of them in approving the financial reports for the year ended 30 June 2007.

The case highlighted the danger of boards uncritically relying on management or auditors, and provides important direction on the corporate accountability of directors and management. Directors must apply their own skill and knowledge when discharging their duties, a responsibility that cannot be delegated.

The Court refused the directors' applications to be exonerated from their contraventions and made declarations that all directors and the CFO had contravened the law. The court imposed a pecuniary penalty of \$30,000, and disqualified the former CFO from managing corporations for two years.

James Hardie

In May 2012, ASIC succeeded in a High Court appeal in its case against former non-executive directors and one company officer of industrial building company James Hardie. The case revolved around breaches of the Corporations Act when making a statement to ASX in 2002 about the adequacy of asbestos compensation funding.

The original trial judge had found that a draft ASX announcement had been approved by the James Hardie board and that the approval involved was a breach of directors' duties, whereas the NSW Court of Appeal had found that the announcement in question had not been approved by the board. The Court of Appeal also found that ASIC had an obligation of fairness in civil penalty proceedings, which included an obligation to call all material witnesses. This finding related to ASIC's decision not to call David Robb, the company's former solicitor, as a witness.

The High Court upheld the finding of the original trial judge that the directors of James Hardie did approve the draft ASX announcement made by the company and, in doing so, breached their duty to the company. It also decided that ASIC's decision not to call Mr Robb caused no unfairness, and that there was no basis for drawing any inference that Mr Robb would have given evidence adverse to ASIC's case.

Priority 2 – Fair and efficient financial markets continued

Trio Capital Limited

Auditors must ensure each audit is planned and performed with an attitude of professional scepticism. We took action against a number of auditors in the relevant period as part of our program to lift standards in the financial services and professional services industries.

ASIC accepted an enforceable undertaking from the auditor of the failed Astarra Strategic Fund to not act as a registered company auditor for three years. Timothy Frazer of WHK Audit & Risk Assessment audited the 2008 financial report of Alpha Strategic Fund and the 2009 report of Astarra Strategic Fund. We were concerned that during these audits Mr Frazer failed to adequately and properly perform the duties of an auditor, and failed to ensure each audit was planned and performed with an attitude of professional scepticism. This action is one of many arising from ASIC's investigation of Trio Capital and its related entities.

Infringement notices¹

Infringement notices were issued to companies who, ASIC alleged, failed to comply with their obligations under the Corporations Act, including:

- ♦ Leighton Holdings Limited paid a penalty of \$300,000 in March 2012 after ASIC issued three infringement notices alleging the company had not complied with its continuous disclosure obligations. In addition, we accepted an enforceable undertaking from Leighton that commits the company to reviewing its disclosure practices.
- ♦ Nomura Australia Limited was issued with an infringement notice and paid a penalty of \$30,000 for a trading error involving shares in Alumina Limited (AWC) which resulted in the market for AWC not being fair and orderly. Nomura did not have any controls in place to prevent this type of error. These controls were implemented the day after the errors were made.

Competence

A person who is disqualified from managing companies breaks the law if they continue to engage in company management.

[Text removed in accordance with ASIC policy - see INFO 152 Public comment on ASIC's regulatory activities.]

Independence

The independence of auditors and liquidators is the foundation of an effective and efficient system of financial reporting and corporate insolvency. In 2011–12, ASIC took action against auditors and liquidators whose conduct showed a lack of understanding of the importance of the independence of their role.

- ♦ John Frederick Lord, a former partner of accounting firm PKF Chartered Accountants and Business Advisers, had his official liquidator registration cancelled after failing to disclose that he had a commercial relationship with the petitioning creditor of 225 companies he was acting for as official liquidator.
- ♦ ASIC accepted an enforceable undertaking from Sydney-based auditor Graham Bruce Abbott after he breached the auditor rotation requirements in the Corporations Act. Our surveillance found that Mr Abbott breached these requirements by playing a significant role in audits of listed companies Central West Gold NL and Morning Star Gold NL for a number of successive financial years. Under the enforceable undertaking, Mr Abbott has agreed not to practise as an auditor for a company or a registered scheme under the Corporations Act.

1. Under s1317DAJ(3)(b)(v) and (vi) of the Corporations Act, compliance with the infringement notice is not an admission of guilt or liability and the disclosing entity is not taken to have contravened the provision specified in the notice.

Policy advice and implementation

Insolvency reform

Insolvency law reform was a significant focus for ASIC throughout the year.

In December 2011, the Government released an options paper for public consultation on a substantial package of insolvency law reform. Two key ASIC-related measures proposed and subsequently adopted were legislative changes that give ASIC the power to wind up companies and the development of a website for publishing insolvency notices (rather than publishing the notices in newspapers).

The insolvency notices website will result in cost savings to industry and significantly improve the information available to creditors and others impacted by insolvencies. In 2012–13, ASIC will be consulting on how and when to exercise its power to wind up companies.

International regulation and cooperation

ASIC has worked closely with local and international regulators to shape Australia's response to the Government's Group of Twenty Finance Ministers and Central Bank Governors (G20) commitments.

Chief among the areas of reform was a new framework for over-the-counter (OTC) derivatives, with new powers for the Government and ASIC in relation to mandating the trading, clearing and reporting of prescribed classes of OTC derivatives. ASIC was also involved in developing a new licensing regime for central clearing and trade repositories.

ASIC has discussed proposals for an 'Asian funds passport' consistent with Government initiatives to support investment managers that offer services in key Asian jurisdictions. ASIC is working with Treasury to identify how an Asian mutual recognition framework could be implemented.

In 2012 we prepared material about Australia's regulation and its supervision of financial markets for the International Monetary Fund's Financial Sector Assessment Program (FSAP) review of Australia's financial sector. The FSAP review is a comprehensive and in-depth analysis of a country's financial sector, which assesses the financial sector and, among other things, rates the quality of its financial market supervision against international standards. Australia's first FSAP review was conducted in 2005–06 and the second review was undertaken in 2012, consistent with a recent commitment of Financial Stability Board members to undergo an FSAP review approximately every five years. The IMF is in the process of finalising a report containing its detailed assessment and policy recommendations, which will be published later in 2012.



ASIC made increased use of YouTube and other social media in 2011–12

Priority 3 – Efficient registration and licensing

ASIC's third priority focuses on the effectiveness of Australia's business registration and licensing regimes. This includes overseeing company registration and notifications, the AFS licensing and credit licensing regimes, and business names registration.

In 2011–12, ASIC made substantial progress towards more efficient registration and licensing for Australian companies and licensees, using technology to reduce costs and provide new and improved services, including an online national Business Names Register.

Engagement with industry and stakeholders

Doing more business online

One of ASIC's priorities is to steadily increase the quantity of business conducted online. This reflects ASIC's view that online transactions are easier and cheaper for business. In 2011–12, 75.5% of the 2.1 million forms lodged with ASIC were submitted online, up from 72.7% in 2010–11. New services such as the national Business Names Register have substantially reduced the cost of doing business.

Average weekly visits to the www.asic.gov.au website jumped 18% after the launch of the new ASIC Connect online search service on 31 March 2012, and a further 28% following the launch of the Business Names Register on 28 May 2012.

To support online interactions, ASIC has developed a new framework to improve the quality of the self-help information provided on the ASIC website. This framework was implemented with the introduction of the national Business Names service and provides these customers with access to the same guidance used by our Client Contact Centre staff when answering calls or emails.

ASIC consulted with its Registry and Licensing Business Advisory Committee (see page 136) and conducted several focus groups with customers to help it design new online services for the ASIC Connect and Business Names Register projects.

New social media channels (ASIC Registry presence on Twitter, Facebook and YouTube) have been launched as ASIC aims to be more responsive to customers, and to promote and seek feedback on our registration and licensing services. The use of social media is a new direction this year for ASIC to better interact with and understand our stakeholders. In the short period since we opened these channels of communication, we have over 2,500 Twitter followers, and our customers have viewed over 600 business name roadshow webcasts. There have also been more than 3,200 views of YouTube videos introducing customers to ASIC Connect and the national Business Names Register.

Companies register

During 2011–12, the number of companies registered with ASIC grew to 1.9 million – the highest number ever recorded.

The number of new companies that registered with ASIC in 2011–12 totalled 176,062. This was an increase of 7.8% compared to 2010–11. New company registrations have steadily increased in volume each financial year since 2008–09.

The rate of company deregistration also continues to increase, with 97,198 companies deregistered during 2011–12, an increase of 3.46% on 2010–11.

Companies entering external administration totalled 10,757 during 2011–12, an increase of 9.4% on 2010–11. While the number of companies in external administration as a percentage of companies on the register has increased, the 2011–12 figure of 0.56% is still below the 0.59% seen during 2008–09, at the height of the global financial crisis.

'In 2011–12, ASIC made substantial progress towards more efficient registration and licensing for Australian companies and licensees.'

ASIC Connect

ASIC's new online user interface, ASIC Connect, was launched in March 2012.

ASIC Connect allows customers to conduct ASIC registry searches online and pay search fees by credit card. Searches were previously available only by mail, over the counter or through information brokers.

Our customers conducted over five million free searches and over 46,000 paid searches through ASIC Connect from its launch to June 2012, generating \$785,096 in revenue. Over the same period we had 1.03 million searches through information brokers (4.32 million over the full 2011–12 year).

Paid searches conducted directly with ASIC (on paper, over the counter and via ASIC Connect) have increased by 42,618 (approximately 580%). The launch of the ASIC Connect online search has also seen a 53% decrease in paper searches conducted directly with ASIC. These figures are based on a comparison of search data from April to June 2011 and April to June 2012.



Rosanne Bell, senior executive leader, Registry Services and Licensing, at the launch of ASIC Connect.

National Business Names Register

On 28 May 2012, ASIC launched the new national Business Names Register.

The Business Names Register replaces the eight previous state and territory services, so that businesses only need to register their name once to be registered throughout Australia.

The establishment of the national Business Names Register required the transfer of more than 1.4 million active business name registrations previously held on state and territory business name registers.

The Business Names Register can be accessed through ASIC Connect to search for information including:

- ♦ business names
- ♦ business name holders (people or organisations), to see who is behind the business name
- ♦ whether a business name is available for registration, or if similar names exist.

ASIC Connect is also linked to the Australian Business Register (ABR), offering greater integration and an improved experience for businesses. For example, new businesses can register an ABN, then move directly to ASIC's website and apply for a business name. Future service enhancements will allow customers to apply for a business name directly from the ABR website.

Costs for registering a national business name are significantly cheaper under the new system, at \$30 for one year or \$70 for three years. Previously, a business would have spent over \$1,000 to register a business name in every state for three years.

The launch of this initiative – together with the joint ABN/business name registration transaction – is expected to deliver approximately \$480 million in benefits to businesses, consumers and the Government over eight years. These benefits include the reduced fee to register a business name, and reduced time to complete the joint business name and ABN registration.

Priority 3 – Efficient registration and licensing continued

National Business Names Register – key statistics

Measure	To 30 June 2012	Notes
Business names registered on the national Business Names Register at 30 June	1,488,898	
Business names newly registered with ASIC	19,131 ¹	
Business name registrations received by ASIC	26,740 ¹	Of the 26,740 registrations received by 30 June 2012, 19,131 were registered by 30 June.
Other transactions received	10,782 ¹	This includes requests for business names details, suppressions, requests for ASIC keys and cancellations.
Business name registrations received online (%)	100%	Prior to commencement of the national Business Names Register, online registration was only available in two of the states and territories.
Business names registered by next business day	71.4% ¹	From the date ASIC receives the application.
Business names registered by next business day – for registrations received via ASIC Connect	92.2% ²	The ASIC Connect business names registration service was introduced on 4 June 2012.
Business names registered by next business day – for registrations received via Smart Form	3.8%	Available as an interim service from 28 May 2012 for the first week of operation.
Access to Business Names Register	98.2% ²	The percentage of time, between the hours of 8.30 am and 7 pm AEST, Monday to Friday, that the national Business Names Register was available to search.
Cost to register a business name – 1 year	\$30.00 ¹	Prior to the implementation of the national Business Names Register, registration of a single business name in every state and territory for three years cost more than \$1,000 in total.
Cost to register a business name – 3 years	\$70.00 ¹	

1 From 28 May 2012, the date on which the national Business Names Register was launched.

2 From 4 June 2012, the date on which the ASIC Connect business names registration service was introduced.

The Personal Property Securities Register

The Personal Property Securities (PPS) Register is the centrepiece of the Government's recently implemented PPS reform program. The PPS Register replaces ASIC's register of company charges as well as various other state and territory registers of personal property.

The PPS Register helps business owners manage credit risk, check for encumbrances on property they plan to buy, and search for and register assets used to secure a loan. Personal property listed on the register includes assets that may be used to secure a loan, such as cars, boats, crops and intellectual property. The PPS Register does not include real estate property, such as houses or land. It is operated by the Insolvency and Trustee Service Australia.

As a result, ASIC's register of company charges is now closed and company charges no longer need to be lodged with ASIC. ASIC transferred 1,563,193 charges to the PPS Register, together with 3,425,133 associated documents, as part of the implementation of the register on 30 January 2012.

Creditors and investors should search the PPS Register for details of current charges and charges satisfied since 30 January 2012. Until 30 January 2019, ASIC will continue to provide details of charges satisfied prior to 30 January 2012. In some instances, creditors and investors may need to search both ASIC's register and the PPS Register for a full report of their secured interests.

'In 2011–12, ASIC handled over 600,000 calls through the Client Contact Centre.'

Client Contact Centre

Where consumers cannot obtain information they need from ASIC's website, they can contact our Client Contact Centre. In 2011–12, ASIC handled over 600,000 calls through the Client Contact Centre, with the top 10 topics shown in the table below.

Topic	2011–12
Company	439,572
General	48,827
Business name	19,088
Infoline	15,870
Credit	11,943
Online complaints	9,393
Financial services	8,559
Auditor	2,165
Liquidator	745
Scheme	568

Note: ASIC assumed responsibility for registration of business names from the states and territories on 28 May 2012, but received some related calls throughout 2011–12 in the lead-up to the commencement of the service.

Since the commencement of the national Business Names Register service on 28 May 2012, ASIC has experienced a significant increase in the number of calls to our Client Contact Centre. This is forecast to double the number of calls it receives each year. As a result ASIC's Client Contact Centre is experiencing significant delays in servicing calls and we have had an increase in callers not being answered in an acceptable timeframe. ASIC strives to provide a fast and effective service, and we are addressing these issues.

Priority 3 – Efficient registration and licensing continued

Reuniting people with unclaimed money

ASIC maintains a register of unclaimed money from banks, credit unions, building societies, life insurance companies and friendly societies, as well as shares that have not been collected from companies. ASIC’s register can be searched by the public and claims can be made to ASIC’s Unclaimed Money team.

In 2011–12, ASIC received about \$108 million in unclaimed money. This is more than the approximately \$90.8 million received in 2010–11, with increases in receipts across all categories of

unclaimed money. Nearly \$57 million was paid out in claims in 2011–12, compared with \$62 million in the previous year.

ASIC continued to actively reunite owners of unclaimed money with their funds by finding and writing to 28,468 potential owners. As a result, approximately \$3.8 million was returned to 1,102 successful claimants.

The following tables show the total claims by type of unclaimed money and the number of claims (and value) where owners were reunited with previously unclaimed money.

Claims by type

	2011–12 (\$)	2010–11 (\$)
Company	19,329,228	25,126,507
Banking	32,768,797	34,000,579
Life insurance	4,602,327	3,113,605
Deregistered company trust money	129,807	60,077
Total	56,830,159	62,300,768

Number of claims and amounts reunited with owners (company unclaimed money)

Source	2011–12		2010–11	
	No. of claims	\$ value	No. of claims	\$ value
Money recovery agency	1,521	6,624,423	1,468	5,559,326
ASIC reuniting	1,102	3,796,478	1,198	3,372,101
Other	2,600	8,908,327	2,035	16,195,080
Total	5,223	19,329,228	4,701	25,126,507

‘ASIC continued to actively reunite owners of unclaimed money with their funds by finding and writing to 28,468 potential owners.’

Managing property vested in ASIC

ASIC administers the property of deregistered companies. This property remains vested in ASIC – or in ASIC on behalf of the Commonwealth in relation to trust property – until it is lawfully dealt with (for example, it is purchased by another party or transferred to another party), or evidence is provided that the property no longer vests in ASIC for some other reason (for example, the company has been reinstated).

In 2011–12 ASIC began taking a more proactive approach to administering vested property, including attracting parties to apply to ASIC to purchase that property where appropriate.

ASIC accounts for any proceeds on realisation of the property in accordance with its statutory duties, by depositing such proceeds, less the

expenses incurred in dealing with the property, into the Company Unclaimed Money Special Account, to be treated like any other unclaimed money for which ASIC is responsible.

There has been a steady increase in matters dealt with by ASIC, generally as a result of ASIC's more proactive approach to engaging and assisting parties to effectively deal with vested property. The number of matters received in 2011–12 rose 20% compared to 2010–11, to 1,552. The number of matters finalised rose 9% to 1,390. The following table shows vested properties of deregistered companies by number of cases.

Vested properties of deregistered companies (by number of cases)

	2011–12	2010–11
Total new matters	1,552	1,294
Total finalised matters	1,390	1,270
Total property disposals	933	897
Property disposals comprise:		
Transferred	289	196
Sold	19	5
No longer vested ¹	505	590
Other ²	120	106

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, or has lapsed.

Priority 3 – Efficient registration and licensing continued

Surveillance

Credit licensing

Credit licensees are required to lodge an annual compliance certificate. During April and June 2012, ASIC carried out the first annual compliance certificate verification campaign under national consumer credit laws. The purpose of the campaign was to check the accuracy of the information provided by a randomly selected sample of Australian credit licence holders. ASIC chose 32 licensees for examination then carried out desktop reviews and onsite audits to confirm the information contained within their annual compliance certificates lodged with ASIC.

Some common issues arose. First, some licensees were having difficulty understanding the method used to calculate the fee for lodging the certificate and renewing their licence. This resulted in some instances of the licensee paying a lesser amount than required as part of their renewal process.

Second, some smaller finance and mortgage brokers showed a lack of understanding of the need to manage conflicts of interest and have appropriate policies and procedures in place.

Third, some smaller brokers were struggling to develop internal dispute resolution policies. Seven entities have received letters from ASIC warning them about their activities and two entities were referred for investigation with a view to cancelling their licences for breaches of the national consumer credit laws.

A total of 5,374 annual compliance certificates were lodged with ASIC and 503 licensees asked for their licences to be cancelled prior to lodgement of their compliance certificates.

Investigating unsuccessful credit licence applicants

In a separate exercise, ASIC investigated entities that had applied for an Australian credit licence, but been unsuccessful. The purpose was to determine whether entities that had previously indicated a desire to work within the credit industry but that had not successfully obtained a licence were engaged in credit activities without being licensed to do so.

ASIC investigated 116 entities to determine if they were engaged in unlicensed credit activities. Only one entity was identified as potentially engaging in unlicensed activity, and is being investigated.

Foreign entities

ASIC carried out a number of activities relating to foreign entities operating in Australia in 2011–12. It reviewed filings by foreign financial service providers operating in Australia under licensing exemptions, and processed requests from the Foreign Investment Review Board relating to the activities of foreign entities in Australia.

Additionally, in 2011–12 ASIC released updates to three regulatory guides relating to these activities: the first covering principles for cross-border financial regulation, the second on foreign financial service providers and the third on foreign collective investment schemes. We also published an information sheet providing practical guidance for foreign financial service providers.

Guidance – setting rules, standards and expectations

Regulation of emissions units

ASIC developed a process through which parties can apply for registration to provide financial services relating to emissions units. As at 30 June 2012, 173 entities had registered via this process.

In addition, entities wishing to establish facilities or platforms for trading emissions units – or derivatives over them – are likely to need an Australian market licence. ASIC has been working closely with the industry to develop an appropriate licensing and supervision framework for the carbon-related financial markets that are expected to develop in the future.

Enforcement

Competence

Directors with a history of involvement in failed companies may be disqualified from managing companies in order to protect the interests of future creditors, investors and employees who may suffer losses at the hands of these individuals. On application by ASIC, 38 individuals were banned from managing corporations, after presiding over two or more companies that were wound up.

Assessing misconduct and other reports

ASIC receives and responds to reports of alleged misconduct and statutory breaches in the business areas and populations it regulates. In 2011–12, ASIC dealt with 12,516 reports of misconduct, 20% fewer than the previous year, and finalised 72% of report assessments in 28 days. Of these, 26% were escalated for compliance, investigation or surveillance, compared with 28% in 2010–11.

The table below shows the outcome of misconduct reports finalised in 2011–12 compared with 2010–11. Approximately 20% of reports are finalised on the basis that the conduct reported is outside ASIC's jurisdiction or does not disclose an offence. When we finalise these matters, our Misconduct and Breach Reporting team seeks to assist the party or direct it to a more appropriate agency or solution. A further 21% of reports are resolved and 26% are referred to a specialist team within ASIC for further surveillance or investigation.

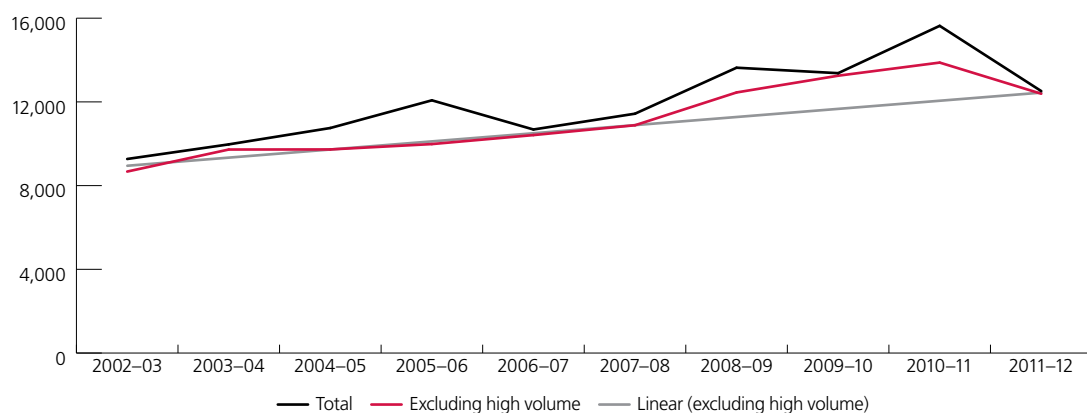
Figure 1, below, shows the total number of reports finalised each year, together with the underlying trend after high-volume matters have been removed. High-volume matters are those where ASIC has received 100 or more reports of misconduct about the same entity and the same issue.

While the number of matters reported to ASIC declined in 2011–12, after several years of higher volumes due to the effects of the global financial crisis, it appears that this simply reflects the longer-term trend. Analysis of the types of matters reported to ASIC, after allowing for ASIC's increased credit jurisdiction from July 2010, points to a return to more traditional 'safe harbour' investments, with fewer reports about managed investment funds, potential scams and alleged corporate fraud.

Misconduct reports

	2011–12	2010–11
Report assessments finalised	12,516	15,634
Referred for compliance, investigation or surveillance	26%	28%
Resolved	21%	21%
No jurisdiction	15%	14%
No breach/offences	5%	6%
Analysed, assessed and recorded	33%	31%
Total	100%	100%

Figure 1: Misconduct reports finalised



Assessing misconduct and other reports continued

The following table shows a breakdown of the main categories of misconduct reports received by ASIC.

Reports by category

Report categorisation by area and main issue	2011–12 (%)	2010–11 (%)
Corporations and corporate governance including:		
♦ failure to provide books and records or a report as to affairs to an insolvency practitioner	10	8
♦ insolvency matters	8	8
♦ insolvency practitioner misconduct	3	3
♦ late lodgement or non-lodgement of financial reports	1	2
♦ other (e.g. directors' duties, contractual issues, internal disputes)	22	19
Subtotal	44	40
Financial services and retail investors including:		
♦ managed investment schemes	4	13
♦ credit	16	14
♦ operating an unregistered managed investment scheme or providing financial services without an AFS licence	4	4
♦ potential scam	4	4
♦ other (e.g. superannuation, insurance, advice, breach of licence conditions, misleading or deceptive conduct, unconscionable conduct)	15	13
Subtotal	43	48
Market integrity, including insider trading, continuous disclosure, misleading statements, market manipulation	6	4
Registry integrity, including incorrect address recorded on ASIC's register or lodging false documents with ASIC	5	5
Other issues	2	3
Total	100	100

Breach reports

In 2011–12, ASIC assessed 350 auditor breach reports under s311 of the Corporations Act and 1,017 breach reports that related to managed investment schemes and AFS licensees. This compares with 296 auditor breach reports under s311 and 1,019 breach reports that related to managed investment schemes and AFS licensees in 2010–11. Of the reports received in 2011–12, almost half were referred for specialist review within ASIC, or to assist with an existing investigation or surveillance.

Statutory reports from liquidators, administrators and receivers

Liquidators, administrators and receivers (external administrators) are required to report to ASIC if they suspect that company officers have been guilty of an offence or, in the case of liquidators, if the return to unsecured creditors may be less than 50 cents in the dollar.

In 2011–12, ASIC has seen an increase in the number of reports received, reflecting the increase in the number of insolvencies over the last couple of years. In 2011–12, 29% of these reports were referred for compliance, investigation or surveillance. This compares to 33% in the past two years and 24% in 2008–09.

Statutory reports

	2011–12	2010–11
Total reports received	11,404	9,230
Reports assessed alleging misconduct or suspicious activity	8,528	6,823
Initial reports¹		
Reports assessed alleging suspicious activity	7,607	6,080
Supplementary reports requested	10%	10%
Analysed, assessed and recorded	90%	90%
Total	100%	100%
Supplementary reports²		
Supplementary reports assessed alleging misconduct	921	743
Referred for compliance, investigation or surveillance	20%	24%
Referred to assist existing investigation or surveillance	9%	9%
Analysed, assessed and recorded	70%	67%
Identified no offences	1%	0%
Total	100%	100%

1 Initial reports are electronic reports lodged under Schedule B of Regulatory Guide 16 *External administrators: Reporting and lodging*. Generally, ASIC will determine whether to request a supplementary report on the basis of an initial report.

2 Supplementary reports are typically detailed free-format reports setting out the results of the external administrator's inquiries and the evidence to support the alleged offences. Generally, ASIC can determine whether to commence a formal investigation on the basis of a supplementary report.

Performance against Service Charter

ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and its stakeholders and sets performance targets for each. The following table sets out our performance against the key measures outlined in the Service Charter.

ASIC Service Charter performance

Service	Service Charter target	2011–12	2010–11
General phone queries	ASIC aims to answer your telephone queries on the spot	87% of calls answered on the spot (525,741 of 600,889) 13% (75,148) referred to specialist staff	91% of calls answered on the spot (578,084 of 632,379) 9% (54,295) referred to specialist staff
General email queries	ASIC aims to reply to email queries within two business days	73% replied to within two business days (17,611 of 24,224)	96% replied to within two business days (45,168 of 47,264)
General correspondence about our public database and registers, including fee waivers	ASIC aims to acknowledge receipt within 14 days of receiving it, with full response within 28 days	91% replied to within 28 business days (18,719 of 20,629)	95% replied to within 28 business days (36,338 of 38,331)
Registering a company	We aim to complete company registrations within one business day ¹	98% completed within one business day (182,503 of 185,559) 97% of paper forms completed within one day (18,357 of 18,905) 98% of electronic forms completed within one day (164,146 of 166,654)	98% completed within one business day (167,962 of 170,763) 98% of paper forms completed within one day (19,501 of 19,987) 98% of electronic forms completed within one day (148,461 of 150,776)
Updating company information and status	We aim to enter critical changes to company information in the corporate register within two business days	98% entered within two business days (1,053,821 of 1,075,984) 91% of paper forms entered within two business days (153,631 of 169,142) 99% of electronic forms entered within two business days (900,190 of 906,842)	98% entered within two business days (1,082,846 of 1,107,095) 91% of paper forms entered within two business days (180,247 of 198,653) 99% of electronic forms entered within two business days (902,599 of 908,442)

ASIC Service Charter performance (continued)

Service	Service Charter target	2011–12	2010–11
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	91% registered within 28 days (98 individual applications and 15 authorised audit companies)	91% registered within 28 days (71 individual applications and 19 authorised audit companies)
Registering as a liquidator	We aim to decide whether to register a liquidator or official liquidator within 28 days ²	92% of liquidator applications decided within 28 days (34 of 37 applications) 95% for official liquidators (35 of 37 applications)	91% of liquidator applications decided within 28 days (31 of 34 applications) 100% for official liquidators (33 of 33 applications)
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 28 days ²	85% of licences granted within 28 days (357 of 420 applications) 88% of licence variations decided within 28 days (803 of 917 applications) ³	83% of licences granted within 28 days (355 of 427 applications) 88% of licence variations decided within 28 days (1,368 of 1,557 applications) ³
Registering a managed investment scheme	By law we must register a managed investment scheme within 14 days of receiving a complete application	100% registered within 14 days (191 of 191)	100% registered within 14 days (240 of 240)
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 28 days ²	90% of all licence applications decided within 28 days (350 of 391) 94% of licence variations decided within 28 days (149 of 159)	70.5% of all licence applications decided within 28 days (4,312 of 6,116) 94% of licence variations decided within 28 days (62 of 66)
Applying for relief	If you lodge an application for relief from the Corporations Act that does not raise new policy issues, we aim to give an in-principle decision within 21 days of receiving all necessary information and fees (target: 70%)	73% of in-principle decisions made within 21 days (1,897 of 2,594 applications) ³	75% of in-principle decisions made within 21 days (1,958 of 2,623 applications) ³

Performance against Service Charter continued

ASIC Service Charter performance (continued)

Service	Service Charter target	2011–12	2010–11
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information (target: 70%) ⁴	72% finalised within 28 days (8,954 of 12,516)	78% finalised within 28 days (12,207 of 15,634)

- 1 Includes all applications received, regardless of whether applications approved or a company registered.
- 2 Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review.
- 3 This result includes all applications, including those where we did not initially receive all the information we needed to make a decision.
- 4 Reports beyond the 28-day target are generally complex ones or ones requiring considerable additional work.

Regional activities

In 2011–12, ASIC's regional commissioners led a range of initiatives within each state and territory, some of which are listed at right and on page 54, and assisted in the delivery of nationwide initiatives, including a national roadshow to explain the new Business Names Register.

During 2011–12, three regional commissioners retired from the role. Greg Yanco handed over the role of Regional Commissioner, New South Wales, and Dr Pamela Hanrahan, Regional Commissioner for Queensland and Delia Rickard, Regional Commissioner for the ACT, left ASIC. We acknowledge their tremendous contributions as Regional Commissioners.

Chris Van Homrigh was appointed as Regional Commissioner, New South Wales, Brett Bassett was appointed Regional Commissioner, Queensland and Peter Cuzner was appointed Regional Commissioner, Australian Capital Territory.

Australian Capital Territory

- ♦ ASIC was represented on the Intergovernmental Working Group for the development of the Foundation Skills National Strategy with all major Australian Government departments.
- ♦ ASIC hosted monthly liaison meetings for all major Australian Government departments involved in financial literacy work.

New South Wales

- ♦ In October 2011, ASIC hosted a delegation from the South African Transnet Retirement Fund.
- ♦ In February 2012, ASIC hosted its annual Summer School in Sydney, which was attended by 413 delegates.
- ♦ In March 2012, several ASIC staff presented at the Sydney/Shanghai Finance Symposium.
- ♦ Meetings included those with NSW Department of Trade and Peninsula Business Services and the Stockbrokers Association of Australia and its board of directors.

Northern Territory

- ♦ In July 2011, ASIC co-hosted a one-day workshop entitled 'Indigenous Financial and Commercial Literacy Programs' with CPA Australia and the Northern Territory Government; and exhibited at the fifth Indigenous Economic Development Forum in October 2011. In April 2012, we launched audio posters with messages about ATM fees in 12 Aboriginal

languages. This was a joint project with the Territory Insurance Office, The Arnhem Land Progress Association and Outback Stores.

- ♦ Ongoing support was provided for the Milba Djunga (Smart Money) school financial literacy program across the Northern Territory. ASIC also held monthly financial literacy community meetings.
- ♦ ASIC co-hosted events such as a business luncheon titled 'How to Manage and Prevent Business Insolvency' with CPA Australia in August 2011 and an October 2011 public forum in Katherine to raise awareness of ASIC. ASIC also presented to business stakeholders at a Department of Business and Employment seminar, 'Demystifying Business Trusts, Sole Traders and Companies in Plain English' in February 2012.

Queensland

- ♦ Hosted two Women in ASIC networking events.
- ♦ January 2012 marked the beginning of a major external stakeholder engagement campaign to foster understanding of the role of ASIC. Over 100 meetings took place between ASIC and stakeholders from the corporate, not-for-profit and regulatory sectors in Queensland.
- ♦ In May 2012, ASIC launched a new initiative titled 'The Queensland Regulators and Consumers Forum' to exchange intelligence and views with key Queensland-based consumer advocacy groups.

Regional activities continued

Regional Commissioners



Peter Cuzner
Australian
Capital Territory



Chris Van Homrigh
New South Wales



Duncan Poulson
Northern Territory



Brett Bassett
Queensland



Mark Bielecki
South Australia



Julie Read
Tasmania



Warren Day
Victoria



Bruce Dodd
Western Australia

South Australia

- ♦ In October 2011, as part of a national launch, ASIC's Regional Commissioner launched in South Australia, the Good Shepherd Youth & Family Service research paper 'Microfinance and the Household Economy: Financial inclusion, social and economic participation and material well-being'.
- ♦ ASIC representatives participated in events with groups including the Financial Services Institute of Australasia and the Australian Investors Association.
- ♦ In March 2012, ASIC representatives supported a booth in Rundle Mall for World Consumer Rights Day, providing information on consumer rights and the Right Door project together with Consumer and Business Services and Consumers SA.

Tasmania

- ♦ ASIC hosted bi-monthly insolvency discussion groups attended by the Insolvency and Trustee Service Australia, the Australian Taxation Office and local insolvency practitioners and lawyers.
- ♦ Public education sessions focused on MoneySmart financial literacy resources and gaining feedback from community settlement workers using the Money Management Kit.
- ♦ In March 2012, ASIC held a roundtable discussion with Tasmanian directors and secretaries of public companies attended by ASIC Deputy Chairman Belinda Gibson.

Victoria

- ♦ ASIC focused on raising awareness of the MoneySmart website in regional Victoria.
- ♦ Graduates from Traralgon and other staff members hosted stalls at a range of field days in regional centres across Victoria to promote MoneySmart and answer other questions from consumers and business people.

Western Australia

- ♦ ASIC presented at a seminar organised by Valmin, a joint committee of the Australasian Institute of Mining and Metallurgy and the Australian Institute of Geoscientists, which oversees requirements for the technical assessment and valuation of mineral and petroleum assets and securities.
- ♦ Throughout the year, ASIC presented to groups such as the Institute of Chartered Accountants in Australia; the University of Western Australia's Law Summer School; the Chartered Secretaries Australia's Annual Corporate Update; and the Corrs Chambers Westgarth Corporate Control Forum.



3

People, community and environment

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ASIC's people

Building leadership capabilities

In 2011–12, we implemented a talent development and succession framework for Senior Executive Service and Executive Level 2 staff, to ensure we have leadership succession plans in key business areas.

Work done in 2011–12 included the establishment of a Talent Council as a way of demonstrating our commitment to managing our high-potential staff. We defined the critical experiences needed to develop the skills of our high-potential staff to ensure their success in the future, and linked these critical experiences to development plans.

We conducted the first phase of a leadership skills development program for senior managers (Executive Level 2). At year-end, 79 senior managers had completed the first phase of this program. Every participant received detailed feedback from peers, managers and direct reports, and feedback from an intensive one-day program designed to test specific leadership skills.

ASIC is integrating the Australian Public Service Integrated Leadership System into its leadership development activities. During the year, we also offered a full program of management development courses for staff at management level or wishing to move into management roles.

Developing our new values

We revised our values, which are Accountability, Professionalism and Teamwork, through a consultative approach across ASIC. An essential part of the process was listening to our staff views as part of the 2011 Pulse Staff Survey and conducting focus groups nationally, with over 100 staff participating.

Our new values provide an understanding of who we are as an organisation and what we do, and guide us as we work collaboratively to achieve our strategic objectives.

The new values sit alongside our strategic priorities and our new employer value proposition, 'For Good Reason'. ASIC's proposition describes what is unique about our employment offering, reflecting what attracts people to work at ASIC and why they stay.

Focus on diversity

As part of our ongoing commitment to promoting and supporting diversity in the workplace, we continued to embed our Women in ASIC program, enabling women to better work towards their career goals while maintaining a work/life balance. Key initiatives included seminars on flexible work practices and quarterly Keeping You Connected events for women on maternity leave.

ASIC participates in the Women In Law Enforcement Strategy (WILES) program, enhancing the development of women in law enforcement roles through establishing 12-month mentoring relationships with Senior Executive Officers in other agencies.

Information on our performance under the Commonwealth Disability Strategy can be found in the *State of the Service Report* and the *APS Statistical Bulletin*, available at www.apsc.gov.au.

Focus on workplace safety

ASIC took the introduction of new work and safety laws on 1 January 2012 as an opportunity to reinvigorate its approach to health and safety at all levels of the organisation. The *Work Health and Safety Act 2011* creates changes relating to primary duty of care, duty holders and their due diligence requirements. It also changes management of risk, consultation and incident notification.

In response, all ASIC staff undertook mandatory online training on work health and safety. We also ran awareness-raising sessions with Senior Executive Leaders and Senior Managers, and increased the number of health and safety representatives undertaking training on issues including hazard inspection and ergonomics.

To improve safety, ASIC completed risk and ergonomic assessments at all sites, provided flu vaccinations, maintained work health and safety committees and provided education on mental health. Further, we continued to focus on the rehabilitation of injured employees to reduce their time away from work.

Performance payments, 2011–12, by classification¹

Classification	No. of recipients	Aggregate	Payment range		Average
			Minimum	Maximum	
ASIC 4	144	\$498,741	\$46	\$18,608	\$3,463
Exec 1	430	\$2,261,292	\$715	\$19,048	\$5,259
Exec 2	497	\$3,984,037	\$476	\$24,687	\$8,016
SES	47	\$867,519	\$5,489	\$37,944	\$18,458
Total	1,118	\$7,611,589	\$46	\$37,944	\$6,808

¹ Includes payments for the 2010–11 performance year which were paid in 2011–12, plus pro rata payments for the 2011–12 performance year for staff who left ASIC in 2011–12.

Industrial arrangements for ASIC staff as at 30 June 2012

Classification	ASIC Act s120(3) contract	AWA ¹	EA	Total
ASIC 1	–	–	58	58
ASIC 2	–	–	276	276
ASIC 3	–	–	293	293
ASIC 4	–	–	400	400
Exec 1	–	–	477	477
Exec 2	–	–	530	530
SES	23	16	3	42
Total	23	16	2,037	2,076

¹ Australian Workplace Agreement.

Salary ranges per annum, 2011–12

Classification	Minimum per annum	Maximum per annum
ASIC 1	\$39,975	\$44,182
ASIC 2	\$46,489	\$55,619
ASIC 3	\$59,258	\$67,926
ASIC 4	\$70,907	\$80,272
Exec 1	\$92,924	\$107,486
Exec 2	\$105,266	\$147,505
SES	\$147,505	\$291,482

ASIC's people continued

ASIC employees, by location^{1,2}

Classification	Vic.		NSW		Qld		WA		
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	
Chair			1	1					
Deputy Chairman			1	1					
Member	2	2	1	2					
SES	12	11	27	29	1	2	1	2	
Exec 2	138	142	227	221	35	39	26	27	
Exec 1	107	115	194	180	42	41	32	39	
ASIC 4	134	122	126	139	37	43	20	22	
ASIC 3	119	145	65	74	27	39	11	15	
ASIC 2	153	195	19	29	14	16	8	12	
ASIC 1	26	38			1		1		
Contractors ³	1	1	19	26	1	4			
Total	692	771	682	702	158	184	98	117	

1 Average number over 12 months on FTE basis.

2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.

3 Includes non-payroll contractors, secondments and agency staff.

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

Commissioners, by gender¹

Classification	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	
Chairman									
Deputy Chairman									
Member									
Appointee total									

1 Average number over 12 months on FTE basis.

	SA		ACT		Tas.		NT		Total	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
									1	1
									1	1
									3	4
	2	2	2	1	1	1			46	48
	10	13	5	4	8	6			448	452
	16	18	3	5	4	4	1	2	400	403
	17	19	4	5	2	2			340	352
	10	17	2	3	2	3	2	2	239	297
	12	8	4	3	2	2			211	266
									28	38
									22	31
	67	77	21	21	18	18	3	4	1,738	1,893

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male			
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
			1	1					1	1
	1	1							1	1
			3	4					3	4
	1	1	4	5					5	6

ASIC's people continued

Employees under ASIC Act, by gender^{1,2}

Classification	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	
Exec 1			1	1					
SES	3	2							
Contractors ³									
ASIC Act total	3	2	1	1					

1 Average number over 12 months on FTE basis.

2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.

3 Includes all non-payroll IT contractors, secondments and agency staff.

Employees under *Public Service Act 1999*, by gender^{1,2}

Classification	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	
ASIC 1	6	7	1	3	3	4			
ASIC 2	103	119	34	45	50	63	4	4	
ASIC 3	130	156	69	96	16	17	1		
ASIC 4	163	161	120	127	27	31	2	4	
Exec 1	140	144	200	203	32	33	4	2	
Exec 2	130	126	234	234	43	51	9	10	
SES	5	4	9	11	3	1			
Public Service Act total	676	717	668	719	174	200	19	20	

1 Average number over 12 months on FTE basis.

2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.

Combined totals for Commissioners, and employees under ASIC Act and under *Public Service Act 1999*, by gender¹

Classification	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	
Total	679	719	669	720	174	200	19	20	

1 Average number over 12 months on FTE basis.

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

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male			
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
									1	1
	7	9	18	21					28	32
	8	8	14	19		1		3	22	31
	15	17	32	40		1		3	50	64

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male			
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
	11	10	3	4	4	10		1	28	38
	12	26	4	4	4	3	2	1	211	266
	11	20	10	8		1			239	297
	21	15	5	10	2	4			340	352
	6	7	10	11	2		5	3	399	403
	9	9	22	17	1	2	1	3	448	452
			1						18	16
	70	87	55	54	13	20	8	8	1,682	1,824

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male			
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
	86	105	91	99	13	21	8	11	1,738	1,893

ASIC in the community

ASIC launched its community investment program, 'ASIC in the Community' in July 2007. In the five years since, the program has gone from strength to strength.

Workplace giving and fundraising

ASIC employees are among the most generous in the public service. In 2011–12, 10% of ASIC employees donated a total of \$98,669 to 27 not-for-profit organisations through their pay, making ASIC's workplace-giving scheme one of the largest in the Australian Public Service.

Part of the workplace-giving program involves ASIC hosting speeches from inspirational Australians from the third sector or government. Employees often choose to support these organisations through the workplace-giving program; even if they choose not to donate, the speeches reinforce employee engagement and raise awareness of philanthropy.

This year's speakers included:

- ♦ Dr Charlie Teo, the world-renowned neurosurgeon and founder of the Cure For Life Foundation
- ♦ 2011's Australian of the Year Simon McKeon and Lifeline National Patron John Brogden, who discussed philanthropy and mental health

- ♦ The Rt Hon Malcolm Fraser AC CH and UNICEF CEO Norman Gillespie, who discussed Australia's role in aid and development
- ♦ Dr Megan Davis, Professor of Law and Director of the Indigenous Law Centre at the University of New South Wales, who discussed being part of the Expert Panel on the Recognition of Aboriginal and Torres Strait Islander Peoples in the Australian Constitution.

A further \$36,296 was raised by ASIC staff through fundraising events and activities throughout the year. Highlights included:

- ♦ a scavenger hunt in Melbourne, which raised \$5,691 for ASIC's supported not-for-profit organisations
- ♦ ASIC's annual Pink Ribbon Day morning teas across the country, which raised \$5,139
- ♦ a sport-themed fundraising event, which raised \$5,000
- ♦ employees participating in the Leukaemia Foundation Shave for a Cure raised \$3,546
- ♦ a trivia quiz and scavenger hunt in Sydney, which raised \$3,212 for the Cure for Life Foundation.

Combined with the workplace-giving scheme, the total donated to not-for-profit organisations by ASIC staff was \$134,965. This was \$7,750 more than in 2010–11.

ASIC in the Community is driven by the passion and talent of ASIC employees. Its aims are to benefit the community and environment through cash, time and in-kind support; and to enhance the business by improving employee engagement and skills and bolstering ASIC's reputation.

ASIC in the Community is made up of three main elements:

- ♦ workplace giving and fundraising
- ♦ volunteering and pro bono work
- ♦ reducing our impact on the environment (see pages 65–66)

Volunteering and pro-bono work

Nine per cent of employees made use of ASIC's approved volunteering leave (one day per year) in 2011–12. Highlights included:

- ♦ Perth and Melbourne employees volunteered at Red Cross Breakfast Clubs, which provide healthy breakfasts for primary school children in areas of greatest need
- ♦ Sydney employees volunteered at the Exodus Foundation's meals and literacy support programs
- ♦ Traralgon employees helped the Latrobe Valley Meals on Wheels program
- ♦ Employees nationwide provided 63 knitted wraps to the 'Wrap with Love' initiative, which provides warm clothing to people in disaster-stricken countries and regions. This was the equivalent of an experienced knitter working for 2,772 hours.

Forty-six ASIC lawyers in Sydney, Brisbane, Perth and Melbourne also provided pro bono legal services to the National Children's and Youth Law Centre Lawstuff cyber program. This is a community legal centre dedicated to addressing human rights issues for children and young people in Australia.



Lawyer Wasim Salehi doing voluntary work at the Exodus Foundation in Sydney.

Indigenous awareness and action at ASIC



During her Jawun secondment at Warmun, in the Kimberley region, ASIC's Jenelle Sowerby developed a governance framework for the council, working with community members including council member, elder and renowned artist Shirley Purdie.

Aboriginal and Torres Strait Islander people are one of ASIC's key stakeholder groups. We are committed to developing programs, resources and policies to provide services to Aboriginal and Torres Strait Islander consumers and investors in a manner that is equitable, responsive and relevant to their needs.

These include our Reconciliation Action Plan (RAP) and an Indigenous Employment Strategy. Both have been in effect since 2009. ASIC has also developed the Indigenous Outreach Program which focuses on responding to and addressing the needs of Indigenous consumers in their interactions with financial services, and raising awareness of these issues within ASIC.

In August 2012 we published and promoted our second RAP, which aims to build on an already-diverse workforce by fostering responsive partnerships with Aboriginal and Torres Strait Islander consumers and communities. This includes increasing employment opportunities.

In 2011–12 ASIC joined the Department of Education, Employment and Workplace Relations Indigenous Cadetship program. The program aims to provide real-world experience in a relevant field to Aboriginal and Torres Strait Islander university students while they are undertaking their studies. Each cadet completes 12 weeks' work per year while studying full-time at university. ASIC is committed to taking on one Indigenous cadet in 2012. The cadet will rotate throughout stakeholder teams across ASIC to provide them with a broad

understanding of our work. In 2011–12, we also registered with the Australian Indigenous Minority Suppliers Council, which provides a direct purchasing link between Australian corporations and government organisations and Indigenous-owned businesses.

This year's ASIC in the Community program included events to mark the National Aboriginal and Islander Day of Celebration (NAIDOC) and guest speakers on topical issues such as constitutional recognition of Indigenous Australians, to promote wider understanding and acceptance of the place of Indigenous culture in ASIC.

An exciting initiative in 2011–12 was the introduction of secondment opportunities for ASIC staff with Jawun Indigenous Corporate Partnerships. This organisation forms partnerships between corporations and Indigenous communities by seconding individual employees from across corporate Australia to assist with specific projects or work.

In November–December 2011, People and Development Relationship Manager Jenelle Sowerby undertook a five-week secondment in the remote Kimberley community of Warmun, where she worked on the development of a governance framework for the community council. Following the success of this first secondment with Jawun, ASIC will continue to offer staff the opportunity for secondment to the Jawun program in 2012–13.

Environmental performance

ASIC is committed to monitoring its environmental performance, meeting relevant reporting requirements including those under section s516a of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and to improving its performance on a range of environmental measures through behavioural and technological change. A key objective is to raise awareness among staff so they can contribute to improving ASIC's environmental performance.

Summary

In 2011–12, ASIC continued to reduce its carbon footprint and consumption of energy and to improve waste disposal and recycling across its offices. A range of other environmental practices are now in place including the use of lighting sensors, timers and recyclable goods, and ASIC is taking steps to reduce packaging by implementing the Australian Government's Australian Packaging Covenant Action Plan.

Key statistics

The table below summarises ASIC's energy consumption and its performance against the Energy Efficiency in Government Operations Policy target of electricity consumption of 7,500 MJ or less per person.

ASIC will report on additional measures of environmental performance in subsequent years, based on available data. We have initiated negotiations with our landlords to obtain water, waste and recycling measurement data. This process has been established in Sydney, Melbourne and Canberra and negotiations with the remaining sites will continue during 2012–13.

Environmental performance in detail

Energy efficiency

Energy consumption at ASIC's Sydney office is monitored quarterly and steps are being taken to improve the National Australian Built Environment Rating System (NABERS) energy rating of our tenancy. Following a review in February 2012, 25% more 'green power' was purchased for the remainder of 2011–12. The aim is to achieve a 4.5 NABERS Energy Star rating by 2013–14 without using any green power to offset performance.

Tenancy lighting has been linked to the security system. This approach ensures that lighting is reduced to a minimum level when the building is not occupied. Motion and thermal sensors have been installed in all full-height environments, including offices, meeting rooms, breakout spaces and store rooms. We are also taking steps to eliminate lamps and under-desk appliances.

ASIC energy consumption, 2009–10 to 2011–12

Descriptor	2011–12	% change from 2010–11	2010–11	2009–10
Light and power – ASIC tenancies (kWh)	4,536,095	-9%	4,982,162	4,998,401
MJ per person	7,840	-8%	8,493	7,892
Light and power – ASIC computer centres (kWh)	1,197,011	-13%	1,368,348	1,428,698
MJ per m ²	7,698	-3%	7,928	6,628
Transport energy (GJ)	633	-3%	653	803

In addition, sensors have been adjusted to reduce power consumption in open-plan areas, offices and meeting rooms within Sydney, and alterations were made to the air-conditioning range in meeting rooms. ASIC is now proposing to extend this strategy across its property portfolio.

Similar strategies will be rolled out to other sites wherever possible during 2012–13. We are also conducting energy and lighting audits at our larger offices to identify further energy savings.

Better balancing air-conditioning units in ASIC's computer rooms in Brisbane and Sydney has enabled two high-voltage air conditioners (HVAC) to be turned off. Similar work was performed in Traralgon, resulting in two of seven air-conditioning units being switched off.

During 2012–13, a NABERS energy assessment will be undertaken in the Brisbane office, following completion of a major refurbishment of the building in July 2011. ASIC has also signed up to the 10% Challenge, aimed at reducing energy use and carbon emissions by that amount.

Waste

ASIC has reduced paper consumption from 18 reams per person in 2010–11 to 14 reams per person in 2011–12 through the implementation and increased uptake of its Electronic Content Management record-keeping system. Our Melbourne and Sydney offices have also introduced recycled stationery cabinets to reduce the cost of consumables and waste going to landfill.

Recycling arrangements have been established in all ASIC offices for paper and co-mingled products. Negotiations with landlords have commenced with regard to obtaining accurate reporting on quantities. Further, ASIC is currently procuring secure waste destruction services nationally. As part of that process, we expect to gain more accurate paper recycling data in the future.

Water

Due to the structure of its tenancies, ASIC has limited capacity to measure its water consumption.

In Sydney, the building owner has advised that the use of grey water for flushing toilets should be operational by September 2012 (pending licensing

approval from relevant authorities). The water pressure to all bathroom outlets has also been reduced to cut water consumption.

In Traralgon, the office building owner has installed pressure reduction valves on water mains and reduced water supply flow on toilets. Waterless urinals and flow restrictors on all taps have been included by the owner of ASIC's building in Melbourne. The Melbourne building provides a rainwater capture system with on-site capacity of 35,200 litres.

Information technology

New printing and copying devices are being rolled out across all ASIC offices. These devices will reduce power consumption as well as paper and toner usage by providing double-sided printing as a default, automatically deleting uncollected print jobs and supporting long-life cartridges. They are built from bio-based and recycled plastics to further reduce their environmental impact.

Further information technology initiatives are planned for 2012–13, including the automatic shutdown of desktops outside core business hours.

Travel

The Australian Government has set a target of 28% of all fleet vehicles achieving a Green Vehicle Guide rating of 10.5 or better. Ninety-four per cent of ASIC's fleet meets this target, with half the fleet being hybrid vehicles.

ASIC trialled a shared vehicle hire program in Sydney and Melbourne this year in conjunction with its existing fleet arrangements which gave ASIC greater access to low-emission vehicles.

Property

ASIC is committed to ensuring that sustainability measures are included in its lease agreements. As of June 2012, 75% of our property leases featured sustainable initiatives and recently negotiated property leases in Brisbane and Sydney contain the Department of Climate Change and Energy Efficiency model Green Lease Schedule.

ASIC's new office in the ACT is a 4.5 star NABERS-rated building. The building's design allows for natural light to penetrate into the entire tenancy from three aspects.

4

Financial statements

Financial statements

FOR THE YEAR ENDED 30 JUNE 2012

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Independent Auditor's Report



INDEPENDENT AUDITOR'S REPORT

To the Parliamentary Secretary to the Treasurer

I have audited the accompanying financial statements of the Australian Securities and Investments Commission for the year ended 30 June 2012, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Administered Schedule of Comprehensive Income; Administered Schedule of Assets and Liabilities; Administered Reconciliation Schedule; Administered Cash Flow Statement; Administered Schedule of Commitments and Contingencies; and Notes to and forming part of the financial statements, comprising a Summary of significant accounting policies and other explanatory information.

Chairman's Responsibility for the Financial Statements

The Chairman of the Australian Securities and Investments Commission is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as the Chairman determines is necessary to enable the preparation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Australian Securities and Investments Commission's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the

Independent Auditor's Report

purpose of expressing an opinion on the effectiveness of the Australian Securities and Investments Commission's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Chairman of the Australian Securities and Investments Commission, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Securities and Investments Commission's financial position as at 30 June 2012 and of its financial performance and cash flows for the year then ended.

Australian National Audit Office



Carla Jago
Executive Director
Delegate of the Auditor-General

Canberra

10 August 2012

Statement by Chief Executive and Chief Financial Officer

In our opinion, the attached financial statements for the year ended 30 June 2012 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

This statement is made in accordance with a resolution of the Commission members.



G. J. Medcraft

Chairman
9 August 2012

C. Iglesias

Chief of Operations
9 August 2012



R. Johnson-Kelly

Acting Chief Financial Officer
9 August 2012

Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2012

EXPENSES	Notes	2012 \$'000	2011 \$'000
Employee benefits	3A	217,848	221,497
Supplier expenses	3B	120,078	121,354
Depreciation and amortisation	3C,34	45,665	41,511
Finance costs	3D	514	487
Write-down and impairment of assets	3E	383	602
Total expenses (A)	32B	384,488	385,451
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Rendering of services	4A	3,559	4,412
Royalties	4B	185	203
Other revenue	4C	30,846	19,329
Total own-source revenue		34,590	23,944
Gains			
Other gains	4D	181	176
Total gains		181	176
Total own-source income (B)		34,771	24,120
Net cost of services (A) – (B)		349,717	361,331
Revenues from Government	4E	304,259	324,038
(Deficit) attributable to the Australian Government		(45,458)	(37,293)
OTHER COMPREHENSIVE INCOME			
Changes in asset revaluation reserve		2,740	–
Total comprehensive (loss) attributable to the Australian Government	34	(42,718)	(37,293)

The above Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

Balance Sheet

AS AT 30 JUNE 2012

	Notes	2012 \$'000	2011 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	5A	8,777	4,734
Trade and other receivables	5B	89,481	76,557
<i>Total financial assets</i>		<u>98,258</u>	<u>81,291</u>
Non-financial assets			
Leasehold improvements	6A,6D	55,612	63,263
Plant and equipment	6B,6D	26,428	25,870
Intangibles	6C,6D	130,977	113,709
Other non-financial assets	6E,6D	8,799	4,722
<i>Total non-financial assets</i>		<u>221,816</u>	<u>207,564</u>
Total assets		<u>320,074</u>	<u>288,855</u>
LIABILITIES			
Payables			
Suppliers	7A	39,159	24,435
Other payables	7B	60,552	62,800
<i>Total payables</i>		<u>99,711</u>	<u>87,235</u>
Provisions			
Employee provisions	8A	56,694	53,838
Other provisions	8B	8,888	9,144
<i>Total provisions</i>		<u>65,582</u>	<u>62,982</u>
Total liabilities		<u>165,293</u>	<u>150,217</u>
<i>Net assets</i>		<u>154,781</u>	<u>138,638</u>
EQUITY			
Contributed equity		202,425	143,564
Reserves		9,213	6,473
Accumulated (deficit)		(56,857)	(11,399)
<i>Total equity</i>		<u>154,781</u>	<u>138,638</u>

The above Balance Sheet should be read in conjunction with the accompanying notes.

Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2012

	Notes	Accumulated surplus/(deficit)		Asset revaluation reserve		Contributed equity		Total equity	
		2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000
Opening balance		(11,399)	25,894	6,473	6,473	143,564	84,626	138,638	116,993
Comprehensive income									
Revaluation									
Leasehold improvements		–	–	809	–	–	–	809	–
Plant and equipment		–	–	1,931	–	–	–	1,931	–
(Deficit) for the period		(45,458)	(37,293)					(45,458)	(37,293)
Total comprehensive (loss) / income attributable to the Australian Government	34,6D	(45,458)	(37,293)	2,740	–	–	–	(42,718)	(37,293)
Transactions with owners									
Contributions by owners									
Equity injections – Appropriations		–	–	–	–	4,465	36,138	4,465	36,138
Departmental capital budget		–	–	–	–	58,646	22,800	58,646	22,800
Distribution to owners									
Returns of capital:									
Finance Minister's determination No. 1 of 2011–12 Schedule 1		–	–	–	–	(4,250)	–	(4,250)	–
Sub-total transactions with owners		–	–	–	–	58,861	58,938	58,861	58,938
Closing balance attributable to the Australian Government		(56,857)	(11,399)	9,213	6,473	202,425	143,564	154,781	138,638

The above Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2012

	Notes	2012 \$'000	2011 \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		319,312	355,069
Services		8,895	9,059
Net GST received		19,221	19,085
Other cash received		31,032	19,533
Total cash received		378,460	402,746
Cash used			
Employees		211,883	217,135
Suppliers		129,007	139,382
Transfers to the Official Public Account		36,042	26,123
Total cash used		(376,932)	(382,640)
Net cash from / (used by) operating activities	9	1,528	20,106
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles		56,346	67,982
Net cash (used) by investing activities		(56,346)	(67,982)
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity		58,861	52,421
Net cash from financing activities		58,861	52,421
Net increase / (decrease) in cash held		4,043	4,545
Cash and cash equivalents at the beginning of the reporting period		4,734	189
Cash and cash equivalents at the end of the reporting period	5A	8,777	4,734

The above Cash Flow Statement should be read in conjunction with the accompanying notes.

Schedule of Commitments

AS AT 30 JUNE 2012

BY TYPE	2012 \$'000	2011 \$'000
Commitments payable		
Capital commitments		
Intangibles ¹	2,543	1,700
Total capital commitments	2,543	1,700
Other commitments		
Operating leases ²	225,767	263,100
Other commitments (goods and services)	46,337	79,280
Total other commitments	272,104	342,380
Less: commitments receivable		
GST recoverable on commitments	24,968	31,280
Total commitments receivable	24,968	31,280
Net commitments by type	249,679	312,800
BY MATURITY		
Commitments payable		
Capital commitments		
One year or less	2,543	1,700
Total capital commitments	2,543	1,700
Operating lease commitments		
One year or less	30,556	31,227
From one to five years	121,885	127,349
Over five years	73,326	104,524
Total operating lease commitments	225,767	263,100
Other commitments (goods and services)		
One year or less	42,599	54,286
From one to five years	3,737	24,994
Total other commitments	46,336	79,280
Less: commitments receivable		
GST recoverable on commitments		
One year or less	6,650	10,201
From one to five years	11,651	11,577
Over five years	6,666	9,502
Total commitments receivable	24,967	31,280
Net commitments by maturity	249,679	312,800

1 Outstanding contractual payments for purchases of intangibles.

2 Operating leases included are effectively non-cancellable and comprise:

Nature of lease

Leases for office accommodation
Motor vehicles – senior executives
Office equipment

General description of leasing arrangement

Subject to fixed increases and annual or bi-annual rent reviews.
No contingent rentals exist. There are no purchase options available to ASIC.
No contingent rentals exist. There are no purchase options available to ASIC.

Commitments are GST inclusive where relevant.

The above Schedule of Commitments should be read in conjunction with Note 1 of the Financial Statements.

Schedule of Contingencies

AS AT 30 JUNE 2012

	Notes	2012 \$'000	2011 \$'000
CONTINGENT ASSETS			
Claims for costs		709	1,452
Total contingent assets	10	709	1,452
CONTINGENT LIABILITIES			
Claims for costs		350	480
Total contingent liabilities	10	350	480

Details of all contingent liabilities and assets, including those not included above because they cannot be quantified, are disclosed in Note 10: Contingent liabilities and assets.

The above Schedule of Contingencies should be read in conjunction with the accompanying notes.

Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2012

EXPENSES	Notes	2012 \$'000	2011 \$'000
Grants ¹	17A	1,823	2,349
Write-down and impairment of assets	17B	43,040	33,079
Other expenses	17C	37,371	37,115
Total expenses administered on behalf of Government		82,234	72,543
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Non-taxation revenue			
Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act fees and fines ²	18	663,610	622,105
Banking Act unclaimed moneys ³	18	61,227	57,291
Life Insurance Act unclaimed moneys ⁴	18	8,769	5,505
Total own-source revenue administered on behalf of Government		733,606	684,901
Net cost of services		651,372	612,358

ASIC's functions in administering revenues and expenses on behalf of the Government are described below:

- 1 ASIC administers payments to registered insolvency practitioners. These payments are used to fund preliminary investigations of suspected breaches of directors' duties and fraudulent misconduct. The outcomes of the findings made by insolvency practitioners are reported to ASIC.
- 2 ASIC collects and administers revenue under the *Corporations Act 2001*, the *National Consumer Credit Protection Act 2009*, the *National Consumer Credit Protection (Fees) Regulations 2010*, the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003*. From 28 May 2012, ASIC also collects and administers revenue from the *Business Names Registration (Fees) Act 2012* and prescribed fees under the *Business Name Registration (Fees) Regulations 2012*. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA).
- 3 ASIC has responsibility for the administration of unclaimed monies received from banking and deposit taking institutions. Moneys received from banking and deposit taking institution accounts that remain inactive for seven years are transferred to the Commonwealth, and are deposited into the OPA.
- 4 ASIC also administers moneys received from life insurance institutions and friendly societies. Moneys received in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth and are deposited into the OPA.

The above Schedule should be read in conjunction with the accompanying notes.

Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2012

ASSETS	Notes	2012 \$'000	2011 \$'000
Financial assets			
Cash and cash equivalents	19A	1,373	3,167
Receivables	19B	104,716	97,738
<i>Total assets administered on behalf of Government</i>	25	106,089	100,905
LIABILITIES			
Payables			
Suppliers	20	15,045	10,608
<i>Total liabilities administered on behalf of Government</i>		15,045	10,608
Net assets/(liabilities)		91,044	90,297

Administered Reconciliation Schedule

AS AT 30 JUNE 2012

	2012 \$'000	2011 \$'000
Opening administered assets less administered liabilities	90,297	82,137
Surplus (deficit) items:		
Plus: Administered income	733,606	684,901
Less: Administered expenses	(82,234)	(72,543)
Administered transfers to/from Australian Government:		
Appropriation transfers from Official Public Account:		
Special and ordinary appropriations (unlimited)	41,146	46,272
Transfers to Official Public Account	(691,771)	(650,470)
Closing administered assets less administered liabilities	91,044	90,297

The above Schedules should be read in conjunction with the accompanying notes.

Administered Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2012

	Notes	2012 \$'000	2011 \$'000
OPERATING ACTIVITIES			
Cash received			
Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act fees and charges		618,270	580,938
Banking Act unclaimed moneys		61,227	57,291
Life Insurance Act unclaimed moneys		8,769	5,505
Net GST received		83	236
Total cash received		688,349	643,970
Cash used			
Refunds paid to:			
Deposit taking institution account holders		32,769	34,001
Life insurance policy holders		4,602	3,114
Grants		2,147	2,507
Total cash (used)		(39,518)	(39,622)
Net cash from operating activities	21	648,831	604,348
Net increase in cash held		648,831	604,348
Cash and cash equivalents at the beginning of the reporting period		3,167	3,017
Cash from Official Public Account for:			
– Appropriations		41,146	46,272
		44,313	49,289
Less: Cash to Official Public Account for:			
– Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act fees and charges		621,775	587,674
– Banking Act unclaimed moneys		61,227	57,291
– Life Insurance Act unclaimed moneys		8,769	5,505
		(691,771)	(650,470)
Cash and cash equivalents at end of the reporting period	19A	1,373	3,167

The above Schedule should be read in conjunction with the accompanying notes.

Administered Schedule of Commitments and Contingencies

AS AT 30 JUNE 2012

ADMINISTERED COMMITMENTS

As at 30 June 2012 ASIC has \$0.171m administered commitments payable (2011: \$0.257m). The commitments payable at 30 June 2012 relate to services from registered insolvency practitioners to investigate suspected breaches of the directors' duties and fraudulent misconduct. The administered commitments payable at 30 June 2012 were due within 1 year.

As at 30 June 2012 ASIC has \$0.016m administered commitments receivable (2011: \$0.023m). The administered commitments receivable at 30 June 2012 relate to GST refundable.

ADMINISTERED CONTINGENT ASSETS

There were no administered contingent assets as at 30 June 2012 (2011: nil).

ADMINISTERED CONTINGENT LIABILITIES	Note	2012 \$'000	2011 \$'000
Liabilities – Refunds to claimants			
Banking Act administration	22	39,099	38,193
Life Insurance Act unclaimed monies	22	5,815	5,157
Total administered contingent liabilities		44,914	43,350

Details of each class of contingent liabilities in the above table are disclosed in Note 22.

The above Schedules should be read in conjunction with the accompanying notes.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of significant accounting policies

1.1 Objectives of the Australian Securities and Investments Commission

The Australian Securities and Investments Commission (ASIC) is an independent Commonwealth Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001*, and other legislation, throughout Australia. ASIC's objectives as outlined in the section 1(2) of the ASIC Act include:

- ♦ the promotion of confident and informed participation of investors and consumers in the financial system;
- ♦ the maintenance, facilitation and improvement in the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy;
- ♦ to administer the laws that confer functions and powers on it effectively and with a minimum of procedural requirements.

ASIC collects and administers revenue under the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009* and prescribed fees set by the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003*, the *National Consumer Credit Protection Act 2009* and the *Business Names Registration (Fees) Regulations 2011*. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items. Administered items are distinguished by shading in these financial statements.

ASIC's financial results are reported in the context of the Government's outcomes (Note 32 refers). Any intra-government costs included in arriving at the amount shown as 'net cost/contribution of outcome' are eliminated in calculating the Federal budget outcome for the Government overall.

Government outcomes are the intended results, impacts or consequences of actions by the Australian Government on the Australian community. ASIC is structured to meet the following outcomes:

Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks.

Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public, through registry, licensing and business facilitation services.

The continued existence of ASIC in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for ASIC's administration and programs.

ASIC is an agency prescribed under Schedule 1, Part 1 of the *Financial Management and Accountability Regulations 1997* (FMA Regulations).

1.2 Basis of preparation of the financial statements

The financial statements and notes are required by section 49 of the *Financial Management and Accountability Act 1997* (FMA Act) and are general purpose financial statements.

The financial statements and notes have been prepared in accordance with the:

- ♦ Finance Minister's Orders (FMOs) for reporting periods ending on or after 1 July 2011; and
- ♦ Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to ASIC or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured.

Note 1: Summary of significant accounting policies (continued)

However, assets and liabilities arising under executor contracts are not recognised unless required by an accounting standard. Liabilities and assets that are not recognised are reported in the Schedule of Commitments or the Schedule of Contingencies (other than unquantifiable contingencies, which are reported at Note 10).

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the Statement of Comprehensive Income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets, liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for ASIC items, except where stated in Note 1.20.

1.3 Changes in accounting policy

There have been no changes in accounting policies during the year ended 30 June 2012.

1.4 Significant accounting judgements and estimates

ASIC changed its depreciation method from diminishing value to straight line. The depreciation calculated under the diminishing value method was \$46.926m and the current straight-line method depreciation was \$45.665m as reported in the Statement of Comprehensive Income.

1.5 New Australian Accounting Standards

Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. The following new accounting standards, amendments to standards and interpretations were issued by the Australian Accounting Standards Board prior to the signing date are applicable to the current reporting period, but have not had a material financial impact on ASIC.

- ♦ AASB 1054 Australian Additional Disclosure – May 2011 (Compilation)
- ♦ AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project (AASB 1, AASB 7, AASB 101 & AASB 134 and Interpretation 13) – June 2010
- ♦ AASB 2010-6 Amendments to Australian Accounting Standards – Disclosures on Transfers of Financial Assets (AASB 1 & AASB 7) – November 2010
- ♦ AASB 2011-5 Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation (AASB 127, AASB 128 & AASB 131) – July 2011
- ♦ AASB 2011-3 Amendments to Australian Accounting Standards – Orderly Adoption of Changes to the ABS GFS Manual and Related Amendments (AASB 1049) – May 2011 (Compilation)
- ♦ AASB 2011-9 Amendments to Australian Accounting Standards – Presentation of Items of Other Comprehensive Income (AASB 1, AASB 5, AASB 7, AASB 101, AASB 112, AASB 120, AASB 121, AASB 132, AASB 133, AASB 134, AASB 1039 & AASB 1049) – September 2011 (Compilation)
- ♦ AASB 2011-13 Amendments to Australian Accounting Standard – Improvements to AASB 1049 – December 2011 (Compilation)

Other new standards or revised standards that were issued prior to the signing date and are applicable to the current reporting period did not have a financial impact, and are not expected to have a future financial impact on ASIC.

Future Australian Accounting Standard requirements

New standards, amendments to standards or interpretations that have been issued by the Australian Accounting Standards Board and are effective for future reporting periods, are expected to have a material financial impact on ASIC.

- ♦ AASB 13 Fair Value Measurement
- ♦ AASB 2011-8 Amendments to Australian Accounting Standards arising from AASB 13
- ♦ AASB 9 Financial Instruments
- ♦ AASB 2010-7 Amendments to Australian Accounting Standards arising from AASB 9

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of significant accounting policies (continued)

1.6 Revenue

Revenues from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when ASIC gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Other types of revenue

Revenue from rendering of services is recognised by reference to the stage of completion of projects at the reporting date. Revenue is recognised when:

- ♦ the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- ♦ the probable economic benefits associated with the transaction will flow to ASIC.

The stage of completion of projects at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for services rendered, which have 30-day terms, are recognised at the nominal amounts due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Parental leave payments scheme

ASIC has offset amounts received under the Parental Leave Payments Scheme (for payment to employees) by amounts paid to employees under that scheme, because these transactions are only incidental to the main revenue-generating activities of ASIC. Amounts received by ASIC not yet paid to employees would be presented gross as cash and a liability (payable).

1.7 Gains

Resources received free of charge

Resources received free of charge are recognised as gains when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature, i.e. whether they have been generated in the course of the ordinary activities of ASIC.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government entity as a consequence of a restructuring of administrative arrangements.

Sale of assets

Gains from disposal of non-current assets are recognised when control of the asset has passed to the buyer.

1.8 Transactions with the Government as owner

Departmental capital budget (DCB)

Introduced from 1 July 2010, the DCB funds ASIC's business-as-usual asset replacements (i.e. assets below \$10m), payout of make-good provisions and completion of the information technology programme.

Equity injections

Equity injections are used to fund the replacement of major project assets (i.e. assets over \$10 million) and new assets approved through the Commonwealth budget process.

Other distributions to owners

The FMOs require that distributions to owners be debited to contributed equity unless they are of the nature of a dividend.

1.9 Employee benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Note 1: Summary of significant accounting policies (continued)

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of ASIC is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time leave is taken, including ASIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary as at 30 June 2008. Actuarial reviews of long service leave are undertaken on a five-yearly basis. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations.

Superannuation

The majority of employees of ASIC are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS Accumulation Plan (PSSap).

The CSS and PSS are defined-benefit schemes of the Australian Government. The PSSap is a defined-contribution scheme.

The liability for these defined-benefit schemes is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

There are a small number of employees covered under state government and private superannuation schemes. The majority of employees employed in the state government superannuation scheme were originally employed by the various state governments and were transferred to ASIC at its inception in 1989.

ASIC makes employer contributions to the Australian Government and the various state superannuation schemes at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of ASIC's employees. ASIC expenses contributions to defined-benefit and defined-contribution plans. The liability for superannuation recognised as at balance date represents the outstanding contributions payable as at 30 June.

1.10 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the leased property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are depreciated over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight line-basis which is representative of the pattern of benefits derived from the leased assets.

1.11 Finance costs

All finance costs are expensed as incurred.

1.12 Cash

Cash and cash equivalents includes notes and coins held and any deposits in bank accounts with an original maturity of three months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

1.13 Financial assets

ASIC's financial assets are classified as 'loans and receivables' for the purposes of AASB139 *Financial Instruments: Recognition and Measurement*.

Financial assets are recognised and derecognised at transaction date.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of significant accounting policies (continued)

Effective interest method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis.

Loans and receivables

Trade receivables and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Impairment of financial assets

Financial assets are assessed for impairment at each balance date.

Financial assets held at amortised cost – if there is objective evidence that an impairment loss has been incurred for 'loans and receivables' financial assets, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Statement of Comprehensive Income.

1.14 Financial liabilities

Financial liabilities are classified as 'other financial liabilities' for the purposes of AASB139 *Financial Instruments: Recognition and Measurement*.

Financial liabilities are recognised and derecognised at transaction date.

Other financial liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through

the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.15 Contingent liabilities and contingent assets

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an existing liability or asset in respect of which the amount cannot be reliably measured. Contingent assets are reported when the chance of settlement is probable but not virtually certain. Contingent liabilities are disclosed when the chance of settlement is greater than remote.

1.16 Acquisition of assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

Asset recognition threshold

Purchases of leasehold improvements, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located, if it is contractually required. 'Make good' provisions in property leases are accounted for on this basis. These costs are included in the value of ASIC's leasehold improvements with a corresponding restoration provision recognised.

Note 1: Summary of significant accounting policies (continued)

1.17 Leasehold improvements, plant and equipment

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Following initial recognition at cost, leasehold improvements, plant and equipment are carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in the surplus/(deficit). Revaluation decrements for a class of assets are recognised directly in the surplus/(deficit) except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

From 1 July 2011 all depreciable leasehold improvements, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to ASIC using the straight-line method. In 2010-11 computer equipment was depreciated using the declining-balance method.

Depreciation rates (useful lives), residual values and depreciation methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2012	2011
Leasehold improvements	Lease term	Lease term
Computer equipment	1 to 10 years	1 to 5 years
Plant and equipment (owned)	2 to 95 years	2 to 95 years

Impairment

Leasehold improvements, plant and equipment are assessed for impairment at the end of each financial year. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if ASIC were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

1.18 Intangibles

ASIC's intangibles primarily comprise internally developed software for internal use. As there is no active market for the majority of ASIC's software assets these assets are carried at cost less accumulated amortisation and impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of ASIC's software is 2 to 10 years (2011: 2 to 10 years).

All software assets are assessed for indications of impairment at the end of each financial year.

1.19 Taxation

ASIC is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses, assets and liabilities are recognised net of GST except for receivables and payables and where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 1: Summary of significant accounting policies (continued)

1.20 Reporting of administered activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards and Interpretations.

Administered cash transfers to and from the Official Public Account (OPA)

Revenue collected by ASIC for use by the Government rather than ASIC is administered revenue. Collections are transferred to the OPA maintained by the Department of Finance and Deregulation (DoFD). Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by ASIC on behalf of the Government and reported as such in the Schedule of Administered Cash Flows and in the Administered Reconciliation Schedule. Accordingly the Schedule of Administered Items largely reflects the Government's transactions, through ASIC, with parties outside the Government.

Revenue

All administered revenues are revenues relating to the course of ordinary activities performed by ASIC on behalf of the Australian Government.

Administered revenue is generated from annual review fees, other fees and search products prescribed under the *Corporations (Fees) Act 2001*, *Corporations (Review Fees) Act 2003*, the *National Consumer Credit Protection (Fees) Regulation 2010* and the *Business Names Registration (Fees) Regulation 2011*. Administered fee revenue is recognised on an accruals basis when:

- ♦ the client or the client group can be identified in a reliable manner;
- ♦ an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions; and

- ♦ the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Administered revenue is recognised at its nominal amount due and an expense is recognised for impaired debts. Collectability of debts is reviewed at balance date. Impairment allowances are recognised when collection of the debt is no longer probable.

Receivables

Administered revenue is recognised at its nominal value less an impairment allowance. The Finance Minister has determined that statutory receivables are not financial instruments and accordingly ASIC has assessed administered receivables for impairment under AASB 136 *Impairment of Assets* (FMO 31.1).

The impairment allowance is raised against receivables for any doubtful debts and any probable credit amendments, and is based on a review of outstanding debts at balance date. This includes an examination of individual large debts and disputed amounts with reference to historic collection patterns.

The impairment allowance expense is the result of estimation techniques to determine an estimate of current Corporations Act debts which are unlikely to be collected in future. Large debt amounts are individually reviewed while the impairment allowance of the remaining debts is estimated using sampling methodologies.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under section 34 of the FMA Act.

Unclaimed moneys – administered items

Banking Act administration

ASIC is responsible for the administration of unclaimed moneys from banking and deposit taking institutions.

In accordance with the *Banking Act 1959* moneys from bank and deposit taking institution accounts that are inactive for seven or more years are transferred to the Commonwealth and are deposited into the OPA. Refunds are paid to successful claimants out of the OPA.

Note 1: Summary of significant accounting policies (continued)

1.20 Reporting of administered activities (continued)

Life Insurance Act administration

ASIC is responsible for the administration of unclaimed moneys from life insurance institutions.

In accordance with the *Life Insurance Act 1995* moneys in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the OPA. Refunds are paid to successful claimants out of the OPA.

1.21 Expenditure of boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001* and the *Superannuation (Resolution of Complaints) Act 1993*, ASIC is required to support the Companies Auditors and Liquidators Disciplinary Board and the

Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of this board and the tribunal are included in the Statement of Comprehensive Income of ASIC (Note 27 refers).

1.22 Comparative figures

Where necessary, comparative figures have been adjusted to conform with changes in presentation in this financial report.

1.23 Rounding

Amounts have been rounded to the nearest \$1,000 except in relation to the following:

- ♦ remuneration of senior executive officers;
- ♦ remuneration of auditors; and
- ♦ compensation and debt relief.

1.24 Insurance

ASIC has insured for risks through Comcover, the Government's insurable risk managed fund. Workers compensation is insured through Comcare Australia.

Note 2: Events after the balance sheet date

There were no events occurring after balance date that had a material effect on the financial statements.

Note 3: Expenses

	2012 \$'000	2011 \$'000
Note 3A: Employee benefits		
Wages and salaries	167,173	170,808
Superannuation ¹		
Defined-benefit schemes	10,223	12,630
Defined-contribution schemes	14,157	13,515
Leave and other entitlements	25,167	13,773
Separation and redundancies ²	1,128	10,771
Total employee benefits	217,848	221,497

1 Contributions to defined-benefit superannuation schemes are at rates calculated to cover existing and emerging obligations. The employer contribution rate for the Commonwealth Superannuation Scheme was 15.9% (2011: 17.7%), the Public Sector Superannuation Scheme was 11.1% (2011: 12.9%), the PSS Accumulation Scheme was 15.4% (2011: 15.4%), and the superannuation productivity benefit was approximately 2.0% to 3.0% (2011: 2.0% to 3.0%).

2 The majority of separation and redundancies are calculated on the basis of two weeks pay for every year of service for each employee with a minimum of four weeks and a maximum of 48 weeks.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 3: Expenses (continued)

	2012 \$'000	2011 \$'000
Note 3B: Suppliers		
Goods and services		
Legal and forensic costs	15,332	25,152
Office, computer and software expenses	23,305	19,167
Property-related outgoings	8,837	8,413
Consultants and specialist services	12,221	7,320
Travel	4,519	4,210
Communications	5,814	5,507
Recruitment	1,066	1,244
Information costs	6,818	7,929
Learning and development	4,998	4,166
Security	2,368	3,002
Postage and freight	1,892	2,062
Other goods and services	6,671	5,472
Total goods and services	93,841	93,644
Goods and services are made up of:		
Provision of goods – related entities	7	13
Provision of goods – external parties	2,818	3,912
Rendering of services – related entities	4,473	3,764
Rendering of services – external parties	86,543	85,955
Total goods and services	93,841	93,644
Other supplier expenses		
Operating lease rentals from external entities:		
Minimum lease payments	23,860	25,081
Sublease payments	757	680
Workers compensation premiums	1,373	1,651
Fringe benefits tax	247	298
Total other supplier expenses	26,237	27,710
Total supplier expenses	120,078	121,354
Note 3C: Depreciation and amortisation		
Depreciation:		
Leasehold improvements	9,373	9,784
Plant and equipment	5,494	8,727
Total depreciation	14,867	18,511
Amortisation:		
Intangibles – Computer software	30,798	23,000
Total amortisation	30,798	23,000
Total depreciation and amortisation	45,665	41,511

Note 3: Expenses (continued)

	Note	2012 \$'000	2011 \$'000
Note 3D: Finance costs			
Unwinding of restoration provision discount	8B	514	487
Total finance costs		514	487
Note 3E: Write-down and impairment of assets			
Impairment of financial instruments		46	149
Write-off of leasehold improvements, plant and equipment and intangibles		337	453
Total write-down and impairment of assets		383	602

Note 4: Income

	2012 \$'000	2011 \$'000
Revenue		
Note 4A: Rendering of services		
Rendering of services – related entities	848	817
Rendering of services – external parties	2,711	3,595
Total rendering of services	3,559	4,412
Note 4B: Royalties		
ASIC publications	185	203
Total royalties	185	203
Note 4C: Other revenues		
Cost recoveries ¹	3,550	656
Receipt from the Companies and Unclaimed Moneys Special Account ²	26,129	18,012
Professional and witness fees	118	114
Recovery of property-related expenses relating to prior year	143	237
AusAID revenue ³	25	83
Receipt from the Department of Treasury ⁴	81	82
Recovery of doubtful debts relating to prior year	308	–
Workers compensation refunds relating to prior year	316	–
Miscellaneous	176	145
Total other revenue	30,846	19,329

1 Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

2 Project costs recovered from the Companies and Unclaimed Moneys Special Account on approval of the Minister.

3 Amount received by ASIC in respect of its participation in AusAID projects.

4 Amount received by ASIC in respect of its participation in the Financial Services Working Group.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 4: Income (continued)

Gains	Notes	2012 \$'000	2011 \$'000
Note 4D: Other gains			
Resources received free of charge	14	181	176
Total other gains		181	176

As a prescribed agency ASIC receives audit services from the Australian National Audit Office free of charge.
The fair value of that service is \$181,000 (2011: \$176,000) for the reporting period.

Revenues from Government

Note 4E: Revenues from Government

Appropriations:

Departmental outputs		292,184	296,198
Departmental Special Account	30A	12,075	27,840
Total revenues from Government		304,259	324,038

Note 5: Financial assets

	Notes	2012 \$'000	2011 \$'000
Note 5A: Cash and cash equivalents			
Cash on hand or on deposit		8,777	4,734
Total cash and cash equivalents	15A	8,777	4,734

Note 5B: Trade and other receivables

Goods and Services:

Goods and services – related entities		173	637
Goods and services – external parties		4,271	12,453
Total receivables for goods and services		4,444	13,090

Credit terms for goods and services were within 30 days. (2011: 30 days)

Appropriations receivable:

Appropriations receivable	16	80,999	60,404
Total appropriations receivable		80,999	60,404

Other receivables:

GST receivable from the Australian Taxation Office	16	4,226	3,513
Total other receivables		4,226	3,513
Total trade and other receivables (gross)		89,669	77,007

Less impairment allowance account:

Goods and services		188	450
Total impairment allowance account		188	450
Total trade and other receivables (net)		89,481	76,557

Receivables are expected to be recovered in:

No more than 12 months		89,481	76,557
Total trade and other receivables (net)		89,481	76,557

Note 5: Financial assets (continued)

	2012 \$'000	2011 \$'000
Receivables are aged as follows:		
Not overdue	88,948	74,581
Overdue by:		
Less than 30 days	185	32
30 to 60 days	37	1,871
More than 90 days	499	523
Total receivables (gross)	89,669	77,007
The impairment allowance account is aged as follows:		
Overdue by:		
More than 90 days	188	450
Total impairment allowance account	188	450
Reconciliation of the movement in the impairment allowance account		
Opening balance	450	336
Amounts recovered and reversed	(308)	(335)
Increase recognised in net surplus / (deficit)	46	449
Closing balance	188	450

Note 6: Non-financial assets

	2012 \$'000	2011 \$'000
Note 6A: Leasehold improvements		
Work in progress	55	6,214
Fair value	90,652	82,771
Accumulated depreciation	(35,095)	(25,722)
Total leasehold improvements	55,612	63,263

All revaluations are conducted in accordance with the revaluation policy stated at Note 1.17. In 2011–12, Rodney Hyman Asset Services Pty Ltd an independent valuer with over 40 years experience conducted a formal revaluation of ASIC's leasehold improvements.

As a result of the revaluation, an increment of \$0.809m for leasehold improvements was credited to the asset revaluation reserve and included in the Statement of Comprehensive Income.

The carrying value of leasehold improvements was reviewed at 30 June 2012. No indicators of impairment were found for leasehold improvements at 30 June 2012.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 6: Non-financial assets (continued)

	2012 \$'000	2011 \$'000
Note 6B: Plant and equipment		
Fair value	54,789	52,751
Accumulated depreciation	(28,361)	(26,881)
Total plant and equipment	26,428	25,870

An independent valuation was undertaken by the Rodney Hyman Asset Services Pty Ltd as at 30 June 2012. As a result of the revaluation, an increment of \$1.931m for plant and equipment was credited to the asset revaluation reserve and included in the Statement of Comprehensive Income.

The carrying value of plant and equipment assets was reviewed at 30 June 2012. No indicators of impairment were found for plant and equipment at 30 June 2012.

	2012 \$'000	2011 \$'000
Note 6C: Intangibles – computer software		
<i>Internally developed</i>		
– work in progress	16,661	15,377
– in use	144,366	103,026
– accumulated amortisation	(61,200)	(36,415)
	99,827	81,988
<i>Purchased</i>		
– work in progress	18,132	14,758
– in use	31,012	30,572
– accumulated amortisation	(17,994)	(13,609)
	31,150	31,721
Total intangibles	130,977	113,709

The carrying value of intangible assets was reviewed at 30 June 2012. No indicators of impairment were found for intangibles at 30 June 2012.

Note 6: Non-financial assets (continued)

Note 6D: Analysis of leasehold improvements, plant and equipment and intangibles

TABLE A: Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2011–12)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2011					
Gross book value	88,985	52,751	118,403	45,330	305,469
Accumulated depreciation/ amortisation and impairment	(25,722)	(26,881)	(36,415)	(13,609)	(102,627)
Net book value 1 July 2011	63,263	25,870	81,988	31,721	202,842
Additions:					
by purchase	913	4,408	–	4,301	9,622
internally developed	–	–	43,815	–	43,815
Total additions	913	4,408	43,815	4,301	53,437
Revaluations and impairments recognised in operating result	809	1,931	–	–	2,740
Depreciation/amortisation expense	(9,373)	(5,494)	(25,962)	(4,836)	(45,665)
Write-offs recognised in the operating result	–	(287)	(14)	(36)	(337)
Net book value 30 June 2012	55,612	26,428	99,827	31,150	213,017
Net book value as of 30 June 2012 represented by:					
Gross book value	90,707	54,789	161,027	49,144	355,667
Accumulated depreciation/ amortisation	(35,095)	(28,361)	(61,200)	(17,994)	(142,650)
	55,612	26,428	99,827	31,150	213,017

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 6: Non-financial assets (continued)

Note 6D: Analysis of leasehold improvements, plant and equipment and intangibles (continued)

TABLE B: Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2010–11)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
Gross book value	86,473	44,769	64,514	45,888	241,644
Accumulated depreciation/ amortisation	(18,401)	(20,876)	(20,304)	(7,487)	(67,068)
Net book value 1 July 2010	68,072	23,893	44,210	38,401	174,576
Additions:					
by purchase	5,021	10,773	–	4,190	19,984
internally developed	–	–	50,246	–	50,246
Total additions	5,021	10,773	50,246	4,190	70,230
Reclassification	–	–	5,057	(5,057)	–
Depreciation/amortisation expense	(9,784)	(8,727)	(17,187)	(5,813)	(41,511)
Write-offs recognised in the operating result	(46)	(69)	(338)	–	(453)
Net book value 30 June 2011	63,263	25,870	81,988	31,721	202,842
Net book value as of 30 June 2011 represented by:					
Gross book value	88,985	52,751	118,403	45,330	305,469
Accumulated depreciation/ amortisation	(25,722)	(26,881)	(36,415)	(13,609)	(102,627)
	63,263	25,870	81,988	31,721	202,842

	2012 \$'000	2011 \$'000
Note 6E: Other non-financial assets		
Prepayments	8,799	4,722
Total other non-financial assets	8,799	4,722
Total other non-financial assets are expected to be recovered in:		
No more than 12 months	7,528	4,136
More than 12 months	1,271	586
Total other non-financial assets	8,799	4,722

No indicators of impairment were found for other non-financial assets.

Note 7: Payables

	Note	2012 \$'000	2011 \$'000
Note 7A: Suppliers			
Trade creditors and accruals	15A	39,159	24,435
Total supplier payables		39,159	24,435
Supplier payables expected to be settled within 12 months:			
Related entities		680	120
External parties		38,479	24,315
Total supplier payables		39,159	24,435
Note 7B: Other payables			
Unearned revenue – Government appropriations ¹		3,788	4,183
Operating lease rent payable		9,165	7,143
Other unearned revenue ²		6,491	10,028
Property lease incentives ³		26,876	30,373
Salaries and bonuses		13,563	10,522
Superannuation		669	551
Total other payables		60,552	62,800
Total other payables are expected to be settled in:			
No more than 12 months		29,375	31,516
More than 12 months		31,177	31,284
Total other payables		60,552	62,800

1 Unearned revenue – Government appropriations represent appropriations for specific Government initiatives that have not been spent where the appropriation is conditional on any unspent balance being returned to Government.

2 The other unearned revenue relates to projects that have been approved for funding from the Companies and Unclaimed Moneys Special Account.

3 Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2012. The amortisation of these amounts will be made over the life of the lease.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 8: Provisions

	2012 \$'000	2011 \$'000
Note 8A: Employee provisions		
Annual leave entitlement	17,814	16,143
Long service leave entitlement ¹	33,870	27,853
Separations and redundancies	5,010	9,842
Total employee provisions	56,694	53,838
Employee provisions are expected to be settled in:		
No more than 12 months	18,255	24,313
More than 12 months	38,439	29,525
Total employee provisions	56,694	53,838
1 The liability for long service leave has been determined in accordance with the methodology developed by an independent actuary, refer to Note 1.9.		
Note 8B: Other provisions		
Provision for restoration obligations – leased premises	8,888	9,144
Total other provisions	8,888	9,144
Other provisions are expected to be settled in:		
No more than 12 months	40	532
More than 12 months	8,848	8,612
Total other provisions	8,888	9,144
Reconciliation of the opening and closing balance of restoration provision		
Carrying amount 1 July	9,144	10,918
Amounts used	(627)	(2,023)
Amounts reversed	(143)	(238)
Unwinding of discount or change in discount rate	514	487
Closing balance 30 June	8,888	9,144

ASIC currently has 11 agreements (2011: 13) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. ASIC has made a provision to reflect the present value of the 'make good' obligations.

Note 9: Cash flow reconciliation

Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement

	2012 \$'000	2011 \$'000
Cash and cash equivalents as per:		
Cash Flow Statement	8,777	4,734
Reconciliation of net cost of services to net cash from operating activities:		
Net cost of services	(349,717)	(361,331)
Add revenue from Government	304,259	324,038
(Deficit) attributable to the Australian Government	(45,458)	(37,293)
Adjustments for non-cash items		
Depreciation / amortisation	45,665	41,511
Net write-down of non-financial assets	337	453
Changes in assets / liabilities		
(Increase) / decrease in net receivables	(12,924)	2,006
(Increase) / decrease in prepayments	(4,077)	3,549
Increase / (decrease) in employee provisions	2,856	3,767
Increase / (decrease) in supplier payables	14,724	1,999
Increase / (decrease) in other provisions and payables	405	4,114
Net cash from operating activities	1,528	20,106

Note 10: Contingent liabilities and assets

	2012 \$'000	2011 \$'000
Contingent assets		
<i>Claims for costs</i>		
Balance from previous period	1,452	735
<i>Adjustments to prior period contingent receivables:</i>		
Assets recognised	(210)	(188)
Estimates not realisable	(748)	(195)
Revisions to estimates	50	353
New contingent receivables	165	747
Total contingent assets	709	1,452
Contingent liabilities		
<i>Claims for costs</i>		
Balance from previous period	480	50
<i>Adjustments to prior period contingent payables:</i>		
Liabilities recognised	(230)	–
Estimates not payable	–	(50)
New contingent payables	100	480
Total contingent liabilities	350	480

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 10: Contingent liabilities and assets (continued)

Quantifiable contingencies (ASIC departmental)

As at the date of this report, there are six matters (2011:15 matters) for which ASIC has received an award of costs in its favour, and agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated these matters represent a combined receivable of \$0.709m (2011: \$1.452m), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

Quantifiable contingencies (assets held in trust)

Companies Unclaimed Moneys

Unclaimed moneys held by ASIC, pursuant to Part 9.7 of the *Corporations Act 2001*, that have not been claimed within six years are transferred to the Commonwealth and deposited into the Official Public Account. A contingent liability estimated to be \$19,599,700 (2011: \$4,659,000) represents an estimate of future claims for repayment from the Official Public Account. The estimate of future claims for repayment at 30 June 2012 was calculated using a methodology determined by an independent actuary (Russell Investment Group).

Unquantifiable contingencies (ASIC departmental)

ASIC is party to many civil litigation matters arising out of its statutory duty to administer and enforce laws for which it is responsible.

In addition, like any corporate body, ASIC may from time to time be the subject of legal proceedings for damages brought against it, or may receive notice indicating that such proceedings may be brought. In either case ASIC, like any other party to civil litigation, may be required to pay the other party's costs if ASIC is unsuccessful.

Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There is, at the date of this report, one matter of this type where proceedings are current. In this matter, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- (a) successfully defend the action instituted; and
- (b) not be required to pay any damages.

Since balance date there has been an award of costs against ASIC in this matter, however the amount that will be required to settle the claim cannot be reliably estimated at this stage.

Conversely, ASIC, like any other party to civil litigation may be entitled to recover costs arising out of such litigation if it is successful.

In addition to the matters specifically referred to in this Note, ASIC has legal action pending in a number of other matters. Due to the uncertainty over the outcome of outstanding and pending court cases, duration of court cases and the legal costs of the opposing party, ASIC is unable to reliably estimate either its potential payments to, or potential cost recoveries from, opposing litigants. There may also be other matters where ASIC has received an award of costs in its favour however no contingent asset has been disclosed because recovery of the debt is not probable. There may also be other matters where no contingency has been quantified because the costs awarded for or against ASIC are estimated to be less than \$20,000 each.

Future compensation claims

The 'Scheme for Compensation for Detriment Caused by Defective Administration' (CDDA) is a method for agencies to provide compensation to persons who have been adversely affected by the maladministration of agencies, but who have no legal means to seek redress, such as a legal claim. It is not possible to estimate the value of potential future CDDA claims.

Note 11: Related party disclosures

The Commissioners of ASIC during the financial year were:

G. J. Medcraft (Chairman)
 B. G. Gibson (Deputy Chairman)
 P. J. Boxall (Commissioner to 22 November 2011)
 M. J. Dwyer (Commissioner to 9 December 2011)
 S. F. Tregillis (Commissioner to 23 August 2011)
 P. R. Kell (Commissioner from 7 November 2011)
 J. D. Price (Commissioner from 22 March 2012)
 G. M. Tanzer (Commissioner from 23 January 2012)

Loans to Commissioners and Commissioner-related entities

There were no loans made to Commissioners or Commissioner-related entities during the reporting period.

Other transactions with Commissioner-related entities

There were no other transactions with Commissioner-related entities during the reporting period, other than the payment of fees levied under the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003*.

Note 12: Remuneration of Commissioners

Note 12A: Total remuneration expense recognised in relation to Commissioners

	2012 \$	2011 \$
Short-term employee benefits:		
Salary	2,230,226	2,564,322
Annual leave accrued	(24,229)	(46,861)
Car parking fringe benefits	55,636	88,731
Total short-term employee benefits	2,261,633	2,606,192
Post-employment benefits:		
Superannuation	167,385	276,786
Other long-term benefits:		
Long service leave accrued	(78,595)	(17,478)
Total remuneration expense for Commissioners¹	2,350,423	2,865,500

¹ Excludes acting arrangements and part-year service where the total remuneration expensed was less than \$150,000.
 The number of Commissioners whose remuneration is disclosed above is seven (2011: six)

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 12: Remuneration of Commissioners (continued)

Note 12B: Average annual reportable remuneration paid to Commissioners during the reporting period
2012

Average annual reportable remuneration ¹					
	Commissioners No.	Reportable salary ^{2,3} \$	Contributed super- annuation ^{3,4} \$	Reportable allowances ⁵ \$	Total \$
Total remuneration (including part-time arrangements):					
less than \$150,000	2	106,567	7,140	–	113,707
\$150,000 to \$179,999	1	105,402	54,506	–	159,908
\$210,000 to \$239,999	1	193,009	43,995	–	237,004
\$240,000 to \$269,999	1	244,715	20,088	–	264,803
\$300,000 to \$329,999	1	277,093	31,478	154	308,725
\$540,000 to \$569,999	1	514,280	34,758	–	549,038
\$660,000 to \$689,999	1	637,341	45,170	–	682,511
Total	8				

2011					
Average annual reportable remuneration ¹					
	Commissioners No.	Reportable salary ^{2,3} \$	Contributed super- annuation ^{3,4} \$	Reportable allowances ⁵ \$	Total \$
Total remuneration (including part-time arrangements):					
\$390,000 to \$419,999	2	365,336	42,360	–	407,696
\$420,000 to \$449,999	1	380,670	41,809	–	422,479
\$450,000 to \$479,999	1	422,257	50,000	–	472,257
\$480,000 to \$509,999	1	382,401	120,273	–	502,674
\$600,000 to \$629,999	1	595,278	30,134	–	625,412
Total	6				

1 This table reports on Commissioners who are employed by ASIC during the reporting period. Each row represents an average figure, based on headcount for the individuals in the band and in accordance with a determination of the Remuneration Tribunal for each individual.

2 'Reportable salary' includes the following:

- a) gross payments; and
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits).

3 Various salary sacrifice arrangements were available to Commissioners including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

4 The 'contributed superannuation' amount is the average actual superannuation contributions paid for Commissioners in that reportable remuneration band during the reporting period, including any salary sacrificed amounts as per the individuals' payslips.

5 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

Note 13: Remuneration of senior executives

Note 13 discloses the remuneration of those senior executives who are either classified in Groups 9–11 of the Public Service Classification Rules 2000 or those who perform functions controlling operational activities that directly impact the economic function and viability of ASIC and whose employment conditions are equivalent to SES employment conditions of service.

Note 13A includes executives acting in a higher capacity where their senior executive remuneration during the period exceeds \$150,000. Note 13B discloses only those senior executives appointed to a senior executive role in a substantive capacity during the reporting period. Note 13A is prepared on an accruals basis therefore the performance bonus expense in Note 13A may differ from the cash 'Bonus paid' in Note 13B.

Note 13A: Total expense recognised in relation to employment of senior executives

	2012 \$	2011 \$
Short-term employee benefits:		
Salary and performance bonuses	8,430,163	8,069,638
Annual leave accrued	44,962	38,993
Motor vehicle allowances and other short-term benefits	1,167,928	1,100,070
Total short-term employee benefits	9,643,053	9,208,701
Post-employment benefits:		
Superannuation	907,651	913,761
Other long-term benefits:		
Long service leave accrued	(82,727)	85,153
Termination benefits	200,436	–
<i>Total remuneration expense for senior executives^{1,2}</i>	10,668,413	10,207,615

1 Excludes acting arrangements and part-year service where remuneration expensed was less than \$150,000. The number of senior executives whose remuneration is disclosed above is 38 (2011: 37).

2 Total remuneration expense for senior executives in 2010–11 is \$772,678 higher than the amount reported in the 2010–11 financial statements. Of this \$1,048,845 relates to the remuneration for four senior executives previously omitted. This was partially offset by a decrease of \$276,167 in bonus expense. The decrease in bonus expense included above is calculated on an accruals basis and previously it reflected the actual bonus paid in 2010–11.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 13: Remuneration of senior executives (continued)

Note 13B: Average annual reportable remuneration paid to substantive senior executives during the reporting period¹

Average annual reportable remuneration ²	2012					
	Senior Executives No.	Reportable salary ^{3,4} \$	Contributed superannuation ^{4,5} \$	Reportable allowances ⁶ \$	Bonus paid ⁷ \$	Total \$
Total remuneration (including part-time arrangements):						
less than \$150,000	3	57,073	4,229	–	5,660	66,962
\$150,000 to \$179,999	2	130,264	14,307	–	9,366	153,937
\$180,000 to \$209,999	1	167,518	21,945	397	–	189,860
\$210,000 to \$239,999	2	197,173	20,997	150	15,806	234,126
\$240,000 to \$269,999	7	214,990	24,722	74	19,626	259,412
\$270,000 to \$299,999	6	225,056	36,060	–	21,402	282,518
\$300,000 to \$329,999	4	254,871	29,012	–	22,156	306,039
\$330,000 to \$359,999	4	270,165	43,699	–	22,676	336,540
\$360,000 to \$389,999	2	262,327	69,106	–	33,122	364,555
\$390,000 to \$419,999	1	311,019	49,247	–	36,972	397,238
Total	32					

1 This table reports on substantive senior executives who are employed by ASIC during the reporting period.

2 Each row represents an averaged figure, based on headcount for the individuals in the band.

3 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

4 Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

5 The 'contributed superannuation' amount is the average actual superannuation contributions paid for senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts as per the individuals' payslips.

6 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

7 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving ASIC during the financial year.

Note 13: Remuneration of senior executives (continued)

Note 13B: Average annual reportable remuneration paid to substantive senior executives during the reporting period¹ (continued)

Average annual reportable remuneration ²	2011					
	Senior Executives No.	Reportable salary ^{3,4} \$	Contributed superannuation ^{4,5} \$	Reportable allowances ⁶ \$	Bonus paid ⁷ \$	Total \$
Total remuneration (including part-time arrangements):						
less than \$150,000	5	78,410	8,713	–	6,841	93,964
\$150,000 to \$179,999	2	146,830	12,909	–	15,090	174,829
\$180,000 to \$209,999	1	182,953	14,147	–	12,615	209,715
\$210,000 to \$239,999	2	196,233	19,661	–	10,964	226,858
\$240,000 to \$269,999	6	221,949	22,956	–	11,088	255,993
\$270,000 to \$299,999	6	226,395	32,896	–	20,271	279,562
\$300,000 to \$329,999	3	262,517	39,226	–	15,504	317,247
\$330,000 to \$359,999	5	273,791	37,381	–	29,070	340,242
\$360,000 to \$389,999	2	271,256	71,105	–	35,427	377,788
Total	32					

1 This table reports on substantive senior executives who are employed by ASIC during the reporting period.

2 Each row represents an averaged figure, based on headcount for the individuals in the band.

3 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

4 Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

5 The 'contributed superannuation' amount is the average actual superannuation contributions paid for senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts as per the individuals' payslips.

6 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

7 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving ASIC during the financial year.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 13: Remuneration of senior executives (continued)

Note 13C: Other highly paid staff

Average annual reportable remuneration ¹	2012					Total \$
	No. of staff	Reportable salary ^{2,3}	Contributed superannuation ^{3,4}	Reportable allowances ⁵	Bonus paid ⁶	
		\$	\$	\$	\$	
Total remuneration (including part-time arrangements):						
\$150,000 to \$179,000	121	128,694	22,459	17	10,178	161,348
\$180,000 to \$209,999	23	151,098	28,645	–	12,794	192,537
\$210,000 to \$239,999	13	181,360	25,751	9	14,457	221,577
\$240,000 to \$269,999	3	222,620	25,931	24	12,988	261,563
\$270,000 to \$299,999	1	227,651	24,789	–	24,408	276,848
\$300,000 to \$329,999	1	241,933	26,072	–	32,115	300,120
Total	162					

Average annual reportable remuneration ¹	2011					
	No. of staff	Reportable salary ^{2,3}	Contributed superannuation ^{3,4}	Reportable allowances ⁵	Bonus paid ⁶	Total
		\$	\$	\$	\$	
Total remuneration (including part-time arrangements):						
\$150,000 to \$179,999	107	126,410	23,499	29	9,874	159,812
\$180,000 to \$209,999	20	154,105	27,127	–	11,013	192,245
\$210,000 to \$239,999	13	183,683	25,088	33	13,574	222,378
\$240,000 to \$269,999	3	221,093	27,233	208	9,953	258,487
\$270,000 to \$299,999	2	228,314	28,455	641	29,582	286,992
Total	145					

1 This table reports staff:

- a) who were employed by ASIC during the reporting period;
 - b) whose reportable remuneration was \$150,000 or more for the reporting period; and
 - c) were not required to be disclosed in Note 12B or Note 13B
 - d) who were statutory appointments of the Superannuation Complaints Tribunal during the reporting period.
- Each row is an averaged figure based on headcount for individuals in the band remuneration package band (i.e. the 'Total' column).

2 'Reportable salary' includes the following:

- a) gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- b) reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- c) exempt foreign employment income.

3 Various salary sacrifice arrangements were available to these employees including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

4 The 'contributed superannuation' amount is the average actual superannuation contributions paid to the employees in that reportable remuneration band during the reporting period, including any salary sacrificed amounts as per individuals' payslips.

5 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

6 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving ASIC during the financial year.

Note 14: Remuneration of auditors

	2012 \$	2011 \$
Financial statement audit services were provided free of charge to ASIC. The fair value of that service during the reporting period is:	181,000	176,000
No other services were provided by the Auditor-General.	181,000	176,000

Note 15: Financial instruments

	Note	2012 \$'000	2011 \$'000
Note 15A: Categories of financial instruments			
Financial assets			
Loans and receivables:			
Cash and cash equivalents		8,777	4,734
Receivables for goods and services (net of impairment allowance)		4,256	12,640
Carrying amount of financial assets	16	13,033	17,374
Financial liabilities			
At amortised cost:			
Trade creditors		39,159	24,435
Carrying amount of financial liabilities		39,159	24,435
Note 15B: Net income and (expense) from financial assets			
Loans and receivables			
Impairment		(46)	(149)
Net gain/(expense) from financial assets		(46)	(149)

Note 15C: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

Note 15D: Credit risk

ASIC is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables, 2012: \$4,444,063 (2011: \$13,089,617). ASIC has assessed the risk of the default on payment for each receivable and has allocated \$188,476 in 2012 (2011: \$449,901) to the impairment allowance account.

ASIC has policies and procedures that guide debt recovery techniques that are to be applied by ASIC employees where debts are past due.

ASIC holds no collateral to mitigate against credit risk.

The following table illustrates ASIC's gross exposure to credit risk, excluding any collateral or credit enhancements.

AASB 7 requires that the classification of financial instruments at fair value be determined by reference to the source of inputs used to derive the fair value. ASIC's Financial Instruments are classified as Class 1.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 15: Financial instruments (continued)

Credit quality of financial instruments not past due or individually determined as impaired.

	Not past due nor impaired 2012 \$'000	Not past due nor impaired 2011 \$'000	Past due or impaired 2012 \$'000	Past due or impaired 2011 \$'000
Loans and receivables				
Cash and cash equivalents	8,777	4,734	–	–
Receivables for goods and services (gross)	3,723	10,664	721	2,426
Total	12,500	15,398	721	2,426

Ageing of financial assets that are past due but not impaired for 2012:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	Total \$'000
Loans and receivables					
Receivables for goods and services	185	37	–	311	533
Total	185	37	–	311	533

Ageing of financial assets that are past due but not impaired for 2011:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	Total \$'000
Loans and receivables					
Receivables for goods and services	32	1,871	–	73	1,976
Total	32	1,871	–	73	1,976

Note 15E: Liquidity risk

ASIC's financial liabilities are trade creditors. ASIC does not expect to have difficulty meeting its financial liabilities as and when they become due and payable.

ASIC receives appropriations from the Federal Government to deliver the outcomes defined in Note 1.1. ASIC is a FMA agency and is therefore required to comply with government policies, including the prompt payment of suppliers.

All ASIC's financial liabilities as at 30 June 2012 and 30 June 2011 were payable within one year.

As at 30 June 2012 ASIC has no financial liabilities payable on demand (2011: nil).

Note 15F: Market risk

Currency risk

ASIC's exposure to 'Currency risk' is minimal as only a small number of contracts are in currencies other than Australian dollars.

Interest rate risk

ASIC's financial instruments are not exposed to interest rate risk.

Note 16: Financial assets reconciliation

	2012 \$'000	2011 \$'000
Total financial assets as per balance sheet	98,258	81,291
Less: non-financial instrument components:		
Appropriations receivable	80,999	60,404
GST receivable included in financial assets	4,226	3,513
Total non-financial instrument components	85,225	63,917
Total financial assets as per financial instruments note	13,033	17,374

Note 17: Administered – Expenses

EXPENSES	Notes	2012 \$'000	2011 \$'000
Note 17A: Grants			
Private Sector:			
Insolvency practitioners ¹		1,823	2,349
Total grants		1,823	2,349
<p>1 ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.</p>			
Note 17B: Write-down and impairment of assets			
Bad and doubtful debts expense		39,921	30,744
Waiver of fees and charges owing		3,119	2,335
Total write-down and impairment of assets	19B	43,040	33,079
Note 17C: Other expenses			
Refunds paid to bank and deposit taking institution account holders	26D	32,769	34,001
Refunds paid to life insurance policy holders	26D	4,602	3,114
Total other expenses		37,371	37,115

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 18: Administered – Income

	2012 \$'000	2011 \$'000
OWN-SOURCE INCOME		
Non-taxation revenue		
Note 18: Non-taxation revenue		
Fees from the Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act ¹	577,215	531,768
Fines from the Corporations Act and National Consumer Credit Protection Act ¹	86,395	90,337
<i>Total Corporations Act, National Consumer Credit Protection Act and Business Names Registration fees and fines</i>	663,610	622,105
Moneys received from banks and deposit taking institutions in respect of accounts inactive for seven or more years	61,227	57,291
Moneys received from life insurance institutions and friendly societies for policies not claimed within seven years	8,769	5,505
Total non-taxation revenue	733,606	684,901

Corporations Act, National Consumer Credit Protection Act and Business Names Registration Act fees and fines

	2012 \$'000 Fees	2012 \$'000 Fines	2012 \$'000 Total	2011 \$'000 Fees	2011 \$'000 Fines	2011 \$'000 Total
Mandatory collections ¹	521,814	84,823	606,637	478,564	78,425	556,989
Information broker fees ²	53,648	–	53,648	52,598	–	52,598
Other fees ²	1,753	–	1,753	606	–	606
Court receivables ³	–	1,572	1,572	–	11,912	11,912
	577,215	86,395	663,610	531,768	90,337	622,105

1 Fees and charges arise from actions which are mandatory under the *Corporations Act 2001*, the *National Consumer Credit Protection Act 2009* and *Business Names Registration (Fees) Act 2011*. Examples include fees prescribed in the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003* and the *National Consumer Credit Protection (Fees) Regulations 2010* and *Business Names Registration (Fees) Regulations 2011*.

2 Fees and charges paid by information brokers (intermediaries between ASIC and the consumer) and other consumers for information provided by ASIC from its corporations information database.

3 Recovery of fines and penalties for contraventions of the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009*.

Notes to the Schedule of Administered Items

FOR THE YEAR ENDED 30 JUNE 2012

Note 19: Administered – Financial assets

Financial assets	Notes	2012 \$'000	2011 \$'000
Note 19A: Cash and cash equivalents			
<i>Total cash and cash equivalents</i>	24A	1,373	3,167
Note 19B: Receivables			
Corporations Act:			
Corporations Act fees and charges		144,354	126,719
Information brokers fees		6,005	6,100
Other receivables:			
GST receivable from ATO	25	90	173
<i>Total receivables (gross)</i>		150,449	132,992
Less: impairment allowance account:			
Corporations Act fees and charges		45,733	35,254
<i>Total receivables (net)</i>		104,716	97,738
Receivables were aged as follows:			
Not overdue		75,924	64,769
Overdue by:			
Less than 30 days		12,506	20,287
30 to 60 days		9,499	6,814
61 to 90 days		4,721	4,121
More than 90 days		47,799	37,001
<i>Total receivables (gross)</i>		150,449	132,992
The impairment allowance account is aged as follows:			
Not overdue		634	488
Overdue by:			
Less than 30 days		547	400
30 to 60 days		1,479	1,230
61 to 90 days		1,136	1,021
More than 90 days		41,937	32,115
<i>Total impairment allowance account</i>		45,733	35,254
Receivables are due from entities that are not part of the Australian Government.			
Credit terms for goods and services were within 30 days (2011: 30 days)			
Reconciliation of the movement in the impairment allowance account			
Opening balance 1 July		35,254	32,759
Amounts written off		(29,442)	(28,249)
Amounts waived		(3,119)	(2,335)
Increase in impairment allowance recognised as an expense		43,040	33,079
<i>Closing balance</i>		45,733	35,254

Notes to the Schedule of Administered Items

FOR THE YEAR ENDED 30 JUNE 2012

Note 20: Administered – Payables

Note 20: Other payables	Note	2012 \$'000	2011 \$'000
Corporations Act refunds ¹		11,099	6,226
Unallocated moneys – Corporations Act ¹		3,185	3,298
Grants payable ²	24A	761	1,084
Total other payables		15,045	10,608

All other payables are entities that are not part of the Australian Government.

1 All other payables are expected to be settled within 12 months. Settlement is usually made within 30 days.

2 Settlement is usually made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.

Note 21: Administered cash flow reconciliation

Reconciliation of cash and cash equivalents as per Administered Schedule of Assets and Liabilities to the Administered Cash Flow Statement

	2012 \$'000	2011 \$'000
Cash and cash equivalents as per:		
Administered Cash Flow Statement	1,373	3,167
Reconciliation of net cost of services to net cash from operating activities:		
Net contribution to budget outcome	651,372	612,358
Changes in assets/liabilities		
Increase / (decrease) in allowance for doubtful debts	10,479	2,495
Increase/ (decrease) in payables and provisions	4,437	2,782
(Increase) / decrease in receivables	(17,457)	(13,287)
	(2,541)	(8,010)
Net cash provided by operating activities	648,831	604,348

Note 22: Administered contingent liabilities

Quantifiable administered contingencies

Quantifiable administered contingencies that are not remote are disclosed in the Schedule of Administered Items.

Banking Act administration

Moneys from bank and deposit taking institution accounts inactive for seven or more years are transferred to the Commonwealth and are deposited into the OPA. The contingent liability disclosed in the Schedule of Administered Commitments and Contingencies represents an estimate of future claims for repayment, where the validity of the claim has been established by the relevant institution.

An actuarial assessment of the amount of claims that are likely to be lodged with ASIC in respect to Banking Act Unclaimed Moneys was conducted by the Russell Investment Group to calculate the 30 June 2011 contingent liability (2011: \$38.193m). ASIC has used this method to calculate the contingent liability as at 30 June 2012 (2012:\$39.099m).

Life Insurance Act administration

Moneys in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the OPA. The contingent liability disclosed in the Schedule of Administered Commitments and Contingencies above represents an estimate of the future claims for repayment, where the validity of the claim has been established by the relevant institution.

An actuarial assessment of the amount of claims that are likely to be lodged with ASIC in respect to Life Insurance Act Unclaimed Moneys was conducted by the Russell Investment Group to calculate the 30 June 2011 contingent liability (2011:\$5.157m). ASIC has used this method to calculate the contingent liability as at 30 June 2012 (2012:\$5.815m).

Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

Note 23: Administered contingent assets

There are no administered contingent assets.

Notes to the Schedule of Administered Items

FOR THE YEAR ENDED 30 JUNE 2012

Note 24: Administered financial instruments

	2012 \$'000	2011 \$'000
Note 24A: Categories of financial instruments		
Financial assets		
Cash and cash equivalents	1,373	3,167
Financial liabilities		
At amortised cost:		
Grants payable	761	1,084

Note 24B: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

Note 24C: Credit risk

ASIC's administered receivables arise as a result of a statutory obligation not a contractual obligation and are therefore not classified as financial instruments.

ASIC has no significant exposures to any concentrations of credit risk.

Note 24D: Liquidity risk

ASIC's administered financial liabilities are trade creditors. ASIC is able to meet its financial liabilities as and when they become due and payable.

All administered financial liabilities as at 30 June 2012 and 30 June 2011 are payable within one year.

Note 25: Administered financial assets reconciliation

	2012 \$'000	2011 \$'000
Note 25: Financial Assets		
Total financial assets as per schedule of administered assets and liabilities	106,089	100,905
Less: non-financial instrument components		
Net statutory receivables ¹	104,626	97,565
GST receivable from the Australian Taxation Office	90	173
Total non-financial instrument components	104,716	97,738
Total financial assets as per financial instruments note	1,373	3,167

1 Statutory receivables refer to fees and fines receivable under the Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act. In accordance with the FMOs these are not classified as financial instruments because they relate to a legislative rather than contractual obligation.

Note 26: Appropriations

Table A1: Annual appropriations ('recoverable GST exclusive')

	2012 Appropriations			Appropriations applied in 2012 (current and prior years) \$'000	Variance ² \$'000
	Appropriation Act	Appropriations reduced ¹ \$'000	FMA Act		
	Annual Appropriation \$'000		Section 31 \$'000	Total appropriation \$'000	
DEPARTMENTAL					
Ordinary annual services	387,550	(639)	39,927	426,838	66,772
Other services					
Equity	6,462	(4,250)		2,212	(15,069)
Total departmental	394,012	(4,889)	39,927	429,050	51,703
ADMINISTERED					
Ordinary annual services					
Administered items	3,471	(1,648)		1,823	(129)
Total administered	3,471	(1,648)		1,823	(129)

¹ Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. On 26 June 2012, the Finance Minister issued a determination to reduce departmental appropriations following a request by the Minister. The amount of the reduction under Appropriation Act (No. 2) 2010–2011 was \$4.250m and a reduction under Appropriation Act (No. 1) 2011–2012 was \$0.639m.

As with departmental appropriations, the responsible Minister may decide that part or all of an administered appropriation is not required and request that the Finance Minister reduce that appropriation. For administered appropriations reduced under section 11 of Appropriation Act (No. 1) 2011–2012, the appropriation is taken to be reduced to the required amount specified in this note once the annual report is tabled in Parliament.

² The variance for departmental ordinary annual services primarily relates to funding credited to the Enforcement Special Account and not drawn upon in 2011–12. Also contributing to the variance is a supplementary appropriation which ASIC received in 2011–12 for expenditure incurred in 2010–11 and an increase in unpaid invoices at balance date.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 26: Appropriations (continued)

Table A2: Annual appropriations ('recoverable GST exclusive')

	2011 Appropriations				Appropriations applied in 2011 (current and prior years) \$'000	Variance ^{2,3} \$'000
	Appropriation Act		FMA Act			
	Annual Appropriation \$'000	Appropriations reduced ¹ \$'000	Section 31 \$'000	Total appropriation \$'000		
DEPARTMENTAL						
Ordinary annual services	340,756	–	28,592	369,348	384,083	(14,735)
Other services						
Equity	34,141			34,141	22,318	11,823
Total departmental	374,897	–	28,592	403,489	406,401	(2,912)
ADMINISTERED						
Ordinary annual services						
Administered items	3,450	(1,101)		2,349	2,279	70
Total administered	3,450	(1,101)		2,349	2,279	70

1 Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. No reduction has been made by the Finance Minister in respect of ASIC's 2010–11 appropriation.

2 The variance for Departmental ordinary annual services primarily relates to activities funded by supplementary appropriation which will be received in 2011–12.

3 The underspend in departmental equity appropriations in 2010–11 primarily relates to the delay in implementation of the National Business Names initiative and capital expenditure savings in respect of supervision of financial markets funding.

Note 26: Appropriations (continued)

Table B1: Departmental Capital Budget ('recoverable GST exclusive')

	2012 Capital Budget Appropriation				Capital Budget Appropriations applied in 2012 (current and prior years)		
	Appropriation Act		FMA Act		Total Capital Budget Appropriation	Payment for non-financial assets ³ \$'000	Payment for other purposes \$'000
	Annual Capital Appropriation \$'000	Appropriations reduced ² \$'000	Section 32 \$'000	Section 32 \$'000			
DEPARTMENTAL							
Ordinary annual services							
– Departmental							
Capital Budget ¹	58,646	–	–	–	58,646	39,065	–
							39,065
							19,581

1 Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.

2 Appropriations reduced under Appropriation Acts (No.1,3,5) 2011–2012: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.

3 Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

4 The variance for Departmental Capital Budget primarily relates to activities funded by supplementary appropriation which was spent in 2010–11 and received in 2011–12.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 26: Appropriations (continued)

Table B2: Departmental Capital Budget ('recoverable GST exclusive')

	2011 Capital Budget Appropriation			Capital Budget Appropriations applied in 2011 (current and prior years)			
	Appropriation Act		FMA Act	Total Capital Budget Appropriation \$'000	Payment for non-financial assets ³ \$'000	Payment for other purposes \$'000	Total payments \$'000
	Annual Capital Appropriation \$'000	Appropriations reduced ² \$'000	Section 32 \$'000				
DEPARTMENTAL							
Ordinary annual services							
– Departmental Capital Budget ¹	22,800	–	–	22,800	45,664	–	45,664
							(22,864)

1 Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.

2 Appropriations reduced under Appropriation Acts (No.1,3,5) 2010–2011: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.

3 Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

4 The variance for Departmental Capital Budget primarily relates to activities funded by supplementary appropriation which will be received in 2011–12.

Note 26: Appropriations (continued)

Table C: Unspent departmental appropriations ('recoverable GST exclusive')

	Note	2012 \$'000	2011 \$'000
Authority			
Appropriation Act (No.1) 2005–2006		267	267
Appropriation Act (No.1) 2010–2011		–	30,136
Appropriation Act (No.2) 2010–2011		59	15,129
Appropriation Act (No.3) 2010–2011		1,514	1,514
Appropriation Act (No.4) 2008–2009		–	2,552
Appropriation Act (No.1) 2011–2012		54,701	–
Appropriation Act (No.1) DCB 2011–2012		21,904	–
Appropriation Act (No.2) 2011–2012		2,554	–
Enforcement Special Account ²	30A	20,086	4,494
Total¹		101,085	54,092

1 The total amount of unspent appropriations as at balance date does not agree to the 'Appropriations receivable' shown in Note 5B. The difference as at 30 June 2012 of \$20.086m relates to ESA revenue not drawn down. The difference as at 30 June 2011 of \$8.472m relates to supplementary funding ASIC received in the 2011–12 approval to spend in 2010–11 but will receive in Appropriation Act (No.1) 2011–2012 and Appropriation Act (No.2) 2011–2012. The supplementary funding relates to the competition for market services and implementation of Stronger Super initiatives.

2 The 2010–11 comparative is higher than what was reported in the 2010–11 financial statements which represented ASIC's entitlement to ESA for expenditure incurred in 2010–11.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 26: Appropriations (continued)

Table D: Special appropriations ('recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2012 \$'000	2011 \$'000
s69 <i>Banking Act 1959</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed moneys from banking and deposit taking institutions. Moneys from banking and deposit taking institution accounts that remain inactive for seven or more years are transferred to the Commonwealth, and are deposited into the OPA. ASIC receives special appropriations from the OPA (section 69 <i>Banking Act 1959</i>) to refund amounts to banking and deposit taking institution account holders.	32,769	34,001
s216 <i>Life Insurance Act 1995</i> , Administered	Unlimited	ASIC has responsibility for the administration of unclaimed moneys from life insurance institutions and friendly societies. Moneys in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth and are deposited into the OPA. ASIC receives special appropriations from the OPA (section 216 <i>Life Insurance Act 1995</i>) to refund amounts to life insurance policy holders.	4,602	3,114
s28 FMA Act, <i>Corporations Act 2001</i> (Refunds of overpaid Corporations Act fees and charges), Administered	Unlimited	ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the CRF as received. Refunds of overpayments are appropriated under section 28 of the FMA Act.	4,043	6,937
s28 FMA Act, <i>Corporations Act 2001</i> (Companies and Unclaimed Moneys Special Account), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed moneys from the Companies and Unclaimed Moneys Special Account. Moneys that are not claimed within six years are transferred to the Commonwealth (Part 9.7 of the <i>Corporations Act 2001</i>), and are deposited into the OPA. Refunds are appropriated under section 28 of the FMA Act.	1,259	1,160
Total			42,673	45,212

Note 26: Appropriations (continued)

Table E1: Reduction in administered items ('recoverable GST exclusive')

2012	Amount required ³ – by Appropriation Act	Total amount required ³	Total amount appropriated ⁴	Total reduction ⁵
Ordinary annual services	Act (No.1)			
Outcome 1	1,823,417.74	1,823,417.74	3,471,000.00	1,647,582.26

Notes:

- 1 Numbers in this section of the table must be disclosed to the cent.
- 2 Administered items for 2012 were reduced to these amounts when these financial statements were tabled in Parliament as part of ASIC's 2011–12 annual report. This reduction is effective in 2013, but the amounts are reflected in Table A in the 2011–12 financial statements in the column 'Appropriations reduced' as they were adjustments to 2012 appropriations.
- 3 Amount required as per Appropriation Act (Act 1 s11; Act 2 s12).
- 4 Total amount appropriated in 2012.
- 5 Total reduction effective in 2013.

Table E2: Reduction in administered items ('recoverable GST exclusive')

2011	Amount required ³ – by Appropriation Act	Total amount required ³	Total amount appropriated ⁴	Total reduction ⁵
Ordinary annual services	Act (No.1)			
Outcome 1	2,349,315.86	2,349,315.86	3,450,000.00	1,100,684.14

Notes:

- 1 Numbers in this section of the table must be disclosed to the cent.
- 2 Administered items for 2011 were reduced to these amounts when these financial statements were tabled in Parliament as part of the entity's 2011 annual report. This reduction was effective in 2012, but the amounts were reflected in Table A in the 2011 financial statements in the column 'Appropriations reduced' as they were adjustments to 2011 appropriations.
- 3 Amount required as per Appropriation Act (Act 1 s11; Act 2 s12).
- 4 Total amount appropriated in 2011.
- 5 Total reduction effective in 2012.

Note 27: Expenditure relating to statutory boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001*, ASIC is required to support statutory boards and a tribunal to promote activities that assist ASIC to attain its aims.

The following expenditure incurred on behalf of these boards and tribunal are included in the Statement of Comprehensive Income of ASIC:

	2012 \$'000	2011 \$'000
Companies Auditors and Liquidators Disciplinary Board	466	483
Superannuation Complaints Tribunal	5,753	5,840

The Superannuation Complaints Tribunal (SCT) is an independent body with distinct responsibilities as set out under the *Superannuation (Resolution of Complaints) Act 1993* and has operated under the budgetary umbrella of ASIC since 1 July 1998.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 28: Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. In 2011–12 ASIC began taking a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

ASIC generally only deals with vested property once an application is made by a third party for ASIC to exercise its powers under section 601AE of the *Corporations Act 2001*. ASIC does not consider it practical to value any identified property vesting and consequently such property is not recorded or disclosed in these financial statements.

Note 29: Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* and the *Corporations Regulations 2001* requires applicants for a dealer's or investment adviser's licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These moneys, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	2012 \$'000	2011 \$'000
Security deposits under <i>Corporations Regulations 2001</i> regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank) ¹	303	303
Inscribed stock	20	20
Insurance bonds	20	20
Bank guarantees	11,860	16,890
Closing balance	12,203	17,233

1 The balance represents cash attributable to security holders. The Security Deposits Special Account in Note 30D includes accrued interest.

Security deposits under *Corporations Act 2001* section 1284(1) (liquidators)

Insurance bonds	1,800	1,800
Closing balance	1,800	1,800

Note 30: Special Accounts and FMA Act section 39

Note 30A: Enforcement Special Account (Departmental)

Legal authority – section 20 (1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2006/31 – Enforcement Special Account Establishment 2006*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Enforcement Special Account (ESA) is a departmental Special Account which was established by a determination of the Finance Minister on 13 September 2006 to fund the costs of ASIC arising from the investigation and litigation matters of significant public interest.

	2012 \$'000	2011 \$'000
Balance carried forward from previous year	4,494	6,508
Appropriation for the reporting period	30,000	30,000
Available for payments	34,494	36,508
Cash payments from the Special Account ¹	(14,408)	(32,014)
Balance available to draw down next year	20,086	4,494
Represented by:		
Cash – held in the OPA	20,086	4,494

¹ For the year ended 30 June 2012 ASIC recognised ESA revenue of \$12.075m (2011: \$27.84m), of which \$14.408m (2011: \$32.014m) was drawn down in cash during the year. The \$14.408m included expenses accrued in 2010–11 and paid for in 2011–12.

Note 30B: Companies and Unclaimed Moneys Special Account (Special Public Money)

Legal authority – section 21 *Financial Management and Accountability Act 1997* and section 133 of the *Australian Securities and Investments Commission Act 2001*

Appropriation – section 21 *Financial Management and Accountability Act 1997*

Purpose – The Companies and Unclaimed Moneys Special Account (CUMSA) was established on 1 July 2007 when ASIC became a prescribed agency under the *Financial Management and Accountability Act 1997*. The CUMSA was established to administer unclaimed moneys received by ASIC under section 1341 of the *Corporations Act 2001*.

	2012 \$'000	2011 \$'000
Table A – Special Account		
Balance carried forward from previous year	25,458	7,215
Appropriation for the reporting period	1,259	1,160
Receipts during the year	37,841	28,072
Interest amounts credited	1,317	554
Investments realised	262,969	344,184
Available for payments	328,844	381,185
Cash transferred to Consolidated Revenue	(12,899)	(8,019)
Investments made from the Special Account	(263,566)	(296,184)
Disbursements	(19,329)	(25,127)
Administration costs	(4,318)	(1,229)
Special purpose disbursement	(21,636)	(25,168)
Balance carried to next period (excluding investment balances) and represented by:	7,096	25,458
Cash – held by ASIC	7,096	25,458

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 30: Special Accounts and FMA Act section 39 (continued)

Note 30B: Companies and Unclaimed Moneys Special Account (Special Public Money) (continued)

	2012 \$'000	2011 \$'000
Table B – Special Account investment of Public Money		
Special Appropriations under section 39 of the FMA Act		
Balance carried forward from previous year	228,737	264,621
Investments made from the Special Account	263,566	296,184
Investment income	14,232	12,116
Investments realised	(262,969)	(344,184)
Balance carried to next period	243,566	228,737

Note 30C: Deregistered Companies Trust Moneys Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/02 – ASIC Deregistered Companies Trust Moneys Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Deregistered Companies Trust Moneys Special Account was established by the Finance Minister on 18 February 2008 to manage property vesting in the Commonwealth as a result of the deregistration provisions of the *Corporations Act 2001*.

	2012 \$'000	2011 \$'000
Balance carried forward from previous year	774	740
Receipts during the year	905	60
Interest received	36	34
Disbursements	(704)	(60)
Closing balance	1,011	774

Note 30D: ASIC Security Deposits Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/03 – ASIC Security Deposits Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The ASIC Security Deposits Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage security deposits lodged with ASIC by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees.

	2012 \$'000	2011 \$'000
Balance carried forward from previous year	368	351
Receipts during the year	–	40
Interest received	16	16
Disbursements	–	(39)
Closing balance¹	384	368

¹ Previously only cash assets were recognised, however the special account also holds accrued interest, and this is reflected in the actual bank balance. The 2010–11 balances have been updated to reflect the accrued interest.

Note 30: Special Accounts and FMA Act section 39 (continued)

Note 30E: ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account (Special Public Money)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/04 – ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage money or other property temporarily held by ASIC for the benefit of a person other than the Commonwealth as a result of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC.

	2012 \$'000	2011 \$'000
Balance carried forward from previous year	68,700	13,721
Receipts during the year	162	68,661
Interest received	1,419	534
Disbursements	(59,262)	(14,216)
Closing balance	11,019	68,700

Note 30F: Other Trust Moneys Special Account (Special Public Money) – abolished 30 May 2012

	2012 \$'000	2011 \$'000
Balance carried forward from previous year	–	–
Receipts during the year	–	843
Disbursements	–	(843)
Balance carried to next period	–	–

Note 30G: Services for Other Entities and Trust Moneys Special Account – Australian Securities and Investments Commission (Special Public Money)

Legal authority – subsection 20(1) of the *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2012/07* establishes a Special Account entitled 'Services for Other Entities and Trust Moneys Special Account – Australian Securities and Investments Commission'.

Appropriation – section 20 *Financial Management and Accountability Act 1997*

Purpose – The Services for Other Entities and Trust Moneys Special Account – Australian Securities and Investments Commission (SOETM) was established on 30 May 2012. The SOETM combines the purposes of the Other Trust Moneys and the Services for other Government and Non-agency Bodies Special Accounts into a single standard-purpose Special Account. The SOETM enables ASIC to continue to hold and expend amounts on behalf of persons or entities other than the Commonwealth. The SOETM will typically be used to accommodate small amounts of miscellaneous moneys, for example, amounts received in connection with services performed for or on behalf of any persons or entities that are not Agencies as prescribed under the FMA Act, such as other governments. There were no transactions in this Special Account during the reporting period.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 31: Compensation and debt relief

	2012	2011
Departmental		
Expenses incurred in relation to one matter (2011: no matters) dealt with under the 'Compensation for Detriment caused by Defective Administration scheme' during the reporting period.	\$2,590	–

None of the above payments were paid on a periodic basis (2011:nil). No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the *Financial Management and Accountability Act 1997* (2011: nil). No ex-gratia payments were provided for during the reporting period (2011: nil). No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the *Public Service Act 1999* (PS Act) during the reporting period (2011: nil).

Administered

Included in the impairment allowance expense in the Schedule of Administered Items are amounts written off under section 47 of the FMA Act. The number and aggregate amount of Commonwealth moneys written off during the financial year under this section is 191,003 items totalling \$29,442,419 (2011:160,165 items totalling \$28,249,165).

The number and aggregate of amounts owing to the Commonwealth, the recovery of which was waived during the financial year pursuant to section 34(1) of the FMA Act, is 17,429 items totalling \$3,118,757 (2011: 16,109 items totalling \$2,335,081).

None of the above payments were paid on a periodic basis (2011:nil). No ex-gratia payments were provided for during the reporting period (2011:nil). No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the Public Service Act 1999 (PS Act) during the reporting period (2011:nil).

Note 32: Reporting of outcomes

ASIC's outcomes during the reporting period were:

Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks

Outcome 2: Streamlined and cost effective interaction and access to information for business and the public, through registry, licensing and business facilitation services

Note 32A: Net (cost) / contribution of outcome delivery

	Outcome 1		Outcome 2		Total	
	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000
Departmental						
Expenses	249,534	296,798	134,954	88,653	384,488	385,451
Own-source income	4,467	4,005	2,416	945	6,883	4,950
Administered						
Expenses	1,823	2,349	80,411	70,194	82,234	72,543
Own-source income	–	–	733,606	684,901	733,606	684,901
Net (cost) / contribution of outcome delivery	(246,890)	(295,142)	520,657	526,999	273,767	231,857

The above table excludes intra-government transactions.

The table shows the net contribution to the Commonwealth Budget outcome by adding the departmental and administered expenses, less external departmental and administered revenues and costs recovered to produce a net contribution to the Budget outcome of \$273.767m (2011: \$231.857m). This derived amount is meaningful only when it is used to consider ASIC's contribution to the Budget outcome for the purposes of 'whole of Government' reporting. It is not intended to represent or portray an alternative operating result for ASIC to that which is disclosed in the Statement of Comprehensive Income.

Administered expenses represent revenue forgone to the Commonwealth as a result of refunds and waivers and write-offs of fees and charges owing to the Commonwealth (not ASIC) under the Corporations Act. Administered expenses and administered income are detailed in Notes 17 and 18 respectively.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 32: Reporting of outcomes (continued)

Note 32B: Major classes of departmental expenses, income, assets and liabilities by outcomes

	Outcome 1		Outcome 2		Not attributed		Total	
	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000
Departmental expenses								
Employee benefits	141,383	170,553	76,465	50,944	–	–	217,848	221,497
Supplier expenses	77,931	93,443	42,147	27,911	–	–	120,078	121,354
Depreciation and amortisation	29,637	31,963	16,028	9,548	–	–	45,665	41,511
Finance costs	334	375	180	112	–	–	514	487
Write-down and impairment of assets	249	464	134	138	–	–	383	602
Losses from asset sales	–	–	–	–	–	–	–	–
Total departmental expenses	249,534	296,798	134,954	88,653	–	–	384,488	385,451
Departmental income								
Rendering of services	2,310	3,397	1,249	1,015	–	–	3,559	4,412
Royalties	120	156	65	47	–	–	185	203
Other revenue	20,019	14,883	10,827	4,446	–	–	30,846	19,329
Other gains	117	136	64	40	–	–	181	176
Revenues from Government	197,464	249,509	106,795	74,529	–	–	304,259	324,038
Total departmental income	220,030	268,081	119,000	80,077	–	–	339,030	348,158
Departmental assets								
Cash and cash equivalents	–	–	–	–	8,777	4,734	8,777	4,734
Trade and other receivables	58,073	58,949	31,408	17,608	–	–	89,481	76,557
Leasehold improvements	36,092	48,713	19,520	14,550	–	–	55,612	63,263
Plant and equipment	17,152	19,920	9,276	5,950	–	–	26,428	25,870
Intangibles	85,004	87,556	45,973	26,153	–	–	130,977	113,709
Other non-financial assets	5,711	3,636	3,088	1,086	–	–	8,799	4,722
Total departmental assets	202,032	218,774	109,265	65,347	8,777	4,734	320,074	288,855
Departmental liabilities								
Suppliers	25,414	18,815	13,745	5,620	–	–	39,159	24,435
Other payables	39,298	48,356	21,254	14,444	–	–	60,552	62,800
Employee provisions	36,794	41,455	19,900	12,383	–	–	56,694	53,838
Other provisions	5,768	7,041	3,120	2,103	–	–	8,888	9,144
Total departmental liabilities	107,274	115,667	58,019	34,550	–	–	165,293	150,217

The income and expense disclosed in this table include intra-government transactions that are eliminated in calculating the 'Net (cost) / contribution of outcome delivery' in Note 32A.

Note 32: Reporting of outcomes (continued)

Note 32C: Major classes of administered expenses, income, assets and liabilities by outcomes

	Outcome 1		Outcome 2		Not attributed		Total	
	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000
Administered expenses								
Grants	1,823	2,349	–	–	–	–	1,823	2,349
Write-down and impairment of assets	–	–	43,040	33,079	–	–	43,040	33,079
Other expenses	–	–	37,371	37,115	–	–	37,371	37,115
Total administered expenses	1,823	2,349	80,411	70,194	–	–	82,234	72,543
Administered income								
Non-taxation revenue	–	–	733,606	684,901	–	–	733,606	684,901
Total administered income	–	–	733,606	684,901	–	–	733,606	684,901
Administered assets								
Cash and cash equivalents	(52)	2,012	1,425	1,155	–	–	1,373	3,167
Receivables	–	–	104,716	97,738	–	–	104,716	97,738
Total administered assets	(52)	2,012	106,141	98,893	–	–	106,089	100,905
Administered liabilities								
Suppliers	761	1,084	14,284	9,524	–	–	15,045	10,608
Total administered liabilities	761	1,084	14,284	9,524	–	–	15,045	10,608

The income and expense disclosed in this table include intra-government transactions that are eliminated in calculating the 'Net (cost) / contribution of outcome delivery' in Note 32A.

Note 33: Administered receipts subject to cost recovery policy

Note 33A: Receipts pursuant to cost recovery provisions

	2012 \$'000	2011 \$'000
Significant cost recovery arrangements		
Supervision of Australia's financial markets and competition for market services	10,368	10,466
Total receipts subject to cost recovery policy¹	10,368	10,466

1 The amount received in 2010–11 includes a receipt of \$3m to partially offset the costs incurred by ASIC in 2009–10 to establish the market supervision function.

Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2012

Note 34: Net cash appropriation arrangements

	2012 \$'000	2011 \$'000
Total comprehensive income excluding depreciation/amortisation expenses previously funded through revenue appropriations attributable to ASIC ^{1,2}	2,947	4,218
Less: depreciation/amortisation expenses previously funded through revenue appropriation	(45,665)	(41,511)
Total comprehensive income /(loss) as per the Statement of Comprehensive Income	(42,718)	(37,293)

1 From 2010–11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required. The 'Departmental Capital Budget' is used to fund the replacement of ASIC's business as usual assets (ie individual assets with a value of less than \$10m).

2 Total comprehensive income excluding depreciation and amortisation of \$2.947m includes an asset revaluation increment of \$2.74m.

Note 35: Compliance with statutory conditions for payments from Consolidated Revenue Fund

Section 83 of the Constitution provides that no amount may be paid out of the Consolidated Revenue Fund except under an appropriation made by law. The Department of Finance and Deregulation provided information to all agencies in 2011 regarding the need for risk assessments in relation to compliance with statutory conditions on payments from special appropriations, including special accounts.

During 2011–12, ASIC developed a plan to review exposure to risks of not complying with statutory conditions on payments from appropriations. The plan involved:

- ♦ identifying each special appropriation and special account;
- ♦ determining the risk of non-compliance by assessing the difficulty of administering the statutory conditions and assessing the extent to which existing payment systems and processes satisfy those conditions;
- ♦ determining procedures to confirm risk assessments in medium risk cases and to quantify the extent of non-compliance, if any, in higher risk situations;
- ♦ obtaining legal advice as appropriate to resolve questions of potential non-compliance; and
- ♦ considering legislative or procedural changes to reduce the risk of non-compliance in the future to an acceptably low level.

ASIC identified seven appropriations involving statutory conditions for payment, comprising:

- ♦ two special appropriations; and
- ♦ five special accounts.

As at 30 June 2012 this work had been completed in respect of all appropriations with statutory conditions for payment. The work conducted identified no issues of non-compliance with Section 83.

End of financial statements

5

Appendices

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The role of Commissioners

The Commission is responsible for ASIC’s strategic direction and its priorities. The Commission meets regularly, usually monthly, to:

- ♦ make decisions on matters, within ASIC’s regulatory functions and powers, that have strategic significance
- ♦ oversee the management and operations of ASIC as an Australian Government agency.

The Commission appoints and evaluates the performance of senior executive leaders, and approves budgets and business plans for each team.

Individual Commissioners also have executive responsibility for particular stakeholder and enforcement teams. See pages 11–12 for ASIC’s corporate structure.

The Commission held 15 meetings in 2011–12.

Commission meetings

Commission member	Eligible to attend	Attended
Greg Medcraft	15	14
Belinda Gibson	15	14
Peter Boxall ¹	7	6
Michael Dwyer ²	8	8
Shane Tregillis ³	3	2
Peter Kell	8	8
Greg Tanzer	5	5
John Price	4	4

1 Resigned 22 November 2011.

2 Term complete 11 December 2011.

3 Resigned 26 August 2011.

The Governor-General, on the nomination of the Treasurer, appoints Commissioners. The Treasurer may nominate as Commissioners only people who are qualified by knowledge of, or experience in, business 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 reasons set out in s111 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act). The Remuneration Tribunal sets Commissioners’ remuneration, which is not linked to their performance.

The ASIC Act requires Commission members to disclose to the Minister direct or indirect pecuniary interests in corporations carrying on business in Australia, businesses in Australia, or interests regulated by ASIC, or arrangements or agreements for future business relationships.

Michael Kingston, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel to the Chairman 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 senior executive leaders, regional commissioners, and staff 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.

Additional information on ASIC’s internal governance is published on our website at www.asic.gov.au/internal-governance.

ASIC operates under the *Financial Management and Accountability Act 1997*, which governs, primarily, its use of Australian Government resources and expenditure of public money.

Audit Committee and audit, assurance and compliance services

The Audit Committee operates independently of management and plays a key role in assisting the Chairman to discharge his responsibilities relating to the efficient, effective, economical and ethical use of Australian Government resources. The Committee does this by providing independent oversight and reporting to the Chairman regarding ASIC's governance and internal control frameworks, financial reporting and compliance with relevant legislation.

The Committee reviewed ASIC's 2011–12 Financial Statements and provided advice to the Chairman and Commissioners on the preparation and review of financial statements before the Chairman signed the statements. The Committee met four times during the year supplemented by two special meetings to review ASIC's draft financial statements and the annual *Financial Management and Accountability Act* 1997 compliance certificate.

Number of meetings

Members	Eligible to attend	Attended
Byram Johnston OAM Appointed as an independent member in January 2005 Reappointed as an independent member commencing 19 January 2010 Appointed as Chairman commencing 30 January 2011	4 main meetings 2 special meetings	4 2
Geoffrey Applebee Appointed as an independent member on 1 February 2010 Appointed as Deputy Chairman commencing 15 December 2010	4 main meetings 2 special meetings	4 2
David Prothero Appointed as an independent member on 1 March 2011	4 main meetings 2 special meetings	4 2
Chris Van Homrigh Senior Executive Leader, Investment Banks Appointed as a committee member in November 2011	3 main meetings 0 special meetings	3 0
Belinda Gibson ASIC Deputy Chairman Appointed as a committee member in January 2012	2 main meetings 0 special meetings	2 0
Michael Dwyer ASIC Commissioner Appointed as a committee member in December 2009 Resigned from committee in December 2011	2 main meetings 2 special meetings	2 2
Dr Pamela Hanrahan ASIC Queensland regional commissioner Appointed as a committee member in November 2010 Resigned from committee in October 2011	1 main meeting 2 special meetings	1 2

All three independent members are chartered accountants and company directors with significant financial, business and community experience. The internal appointees are Belinda Gibson, representing the Commission and replacing Michael Dwyer, and Chris Van Homrigh (replacing Dr Pamela Hanrahan).

The internal audit function is provided by ASIC's Audit, Assurance and Compliance business unit supported by Deloitte Touche Tohmatsu in a co-sourced arrangement. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend audit committee meetings.

Byram Johnston OAM Chairman

Audit Committee
July 2012

External committees and panels

Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board works to improve financial literacy in Australia. Members are:

- ♦ Paul Clitheroe AM, ipac securities (Board Chairman)
- ♦ Group Captain Robert Brown, Australian Defence Force Financial Services Consumer Council
- ♦ Hamish Douglass, Magellan Financial Group Australia
- ♦ Craig Dunn, AMP
- ♦ Linda Elkins, Colonial First State
- ♦ Fiona Guthrie, Financial Counselling Australia
- ♦ Elaine Henry OAM, company director
- ♦ Peter Kell, Commissioner, Australian Securities and Investments Commission
- ♦ Anthony Mackay, Centre for Strategic Education
- ♦ Greg Medcraft, Chairman, Australian Securities and Investments Commission
- ♦ Ian Silk, AustralianSuper
- ♦ Michael Smith OBE, ANZ Banking Group
- ♦ Robert Thomas, Gardner Smith (Holdings) Pty Limited.

Consumer Advisory Panel

The Consumer Advisory Panel (CAP) advises ASIC on current consumer and retail investor protection issues in the financial services and credit industries. CAP also gives feedback on ASIC policies and activities.

As part of CAP's regular processes, membership was refreshed at the end of March 2012.

- ♦ Jenni Mack (Panel Chairman)
- ♦ Gerard Brody, Consumer Action Law Centre (Vic.) (new member)
- ♦ Karen Cox, Consumer Credit Legal Centre NSW Inc.
- ♦ Carmel Franklin (new representative), Financial Counselling Australia (FCA)
- ♦ Ray Kent (new representative), Indigenous Consumer Assistance Network (ICAN)
- ♦ Vas Kolesnikoff, Australian Shareholders' Association
- ♦ David McMillan, Legal Aid NSW
- ♦ Elizabeth McNess, CHOICE

- ♦ Gordon Renouf, Consumers Federation Australia (new member)
- ♦ Wendy Schilg, National Information Centre on Retirement Investments
- ♦ Ian Yates, COTA Australia.

We thank the outgoing members and individual representatives for their valuable contribution to CAP:

- ♦ Jenni Eason, Australian Investors' Association
- ♦ Michael O'Neill, National Seniors Australia
- ♦ Pam Mutton (representing FCA)
- ♦ Jon O'Mally (representing ICAN).

During 2011–12, CAP commissioned the following research and submissions:

- ♦ Susan Bell Research to undertake research on funeral funds and funeral insurance. This research was published by ASIC in Report 292 *Paying for funerals: How consumers decide to meet the costs*.
- ♦ Jo Bird to help coordinate and prepare joint consumer submissions to the consultations on the FOFA Bills (tranches 1 and 2) (including the PJC inquiry and Senate Economics Committee inquiries).

External Advisory Panel

The External Advisory Panel assists ASIC in gaining a better understanding of developments and systemic risks within industry. The panel provides advice to ASIC on a range of matters and also provides feedback on current issues of concern. Members are from a range of sectors and hold or have held senior-level positions. Members sit in a personal capacity; they do not represent individual organisations. This ensures ASIC receives a broad range of views, free from vested interests.

Members are:

- ♦ Mark Johnson AO (Panel Chairman)
- ♦ Peter Hemming
- ♦ Belinda Hutchinson AM
- ♦ Nick Leeder
- ♦ Catriona Lowe
- ♦ Jenni Mack
- ♦ James Millar AM
- ♦ Allan Moss AO
- ♦ Bill Moss AM
- ♦ Professor Ian Ramsay

- ♦ Jenny Seabrook
- ♦ Ian Silk
- ♦ John Stuckey
- ♦ Les Taylor AM
- ♦ John Trowbridge
- ♦ Garry Weaven.

As part of the panel's processes, five panel members retired at the end of 2011. We thank the outgoing members for their contribution:

- ♦ Alec Brennan
- ♦ Peter Hunt AM
- ♦ Charles Macek
- ♦ Merv Peacock
- ♦ John Thorn.

During 2011–12, the panel provided feedback on a number of matters including ASIC's approach to consumer education, disclosure and transparency in superannuation and ASIC's regulatory involvement in carbon reforms.

Markets Disciplinary Panel

The Markets Disciplinary Panel is the main forum for disciplinary action when market integrity rules are breached. The panel is a peer review body, largely comprising members who currently hold senior roles in the markets.

ASIC established the panel to make decisions about whether to issue infringement notices or accept enforceable undertakings for alleged breaches of market integrity rules. ASIC decides which matters are referred to the panel. Members are:

- ♦ Lisa Gay (Panel Chairman)
- ♦ Richard Brasher, RBS Equities
- ♦ Ian Chambers, Morgan Stanley Australia
- ♦ Leigh Conder, Commonwealth Bank
- ♦ Geoffrey Louw, Bell Potter Securities (Bell Financial Group)
- ♦ Simon Gray, Shaw Stockbroking
- ♦ Michael Manford, Patersons Securities

- ♦ Russell McKimm, Patersons Securities
- ♦ Peter Curry, MAP Capital Advisors (new member)
- ♦ Peter Robson, ITG Australia (new member)
- ♦ Sadie Powers, Patersons Securities (new member)
- ♦ Cilla Boreham, JBWere (new member)
- ♦ Victoria Weekes, Risk Compliance Solutions Pty Ltd (new member)
- ♦ John Steinthal, Moelis & Company (new member)
- ♦ Adrian Holst, F W Holst & Co. Pty Ltd (new member).

Members of the Markets Disciplinary Panel made determinations on alleged breaches of the market integrity rules during 2011–12.

The infringement notices for finalised matters have been published in the Markets Disciplinary Panel Infringement Notices Register on the ASIC website. Three matters concerned an alleged breach of Rule 5.9.1 of the ASIC Market Integrity Rules (ASX Market) 2010 and the other matter concerned an alleged breach of Rule 6.6.1 of the ASIC Market Integrity Rules (ASX Market) 2010. The Markets Disciplinary Panel imposed a total of \$120,000 in penalties in these matters.

Market Supervision Advisory Panel

The Market Supervision Advisory Panel advises ASIC on its approach to its responsibilities in day-to-day supervision of the Australian Securities Exchange (ASX). The panel also advises ASIC on broader market developments. Members are from the financial services industry, with experience in the legal, compliance, retail and institutional aspects of broking.

Members are:

- ♦ Belinda Gibson, Deputy Chairman, ASIC (Panel Chairman)
- ♦ Stewart Adams, Morgan Stanley Smith Barney Australia
- ♦ David Dixon, Colonial First State Global Asset Management
- ♦ April Mountfort, Macquarie Securities
- ♦ Scott Webster, UBS AG Australia

External committees and panels continued

- ♦ Brad Usasz, Wilson HTM Investment Group
- ♦ Dean Surkitt, Bell Financial Group (new member)
- ♦ Will Psomadelis, Schroders Investment Management Australia Limited (new member)
- ♦ Stephen Karpin, CommSec (new member)
- ♦ Daniel McAuliffe, Treasury (new member).

ASIC representatives include Greg Yanco, Senior Executive Leader; Oliver Harvey, Senior Executive Leader and Calissa Aldridge, Senior Specialist.

We would like to thank the outgoing members for their valuable contribution:

- ♦ Ross Freeman
- ♦ Grahame Pratt
- ♦ Lisa Gay
- ♦ Luke Randell
- ♦ Alix Gallo
- ♦ Tim Beale.

During 2011–12 the panel provided advice on:

- ♦ the introduction of competition in market services, including the timetable for Chi-X to enter the market, industry readiness and market integrity rules for competition;
- ♦ market structure initiatives including ASIC's proposals on automated trading, extreme price movements and dark liquidity;
- ♦ enhanced market supervision;
- ♦ cost recovery for market supervision.

Registry and Licensing Business Advisory Committee

The Business Advisory Committee is the key stakeholder consultation forum for ASIC's Registry and Licensing. It provides an ongoing means of direct consultation with the business community providing input and opinion on the impact of current and proposed services, with particular emphasis on small business and registry services.

The committee's scope includes advice on strategic directions, performance feedback, and reporting on trends and needs of business. In doing so, the committee advises on the appropriateness and impact on ASIC and business of proposed changes to relevant legislation and corporate registry objectives, operations and initiatives.

The committee members are drawn from a wide range of business community, industry and professional organisations. The committee members in 2011–12 were:

- ♦ Greg Tanzer, Commissioner, ASIC (Committee Chairman)
- ♦ Andrew Madry, Chief Operating Officer, Australian Institute of Company Directors
- ♦ Tom Ravlic, Head of Research, National Institute of Accountants
- ♦ Paula Allen, Member, Institute of Chartered Accountants Australia
- ♦ Simon Flowers, Member, CPA Australia
- ♦ Judith Fox, Director Policy, Chartered Secretaries Australia
- ♦ Geoff Nicoll, Member – Business Law, Senior Executive, Law Council of Australia
- ♦ Peter Strong, Executive Director, Council of Small Business Organisations of Australia
- ♦ Philippa Taylor, Chief Executive Officer, Family Business Australia (new member)
- ♦ Guy Surkyn, Director – Customer Support and Operations, Dun & Bradstreet
- ♦ Claire Wivell Plater, Director, Gold Seal Risk Management Services Pty Ltd
- ♦ Colin Porter, Managing Director, CreditorWatch (new member)
- ♦ Steve Karro, CAS Product Manager, BGL Corporate Solutions
- ♦ Myron Zlotnick, General Counsel and Company Secretary, Reckon Group.

Christine Christian stood down during the year and was replaced by Guy Surkyn.

During 2011–12, the committee participated in activities and events supporting ASIC's Registry Transformation program, contributing to focus groups which were convened to assist in the design and usability of new services such as ASIC Connect (search) and the online business names registration service. The committee also supported and promoted the National Business Names roadshows staged by ASIC in early 2012.

Portfolio Budget Statements

ASIC's outcomes for 2011–12 are reported below against the Government's Portfolio Budget Statements (PBS) where applicable to ASIC. The PBS will change for 2012–13 to better reflect ASIC's role and priorities and to make our reporting more consistent with other Treasury portfolio agencies.

Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks.

Program 1.1: Research, policy, compliance, education and information initiatives

Program 1.1 objective: Program 1.1 contributes to Outcome 1 by improving industry behaviour where market integrity and consumer confidence are most at risk, and by helping consumers and retail investors make well-informed decisions in the financial economy.

Program 1.1 deliverables	Key performance indicators	2011–12 achievements
Improving industry behaviour		
<p>Financial economy programs, for each major grouping of market participants designed to:</p> <ul style="list-style-type: none"> • monitor market developments and identify and prioritise factors and behaviours most likely to result in threats to market integrity and the fair treatment of consumers • devise and implement information, guidance, and regulatory initiatives most likely to reduce the threat of misconduct or mistreatment of consumers and retail investors • target misconduct or mistreatment through tailored deterrence activity. 	<p>Improved confidence in market integrity</p> <p>Improvements in quality and availability of financial advice</p> <p>Improvements in conduct of market participants and corporates</p>	<p>Compliance</p> <p>ASIC worked to improve behaviour across the whole financial industry through a range of compliance activities illustrated by the following:</p> <ul style="list-style-type: none"> • shadow shopping on retirement advice • releasing the findings, and our suggestions for improved practices, from our review of 450 financial reports of listed entities and some larger unlisted entities • targeted surveillance of the superannuation industry that led to remedial action • surveillance on investment products such as exchange traded funds and investor-directed portfolio services that have informed our approach to these products • ASIC worked to increase competition in our markets by monitoring the launch of Chi-X and publishing new competition market integrity rules to establish common standards for market operators • ASIC has halved the average number of days taken from identifying market misconduct to starting investigations through improved processes. As indicated in our publicly available market and participants supervision report (REP 243), in the first six months of 2011 ASIC identified 23,494 trading alerts with 121 matters requiring further consideration • Operation Ark helped inexperienced investors avoid online scams • reviewed practices of mortgage brokers providing credit assistance for home loans and small-amount lenders • reviewed the sales practices of 15 authorised deposit-taking institutions that sold consumer credit insurance for home loans, personal loans and credit cards.

Portfolio Budget Statements continued

Program 1.1 deliverables	Key performance indicators	2011–12 achievements
Improving industry behaviour (continued)		
		<p>Policy</p> <p>Our written guidance includes:</p> <ul style="list-style-type: none"> ♦ ePayments Code to provide best practice consumer protection ♦ bank account switching reforms ♦ shorter product disclosure regime ♦ obligations when advertising financial products and services ♦ a biannual enforcement outcome report to give more transparency and increase public understanding about how and why ASIC will take enforcement action ♦ new market integrity rules ♦ insolvency law reform ♦ regulation of emissions units.
Helping retail investors and consumers		
<p>Retail investor and consumer programs designed to:</p> <ul style="list-style-type: none"> ♦ give consumers and retail investors access to clear, useful information about financial economy products and services ♦ make financial advice more accessible and more reliable ♦ enhance community-wide financial literacy ♦ enable consumers and retail investors to better assess the benefits and risks of decisions about financial products and services. 	<p>Improvements in retail investor and consumer perception of information received about products and services</p> <p>Improvements in overall financial literacy levels</p>	<p>ASIC has worked to promote confident and informed participation by consumers in the financial system.</p> <p>Policy and education</p> <ul style="list-style-type: none"> ♦ Expansion of the MoneySmart website, which has received more than 1.9 million visits and underpins financial literacy activities including school and Indigenous programs ♦ Development of teaching resources as part of the 'Helping Our Kids Understand Finance' initiative ♦ ASIC has contributed to the Government's Future of Financial Advice reforms through guidance on the duty to act in the best interests of investors, conflicted remuneration, scaled advice, and by amending licensing and banning powers ♦ ASIC has contributed to the Governments's Stronger Super reforms, focussing on building the SMSF auditor register, improving disclosure and strengthening superannuation governance. <p>Our written guidance includes:</p> <ul style="list-style-type: none"> ♦ the risks of investing in hybrid securities ♦ making prospectuses more useful for investors ♦ disclosure standards for unlisted property schemes ♦ risks of agribusiness schemes.

Program 1.2: Enforcement/deterrence

Program 1.2 objective: Program 1.2 contributes to Outcome 1 by enforcing the law to maximise deterrent effect and improve behaviour by entities subject to the laws that ASIC administers.

Program 1.2 deliverables	Key performance indicators	2011–12 achievements
<p>Deterrence programs designed to:</p> <ul style="list-style-type: none"> investigate suspicious conduct and take appropriate and timely criminal, civil or administrative action, especially where market integrity and consumers and retail investors are most at risk create community confidence that the law is being effectively enforced communicate clearly about ASIC's enforcement approach and outcomes to improve industry understanding and drive behavioural change in key risk areas encourage industry participation in enhanced standards of behaviour (alleviating the need for additional regulation). 	<p>Clear alignment between ASIC enforcement actions and key risk areas</p> <p>Improved stakeholder perceptions of how ASIC deals with people who don't comply with the law</p>	<p>One of ASIC's key functions is to take action against entities that might have breached the law or regulatory conditions in ways that affect our objectives.</p> <ul style="list-style-type: none"> Total of 179 litigation actions completed Success in 92% of criminal and civil matters 183 investigations completed 28 criminal proceedings completed 20 people jailed 24 civil proceedings completed 27 convictions 84 directors were disqualified or removed from managing companies 7 actions against auditors 8 non-custodial sentences/fines 22 enforceable undertakings 17 negotiated outcomes 134 new litigation actions commenced. <p>We worked on a number of major cases resulting in major findings such as:</p> <ul style="list-style-type: none"> ASIC's successful High Court appeal in the James Hardie case establishing breaches of duty by non-executive directors and company officers in Centro the Federal Court handed down its penalty decision against eight directors and former executives who were found to have contravened the law jail terms being imposed in Opes Prime and Sonray stepping in following concerns that Equititrust was not acting in the best interests of its members, resulting in the appointment of a receiver to the schemes after they were wound up, and obtaining injunctions to prevent practices that would be harmful to investors. <p>ASIC successfully prosecuted individuals for offences including:</p> <ul style="list-style-type: none"> market manipulation and trading false or misleading statements by directors insider trading offences.

Portfolio Budget Statements continued

Program 1.2 deliverables	Key performance indicators	2011–12 achievements
		ASIC continued to focus on insolvency issues. ASIC has been given power to wind up companies and we have developed a website on which we publish insolvency notices. Phoenix companies remain a focus with ASIC prosecuting 402 directors for 817 offences, resulting in fines and costs of \$1.05 million.

Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public, through registry, licensing and business facilitation services

Program 2.1: Legal infrastructure for companies and financial service providers

Program 2.1 objective: Program 2.1 contributes to Outcome 2 by improving ASIC's registry and stakeholder services by developing initiatives for business and consumer stakeholders to:

- ♦ simplify their interactions with ASIC; and
- ♦ reduce the cost of those interactions.

Program 2.1 deliverables	Key performance indicators	2011–12 achievements
Modernising registry services		
<p>Programs designed to:</p> <ul style="list-style-type: none"> ♦ provide stakeholders with modern, efficient, accurate and cost-effective corporate register and licensing systems ♦ improve public access to information about registered and licensed entities. 	Improved effectiveness and efficiency of registry and licensing services	<p>ASIC Connect was launched to allow customers to conduct registry searches online more easily and cheaply. Over 5 million free searches and 46,000 paid searches were conducted.</p> <p>The national Business Names Register was introduced, replacing eight state and territory services.</p> <p>The number of listings on ASIC's companies register increased to 1.9 million.</p> <p>185,559 new companies were registered, of which 98% were completed within one business day.</p> <p>An increase of 46% in visits to the ASIC website.</p>

Program 2.1 deliverables	Key performance indicators	2011–12 achievements
Improving stakeholder services		
<p>Programs designed to:</p> <ul style="list-style-type: none"> ♦ improve service delivery to better meet stakeholder needs ♦ take prompt and appropriate regulatory action on reports of misconduct ♦ provide accurate information and assistance to the public ♦ provide accurate and useful information to industry stakeholders about the regulatory system and ASIC's administration of it. 	<p>Improved stakeholder satisfaction with ASIC's corporate register and other stakeholder services</p>	<p>Achievements related to stakeholder services programs include:</p> <ul style="list-style-type: none"> ♦ 98% of company incorporations completed within one business day ♦ 98% of critical changes to company information registered within two business days ♦ 87% of calls answered on the spot with 13% referred to specialist staff ♦ 73% of emails responded to within two business days ♦ 12,516 misconduct reports were finalised, with 78% done within 28 days.
Facilitating business		
<p>Initiatives designed to:</p> <ul style="list-style-type: none"> ♦ reduce costs and red tape for business by making it easier to transact with ASIC ♦ improve consultation with regulated entities and other stakeholders ♦ administer the law to enhance commercial certainty and reduce business costs ♦ facilitate inward and outward investment in Australian capital markets. 	<p>ASIC's regulatory system not seen as a major barrier to inward and outward capital flows</p>	<p>More than 1.5 million company charges were transferred from ASIC's Charges Register to the new Personal Property Securities Register administered by the Insolvency and Trustee Service Australia.</p> <p>We adopted social media channels to promote and explain ASIC services and regulatory requirements through creation of YouTube videos, an ASIC Facebook page and a Twitter account.</p> <p>ASIC held its annual conference the ASIC Summer School, with the theme 'Building resilience in turbulent times'. The conference brings people together from across industries to exchange ideas about improvements for the financial sector.</p>

Program 2.2: *Banking Act 1959* and *Life Insurance Act 1995* unclaimed money and special accounts

Program 2.2: ASIC is responsible for the administration of unclaimed money from banking and deposit-taking institutions, and life insurance institutions.

Program 2.2 deliverables	Key performance indicators	2011–12 achievements
<p>Provide an accurate register of unclaimed money and special accounts administered by ASIC.</p>	<p>Ensure that refunds of unclaimed money are paid to successful claimants promptly</p> <p>Ensure that payments of money from special accounts are paid out promptly in accordance with the specified purposes or appropriate legislation</p>	<p>ASIC received \$108 million in unclaimed money. Nearly \$57 million was paid out in claims.</p> <p>ASIC contacted 28,468 potential owners of unclaimed money, resulting in \$3.8 million being returned to 1,102 claimants.</p>

Portfolio Budget Statements continued

Agency resource statement 2011–12

		Actual available appropriation for 2011–12 (\$'000s)	Cash payments made ¹ 2011–12 (\$'000s)	Balance remaining 2011–12 (\$'000s)
Ordinary annual services²				
Departmental				
Departmental appropriation ³		426,838	373,439	53,399
Administered expenses				
Outcome 1 – Assetless Administration Fund		3,471	1,952	NA
Total ordinary annual services	A	430,309	375,391	NA
Other services				
Departmental non-operating				
Equity injections ⁴		6,462	3,908	2,554
Total other services	B	6,462	3,908	2,554
Total available annual appropriations (A+B)		436,771	379,299	NA
Special appropriations limited by criteria/amount				
<i>Banking Act 1959</i>		NA	32,769	NA
<i>Life Insurance Act 1995</i>		NA	4,602	NA
Total special appropriations	C	NA	37,371	NA
Total appropriations excluding Special Accounts (A+B+C)		436,771	416,670	NA
Special Account⁵				
Opening balance		4,494	NA	NA
Appropriation receipts		30,000	NA	NA
Payments made		NA	14,408	NA
Total Special Account	D	34,494	14,408	NA
Total resourcing (A+B+C+D)		471,265	431,078	NA
Less appropriations drawn from annual appropriations above and credited to Special Accounts		(30,000)	–	NA
Total net resourcing for ASIC		441,265	431,078	NA

Note: NA means not applicable.

1 Does not include GST.

2 Appropriation Bill (No. 1) 2011–12, prior year departmental appropriation and s31 relevant agency receipts.

3 Includes \$58.6m for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

4 Appropriation Bill (No. 2) 2011–12.

5 Does not include Special Public Money.

Expenses by outcome

	Budget ¹ 2011–12 (1) (\$'000s)	Actual expenses 2011–12 (2) (\$'000s)	Variance column (1) minus column (2) (\$'000s)
Outcome 1: Improved confidence in financial market integrity and protection of investors and consumers through research, policy, education, compliance and deterrence that mitigates emerging risks			
A Administered expenses funded by administered appropriations	3,471	1,823	1,648
B Departmental expenses funded by departmental appropriations and own-source revenue	254,120	249,534	4,586
Total for Outcome 1 (A + B)	257,591	251,357	6,234
Average FTE²	1,152	1,128	24
Outcome 2: Streamlined and cost-effective interaction and access to information for business and the public, through registry, licensing and business facilitation services			
A Administered expenses funded by administered appropriations or expenses not requiring appropriation	72,951	80,411	(7,460)
B Departmental expenses funded by departmental appropriations and own-source revenue	137,434	134,954	2,480
Total for Outcome 2 (A + B)	210,385	215,365	(4,980)
Average FTE²	623	610	13

1 Based on the 2011–12 forecast as set out in ASIC's 2012–13 Portfolio Budget Statements.

2 2012–13 Portfolio Budget Statements quoted the average staffing level which is different to FTE. The average staffing level includes employees working on capital projects while the FTE excludes employees working on capital projects.

Six-year summary of key stakeholder data

Summary of key stakeholder data, 2006–12

Business data	2011–12	2010–11	2009–10	2008–09	2007–08	2006–07
Companies (total)	1,921,545	1,839,772	1,768,526	1,700,891	1,645,805	1,572,954
New companies registered	176,062 ¹	163,276 ¹	157,667	137,410	149,403	156,424
Australian financial services (AFS) licensees	4,955	4,883	4,874	4,803	4,768	4,625
Authorised financial markets	18	17	16	16	17	17
Licensed clearing and settlement facilities	5	5	5	5	5	5
Registered company auditors	4,985	5,114	5,207	5,345	5,495	5,658
Registered liquidators	680	669	664	660	674	689
Registered managed investment schemes	4,289	4,270	4,339	4,651	5,108	4,680
Credit licences	6,004	6,081	n/a	n/a	n/a	n/a
Fundraising documents lodged	799	957	880	776	1,011	960
Product disclosure 'in use' notices	4,758	4,593	4,698	6,390	9,708	10,066
Takeovers	55	72	73	47	113	65
Criminals jailed	20	16	12	19	23	21
Fundraising where ASIC required additional disclosure	\$7bn	\$3.4bn	\$6bn	\$4bn	\$3bn	\$17bn
Recoveries, costs, compensation, fines or assets frozen	\$19.8m	\$113m	\$302m	\$28m	\$146m	\$140m
% successful litigation	92%	90%	91%	90%	94%	97%
Litigation concluded	179	202	156	186	280	430
Reports of crime or misconduct	12,516	15,634	13,372	13,633	11,436	10,682
Total searches of ASIC databases	71.2m	68.5m	61m	60m	51m	55m
% company data lodged on time	95%	95%	95%	95%	95%	95%
Fees and charges collected for the Commonwealth	\$664m	\$622m	\$582m	\$552m	\$545m	\$519m
Staff (average FTEs)	1,738	1,893	1,932	1,698	1,669	1,610

¹ Successful and completed applications.

Reports required under statute and other requirements

Australian Securities and Investments Commission Act 2001

As required by s136(2)(e), ASIC reports that in 2011–12 it did not exercise its powers under Part 15 of the *Retirement Savings Account Act 1997* or under Part 29 of the *Superannuation Industry (Supervision) Act 1993*. No relevant applications were received.

As required under s136(2)(g), ASIC reports that during the year it conducted inspections of two Australian audit firms jointly with the United States Public Company Accounting Oversight Board (PCAOB) under the terms of an agreement between the two organisations. ASIC also conducted inspections of two Australian audit firms jointly with the Canadian Public Accountability Board (CPAB) under an agreement with that organisation.

In connection with these joint inspections, ASIC shares certain information with the PCAOB and CPAB under s11(14) of the ASIC Act. The inspections focus on audit quality and include reviews of firms' quality control systems relating to audit, auditor independence systems, and working papers for selected audit engagements. ASIC also shared information with CPAB under s11(14) of the ASIC Act for the purposes of an inspection of an Australian audit firm conducted separately by CPAB.

Commonwealth fraud control guidelines

In 2010–11, ASIC prepared a fraud risk assessment and updated its fraud control policy and plan for 2010–12. ASIC has appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes in place to minimise the effects of fraud and to comply with the Commonwealth fraud control guidelines.

Compensation for detriment caused by defective administration

Payments made in 2011–12 under the Compensation for Detriment caused by Defective Administration (CDA) scheme totalled \$2,590.

External scrutiny of agency

Judicial decisions and decisions of administrative tribunals

Australian Securities and Investments Commission v Hellicar (2012) 286 ALR 501; [2012] HCA 17

ASIC was granted special leave by the High Court to appeal the NSW Court of Appeal's decision in the James Hardie matter. The High Court overturned the Court of Appeal's decision, finding that while ASIC had an obligation to act as a model litigant, that obligation did not encompass a duty to call all material witnesses. The High Court also upheld the finding of the trial judge that the directors of James Hardie did approve the draft ASX announcement made by the company and, in doing so, breached their duty to the company.

Parliamentary Joint Committee reports

There were four ASIC oversight reports between 1 July 2011 and 30 June 2012.

Additionally, the Parliamentary Joint Committee on Corporations and Financial Services tabled reports on:

- ♦ Corporations Amendment (Future of Financial Advice) Bill 2011 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011
- ♦ Inquiry into the collapse of Trio Capital
- ♦ Superannuation Legislation Amendment (Stronger Super) Bill 2012; and Superannuation Supervisory Levy Imposition Amendment Bill 2012
- ♦ Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011
- ♦ Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012
- ♦ Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011.

Reports required under statute and other requirements continued

Senate Economics Committee

The Senate Economics Committee noted ASIC's annual report and noted ASIC's provision of answers to Questions on Notice.

Reports by Auditor-General

Establishment and use of procurement panels (Audit Report No. 31 2011–12)

ASIC was one of three *Financial Management and Accountability Act 1997* (FMA Act) agencies subject to performance audit No.31 2011–12, 'Establishment and Use of Procurement Panels'.

The objective of the audit was to assess the extent to which FMA Act agencies' establishment and use of procurement panels supported value for money, efficiency and effectiveness in procurement.

The Australian National Audit Office (ANAO) made three key recommendations.

ASIC accepted ANAO's findings and agreed with the key recommendations contained in the report, noting that ASIC's recent procurement reforms have addressed many of the issues identified by ANAO.

Development and approval of grant program guidelines (Audit Report No. 36 2011–12)

The Development and Approval of Grant Program Guidelines audit assessed the implementation and effectiveness of the enhanced grants administration requirements relating to the development and approval of new grant guidelines and revision of existing grant guidelines.

As one of the agencies subject to the cross-agency audit, ASIC accepted ANAO's findings, and agreed with the key recommendations contained in the report.

These reports can be accessed online at www.anao.gov.au.

Freedom of Information Act

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

Applications must be in writing, stating the documents requested.

Requests by email should be sent to: foirequest@asic.gov.au

or you may lodge a mail request to:

The Senior Manager
Administrative Law Team
GPO Box 9827
Sydney NSW 2001

For further information on how to apply, visit www.asic.gov.au.

Categories of documents in ASIC's possession include:

in relation to operational matters:

- ♦ 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;

in relation to other matters:

- ♦ 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 staff 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 database information (ASCOT).

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, class orders and other regulatory publications on the ASIC website, www.asic.gov.au. 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, phone 1300 304 197.

Documents available to the public through ASIC's website, ASCOT or ASIC Digest and library material maintained for reference purposes are not available under the FOI Act.

Agencies subject to the FOI Act are required to publish information for the public as part of the Information Publication Scheme (IPS). This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a s8 statement in an annual report. ASIC's Information Publication Plan, showing what information is published in accordance with the IPS requirements is accessible at www.asic.gov.au/IPS.

Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Australian Government and administered by ASIC. It funds preliminary investigations and reports by liquidators into the failure of companies that have few or no assets, where it appears that enforcement action may result from the investigation and report.

Liquidators can seek funding from the AA Fund to carry out an investigation and to report in circumstances where they believe director bannings may be appropriate or in other circumstances, such as where they believe there is or may be evidence of possible offences or other misconduct in relation to the Corporations Act.

The funding allocation for 2011–12 was \$3.5 million. This year the grant scheme received 466 banning (EX02) applications, a record number. Funded reports assisted in approximately 54% of director bannings in 2011–12.

Consultancies and expenditure on advertising

Commonwealth Electoral Act 1918

Section 311A of the *Commonwealth Electoral Act 1918* requires agencies to report on expenditure to advertising agencies, market research organisations, polling organisations and direct mail organisations. Sums less than \$11,900 are not required to be reported. All sums are GST inclusive, and are actual expenditure, for 2011–12.

During 2011–12, ASIC conducted the advertising campaigns listed below. Further information on those advertising campaigns is available at www.moneysmart.gov.au and in the reports on Australian Government advertising prepared by the Department of Finance and Deregulation. Those reports are available at www.finance.gov.au/advertising/index.html.

Expenditure on advertising agency services, 2011–12

Advertising agency	Expenditure	Purpose
Adcorp	\$135,000	Google Adwords – Promote MoneySmart website
Universal McCann	\$15,531	Google Adwords – Mortgage health
Universal McCann	\$70,000	Radio advertising – Culturally and linguistically diverse campaign – Credit outreach
Universal McCann	\$1,397,000	MoneySmart campaign
Universal McCann	\$41,000	Reprise media – Search engine marketing
Spinach Advertising	\$148,479	MoneySmart campaign

Expenditure on market and professional research and media advice

Agency	Expenditure	Purpose
Susan Bell Research	\$29,896	Research services for advisory panel
Roy Morgan Research Ltd	\$400,000	Demand-side market research database
ORIMA Research Pty Ltd	\$42,300	Research and surveys
GFK Blue Moon Research & Planning P/L	\$29,975	Procurement for provision of research services for consumer testing of the <i>Financial decisions at retirement</i> guide
TimeBase Pty Ltd	\$52,900	Electronic research services

Managing procurement

The *Financial Management and Accountability Act 1997* (FMA Act) and Financial Management and Accountability Regulations 2010 (FMA Regulations) primarily govern ASIC’s use of Commonwealth resources and expenditure of public money. Responsibility for compliance with the Commonwealth Procurement Guidelines (CPG) lies with the appropriate financial delegates. The delegates are supported by a central procurement team of qualified procurement officers who:

- develop and maintain ASIC’s procurement processes and systems, which are designed to promote compliance with the FMA Act, FMA Regulations and the CPG for all levels of procurement, and
- manage complex and high-risk procurement activities, including procurements that are subject to the Mandatory Procurement Procedures of the CPG.

ASIC's procurement framework aims to facilitate compliance with the core principles and policies of the CPG, including 'Value for Money', 'Encouraging Competition', 'Efficient, Effective and Ethical Use of Resources' and 'Accountability and Transparency'. ASIC undertakes regular audits of procurement and any instances of non-compliance reported through the CEO certification process are addressed as required through process improvement initiatives.

All major contracts entered into in 2011–12 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

Using AusTender

ASIC advertises all open tender opportunities through the AusTender website: www.tenders.gov.au.

During 2011–12, ASIC implemented eight standing offer arrangements and awarded 394 procurement activities (each valued \$10,000 or more reported on AusTender), for a total value of \$70,191,633. Of these procurements, 152 were valued in excess of \$80,000, for a total value of \$61,969,000.

Contracts of \$100,000 or more were reported on ASIC's website, 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. ASIC's annual procurement plan was published on AusTender by 1 July 2011 and updated in January 2012.

There were no contracts which were exempted from the contract reporting requirements.

Consultancy contracts

During 2011–12, 27 new consultancy contracts were entered into, involving total actual expenditure of \$2.828 million. In addition, six ongoing consultancy contracts were active during the year, involving total actual expenditure of \$1.704 million.

Consultancy trend data

	2011–12	2010–11	2009–10
Number of new consultancies	27	51	55
Expenditure on new consultancies (millions)	\$2.828	\$1.976	\$3.59
Number of ongoing consultancies	6	56	27
Expenditure on ongoing consultancies (millions)	\$1.704	\$2.282	\$5.60

Note: The above figures are GST inclusive and include all consultancies valued over \$10,000 as indicated on AusTender. 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: www.tenders.gov.au.

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally and business units seeking to engage consultants are required to prepare a business case seeking funding. Requests to engage consultancies must show the link to outcomes (set out in the business unit's business plan) and how the engagement will contribute to ASIC's strategic priorities. Once the engagement of a consultant is approved, the procurement method used will be in accordance with the CPG and ASIC's procurement policies.

All of the 28 consultancies engaged by ASIC during 2011–12 were for specialised or professional skills not available within the business unit. The method of procurement used was open tender for 13 engagements (including engagements from panels), select tender for nine engagements and direct source for six engagements.

The main categories for which the consultants were engaged were:

- ♦ information technology
- ♦ market research
- ♦ business intelligence
- ♦ legal services.

Significant compulsory information-gathering powers

From 2010–11, ASIC has reported the use of our compulsory information-gathering powers under statute. This appendix discloses data by number of instances in 2011–12, with comparative data for the previous year.¹

Significant compulsory information-gathering powers by number of instances		No. of notices 2011–12	No. of notices 2010–11
Appear for examination			
s19 ASIC Act	Requirement to appear for examination	433	616
s58 ASIC Act	Power to summons a witness and take evidence	1	0
Give reasonable assistance			
s1317R Corporations Act	Power to require assistance in prosecutions	67	37
s253 NCCP Act ²	Requirement to provide reasonable assistance	98	11
s49(3) ASIC Act	Power to require reasonable assistance in a prosecution	31	42
s51 NCCP Act	Requirement to provide reasonable assistance	0	1
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	28	33
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	653	608
Produce documents			
s266 NCCP Act	Requirement to produce books (credit activities)	167	145
s267 NCCP Act	Requirement to produce books	274	80
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	1,074	1,216
s31 ASIC Act	Notice to produce books about financial products	212	366
s32A ASIC Act	Notice to produce books about financial services	3	4
s33 ASIC Act	Notice to produce books in person's possession	863	2,044
Provide information			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	4	3
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	1	0
s49(1) NCCP Act	Requirement to provide information (statement)	30	69
s912C Corporations Act	Power to require information from an AFS licensee	276	305
Item 17 Schedule 2 NCCP Act	Power to require information (obtain statement or audit report)	0	57
s672A Corporations Act	Power to require disclosure of relevant interests	68	21
s672B Corporations Act	Power to require disclosure of relevant interests	1	21
s37(4) NCCP Act	Power to request information or audit report from licence applicant	0	2
s792D Corporations Act	Power to require reasonable assistance from a market licensee	11	4
Provide information and books			
s30A ASIC Act	Notice to auditors requiring information or books	43	29
Search warrants			
sS3E Crimes Act (Cth)	Warrants to search premises/conveyance or person	38 ³	6

¹ In this financial year, there have been two challenges to the use of our compulsory information-gathering powers, both through the court system. The first challenge involved a defendant in criminal proceedings wanting to inspect documents in possession of a third party. ASIC served a notice on the third party under s49(3) of the ASIC Act, requiring them to give reasonable assistance to ASIC. The application was withdrawn by the applicant prior to the hearing and the applicant agreed to pay ASIC's costs.

In the other matter, an application was made to have a s19 ASIC Act notice set aside. The application was dropped by the applicant prior to a hearing and they agreed to pay costs.

There were no other challenges via the Ombudsman or through the Professional Standards Unit.

² *National Consumer Credit Protection Act 2009*.

³ Of the 38 warrants issued (in relation to individual investigations), 35 were exercised.

Major enforcement outcomes

Major enforcement outcomes by type of action are summarised in the following table.

Major enforcement outcomes

Type of action	2011-12	2010-11
Litigation completed (total)	179	202
Litigation completed successfully	92%	90%
New litigation commenced	134	130
Investigations commenced	173	175
Investigations completed	183	184
Criminal proceedings completed	28	26
No. of people convicted	27	25
No. of people jailed	20	16
Non-custodial sentences/fines	8	9
Civil proceedings completed	24	34
Illegal schemes shut down or other action taken	1	30
People disqualified or removed from directing companies	84	72
People/companies banned from financial services or consumer credit	54	64
Action against auditors/liquidators	7	5
No. of enforceable undertakings	22	14
Negotiated outcomes	17	24

Glossary

AFS licence	Australian financial services licence
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASIC Connect	ASIC's online portal for business name registration and searching companies, business names and other registers
Assetless Administration Fund	A grant scheme established by the Australian Government and administered by ASIC. It funds preliminary investigations and reports by liquidators into the failure of companies that have few or no assets
ASX	ASX Limited
Business Names Register	ASIC's new national business names registration service, which replaces the previous state and territory services so that businesses only need to register their name once to be registered throughout Australia. The Business Names Register was launched on 28 May 2012
CFD	Contract for difference
Chi-X	Chi-X Australia Pty Limited
Clean Energy Legislative Package	This legislation is intended to create incentives to reduce pollution and encourage companies to invest in clean energy by putting a price on carbon. The system introduces a fixed price per tonne of carbon in 2012, before moving to a full emissions trading scheme by 2015
Corporations Act	<i>Corporations Act 2001</i>
Dark pools or dark liquidity	A type of matching system characterised by the absence of pre-trade transparency, meaning that bids and offers are not made publicly available as is the case with, for example, the ASX's central order limit book
Derivative	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index. Common derivatives include options and futures contracts
ePayments Code	A best practice consumer protection regime for electronic payment facilities, which commenced on 20 September 2011 and replaces the Electronic Funds Transfer Code of Conduct
FOFA reforms	The Government's Future of Financial Advice reforms, which aim to improve the conduct of financial advisers and the way that retail clients engage with advisers and advice. Some elements of the reforms came into force on 1 July 2012, with compliance mandatory from July 2013
FX contract	Foreign exchange contract
High-frequency trading	The use of high-speed computer programs to generate, route and execute orders on markets
IOSCO	International Organization of Securities Commissions

MoneySmart	MoneySmart is ASIC's consumer website. It provides money tips and tools and aims to help consumers and investors make financial decisions that improve their lives
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
OTC	Over the counter
PDS	Product Disclosure Statement
Phoenix activity	Typically, phoenix activity involves transferring the assets of a company (the previous company) to a subsequent company in circumstances where the previous company was unable to pay its debts, and the transfer may have been conducted in a manner so as to deprive unsecured creditors equal access to its assets, and there is a connection between the management or shareholding of the previous company and the subsequent company
PPS Register	The Personal Property Securities Register, which commenced on 30 January 2012 and is maintained by the Insolvency and Trustee Service Australia (ITSA). The PPS Register replaced ASIC's register of company charges as well as various other state and territory registers of personal property
Shorter PDS regime	The shorter Product Disclosure Statement regime, which came into force on 22 June 2012 and aims to make PDSs simpler
SMSF	Self-managed superannuation fund
Stronger Super reforms	The Stronger Super reforms are the Government's response to the review of Australia's superannuation system (Super System Review). The Stronger Super reforms were announced by the Minister for Financial Services and Superannuation and the then Assistant Treasurer, the Hon Bill Shorten MP, on 16 December 2010

Compliance index

Part of Report	Description	Requirement	Location (page/s)
	Letter of transmittal	Mandatory	1
	Table of contents	Mandatory	inside cover
	Index	Mandatory	157
	Glossary	Mandatory	152–3
	Contact officer(s)	Mandatory	160
	Internet home page address and Internet address for report	Mandatory	160
	Review by departmental secretary	Mandatory	2–6
	Summary of significant issues and developments	Suggested	2–6
	Overview of department's performance and financial results	Suggested	2–6, 16–17
	Outlook for following year	Suggested	6
Review by Secretary	Significant issues and developments – portfolio	Portfolio departments – suggested	NA
	Role and functions	Mandatory	10
	Organisational structure	Mandatory	11–12
	Outcome and program structure	Mandatory	2, 17–19
	Where outcome and program structures differ from PB Statements/PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	Mandatory	137
Departmental overview	Portfolio structure	Portfolio departments – mandatory	NA
Report on performance	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	22–54
	Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	137–141
	Where performance targets differ from the PBS/PAES, details of both former and new targets, and reasons for the change	Mandatory	137
	Narrative discussion and analysis of performance	Mandatory	22–54
	Trend information	Mandatory	144
	Significant changes in nature of principal functions/services	Suggested	NA
	Performance of purchaser/provider arrangements	If applicable, suggested	NA
	Factors, events or trends influencing departmental performance	Suggested	6
	Contribution of risk management in achieving objectives	Suggested	3–4, 18–19, 23–24, 33–35, 56
	Social inclusion outcomes	If applicable, mandatory	NA
	Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	50–52

Part of Report	Description	Requirement	Location (page/s)
Report on performance (continued)	Discussion and analysis of the department's financial performance	Mandatory	16–17
	Discussion of any significant changes from the prior year, from budget or anticipated to have a significant impact on future operations	Mandatory	2–6
	Agency resource statement and summary resource tables by outcomes	Mandatory	142
Corporate governance	Agency heads are required to certify that their agency comply with the Commonwealth Fraud Control Guidelines.	Mandatory	145
	Statement of the main corporate governance practices in place	Mandatory	132–133
	Names of the senior executive and their responsibilities	Suggested	7–8, 11–12
	Senior management committees and their roles	Suggested	11–12, 132–133
	Corporate and operational planning and associated performance reporting and review	Suggested	
	Approach adopted to identifying areas of significant financial or operational risk	Suggested	
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	2, 56
	How nature and amount of remuneration for SES officers is determined	Suggested	
External scrutiny	Significant developments in external scrutiny	Mandatory	145–147
	Judicial decisions and decisions of administrative tribunals	Mandatory	145
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory	145–146
Management of human resources	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	56
	Workforce planning, staff turnover and retention	Suggested	
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and AWAs	Suggested	
	Training and development undertaken and its impact	Suggested	56
	Work health and safety performance	Suggested	56
	Productivity gains	Suggested	
	Statistics on staffing	Mandatory	57–61
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	57
	Performance pay	Mandatory	57
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	NA
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	148–149

Compliance index continued

Part of Report	Description	Requirement	Location (page/s)
Consultants	The annual report must include a summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST). The annual report must include a statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	148–149
Australian National Audit Office access clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	149
Exempt contracts	Contracts exempt from the AusTender	Mandatory	149
Financial statements	Financial Statements	Mandatory	67–130
Other mandatory information	Work health and safety (Schedule 2, Part 4 of the <i>Work Health and Safety Act 2011</i>)	Mandatory	56
	Advertising and Market Research (s311A of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	Mandatory	148
	Ecologically sustainable development and environmental performance (s516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	Mandatory	65–66
	Compliance with the agency's obligations under the <i>Carer Recognition Act 2010</i>	If applicable, mandatory	NA
	Grant programs	Mandatory	147
	Disability reporting – explicit and transparent reference to agency-level information available through other reporting mechanisms	Mandatory	56
	Information Publication Scheme statement	Mandatory	147
	Correction of material errors in previous annual report	If applicable, mandatory	NA
	List of requirements	Mandatory	154–156

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Annual report contact officer

Senior Manager, Publishing
phone: **02 9911 5829**
email: **peter.richardson@asic.gov.au**

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To contact ASIC by mail

For all correspondence with ASIC Commissioners, stakeholder teams, enforcement, corporate affairs, chief legal office and administration:

ASIC, GPO Box 9827 in your capital city

For registry and licensing matters, including company annual statements, notification of changes to company or licence details, routine company or licence compliance, document lodgements, deregistration and reinstatements:

ASIC, PO Box 4000
Gippsland Mail Centre, VIC 3841

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