



**ASIC**  
Australian Securities &  
Investments Commission



# ASIC enforcement and regulatory update: April to June 2023

Report 767 | August 2023

## About this report

This report provides an overview of ASIC's work and key matters between 1 April and 30 June 2023.

# Contents

Executive summary	3
Protecting consumers and investors	4
Acting against misconduct	9
Summary of enforcement outcomes	12
Strengthening market integrity	13
Fostering industry compliance	18
Regulatory developments timetable	21

## **About ASIC regulatory documents**

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

## **Disclaimer**

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

## Executive summary

In the second quarter of 2023, we continued to use our enforcement and regulatory tools to protect consumers and investors from financial harm, and uphold the integrity of Australia's financial markets, delivering against our strategic and enforcement priorities.

This report details key enforcement and regulatory action taken between April and June 2023. It includes our court-based and non-court-based enforcement action, as well as our work to strengthen market integrity and foster industry compliance.

We have also summarised our enforcement outcomes from January to June 2023, and provided an updated regulatory developments timetable to help stakeholders understand proposed timeframes for ASIC's upcoming activities.

[Previous reports](#) can be found on our website.

*'Financial services laws exist for the protection of investors. Anyone who recommends financial products or provides financial advice on social media must ensure they are complying with the law and may face ASIC enforcement action when they are not.'*

– Sarah Court, Deputy Chair, ASIC

# Protecting consumers and investors

An ongoing focus for ASIC is protecting consumers from financial harm. In the last quarter, we took action against potential misconduct and non-compliant activities related to concerns about predatory lending, high-cost credit, greenwashing, unfair contract terms, and insurance pricing failures.

Insurance Australia Limited (IAL), one of Australia's largest general insurers, was penalised \$40 million by the Federal Court in June – the largest ever penalty against an insurer for breaches of consumer protection laws. We also issued a report that revealed that systemic pricing failures would result in general insurers repaying \$815 million to over 5.6 million consumers and called on boards of general insurers to implement fixes needed to rebuild consumer trust.

We commenced civil penalty proceedings against car finance provider Money3 Loans Pty Ltd. We allege that Money3 failed to properly assess whether borrowers, including First Nations peoples, could meet their repayment obligations before entering into loan contracts for the purchase of second-hand vehicles.

We issued our first interim stop orders against superannuation and insurance products, due to deficiencies in their target market determinations (TMDs) under the design and distribution obligations.

We also released an update about our recent greenwashing interventions and called on all financial institutions to improve their approaches to handling scams.

## Enforcement priorities

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Enforcement action targeting poor design, pricing and distribution of financial products



Misleading conduct in relation to sustainable finance, including greenwashing



Failures by providers of general insurance



Protecting financially vulnerable consumers



Misconduct in the superannuation sector



Unfair contract terms



Combating and disrupting investment scams



Misconduct impacting First Nations peoples

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## Enforcing product design and distribution obligations

In May, we called on investment product issuers to 'lift their game' after an initial, risk-based review found significant room for improvement in how they meet their design and distribution obligations.

[Report 762](#) *Design and distribution obligations: Investment products (REP 762)* found that a significant number of the product issuers made deficient TMDs. The TMDs reviewed were characterised by poorly defined target markets and unclear or inadequate product governance arrangements. A TMD is a mandatory public document under the design and distribution obligations that sets out:

- › the class of consumers a financial product is likely to be appropriate for, and
- › matters relevant to the product's distribution and review.

We prioritised our review of investment products because we were concerned that issuers were inappropriately exposing investors to high-risk products.

Between April and June 2023, we issued interim stop orders in relation to a range of financial products.

These included:

- › CVC Limited's CVC Notes 2
- › certain Saxo Capital Markets (Australia) Limited's contracts for difference (CFDs) for retail clients
- › superannuation product Spaceship Super and three managed funds promoted by Spaceship Capital Limited
- › margin foreign exchange contracts and contracts for difference offered by Mitrade Global Pty Ltd
- › Humm BNPL Pty Ltd's buy now pay later (BNPL) product

- › 67 pet insurance products issued by The Hollard Insurance Company Pty Ltd and PetSure (Australia) Pty Ltd across different levels of cover.

The order made against Spaceship Super was the first interim stop order on a superannuation product under the design and distribution obligations, while the intervention into Humm's BNPL product was our second credit-related design and distribution stop order. Separately, we issued 38 interim stop orders against 67 pet insurance products, which was the first use of ASIC's stop order powers in response to deficiencies in a TMD for an insurance product under the obligations.

The interim stop orders specified above were ultimately revoked following the entities taking steps to address ASIC's concerns.

### Read more

[23-115MR](#) *ASIC calls on investment product issuers to 'lift their game' on design and distribution obligations (3 May 2023)*

[23-092MR](#) *CVC Limited makes changes to TMD following ASIC stop order (11 April 2023)*

[23-127MR](#) *Saxo Capital Markets amends TMDs following ASIC stop orders (18 May 2023)*

[23-140MR](#) *ASIC halts offer of Spaceship Super and Spaceship Voyager Funds (2 June 2023)*

[23-141MR](#) *ASIC issues first DDO stop order for failure to take reasonable steps in CFD distribution (2 June 2023)*

[23-142MR](#) *ASIC issued interim stop order on Humm following buy now pay later review (2 June 2023)*

[23-174MR](#) *ASIC issues 38 DDO stop orders for pet insurance products (29 June 2023)*

## Calling for improvement in delivering pricing promises and insurance promises

In June, we released [Report 765](#) *When the price is not right: Making good on insurance pricing promises* (REP 765). The report revealed that ongoing pricing failures will result in general insurers repaying \$815 million to over 5.6 million consumers, across 6.5 million policies.

This quarter the Federal Court also handed down the largest penalty so far against an insurer for breaches of the financial services consumer protection laws. IAL was penalised \$40 million for failing to honour discount promises made to customers who held NRMA-branded insurance policies.

The court found IAL made false or misleading representations to over 600,000 customers between March 2014 and September 2019. IAL failed to deliver the full amount of loyalty and no-claims bonus discounts they had promised to customers when they renewed their NRMA-branded motor, home, boat and caravan insurance policies.

Separately, MLC Limited received a \$10 million penalty in May for failing to pay promised benefits, resulting from a lack of appropriate systems to administer its insurance policies.

In addition to the \$10 million penalty, MLC has provided approximately \$11.8 million in remediation to approximately 1,000 impacted customers.

### Read more

[23-169MR](#) *General insurers to repay consumers \$815 million for broken pricing promises* (23 June 2023)

[23-179MR](#) *IAL penalised \$40 million over pricing discount failures* (30 June 2023)

[23-128MR](#) *MLC Life Insurance penalised \$10 million for misleading customers and failing to provide benefits* (19 May 2023)

*'It is beyond disappointing that despite past ASIC warnings and action, it took our further direction in late 2021 for general insurers to comprehensively find, fix and repay their customers for these broken promises. Earlier action by insurers would have avoided much of the consumer harm we now see, with \$815 million in remediation.'*

– Karen Chester, Deputy Chair, ASIC

## Penalty for charging fees to deceased customers

In May, the Federal Court found four companies that are or were part of the AMP Group breached the law when charging life insurance premiums and advice fees from the superannuation accounts of more than 2,000 deceased customers.

The Federal Court ordered two of these AMP companies to pay a combined penalty of \$24 million for the breaches.

The AMP companies had been notified that these customers had died and, despite this, continued to charge premiums and fees on their superannuation accounts. Both AMP Life Limited and AMP Financial Planning admitted that they engaged in unconscionable conduct by deducting and/or failing to properly refund insurance premiums and advice fees respectively from superannuation members after being notified of their deaths.

### Read more

[23-129MR](#) *Court penalises AMP \$24 million for charging deceased customers* (19 May 2023)



## Deterring greenwashing

In May, we released [Report 763](#) ASIC's recent greenwashing interventions (REP 763). The report sets out the 35 interventions we made against greenwashing in the nine months to March 2023. These included 23 corrective disclosure outcomes, 11 infringement notices, and in one case, the commencement of civil penalty proceedings.

The report provided transparency on why and how we intervened, alongside the corrective outcomes of our actions. It also identified the increasing levels of representations on environmental, social and governance credentials by listed companies, managed funds and superannuation funds.

Separately, we issued an infringement notice in April to superannuation fund promoter, Future Super Investment Services Pty Ltd, as we were concerned that one of its Facebook posts may have been false or misleading by overstating the positive environmental impact of its Future Super Fund. Future Super Investment Services paid the infringement notice. Payment of an infringement notice is not an admission of guilt or liability.

### Read more

[23-121MR](#) Update on ASIC's recent greenwashing actions (10 May 2023)

[23-110MR](#) ASIC issues infringement notice to superannuation fund promoter for greenwashing (2 May 2023)

*'All 35 of our interventions are aimed squarely at promoting fair and transparent markets so that retail investors and financial consumers are well informed and not misled on the "green credentials" of investments and listed companies.'*

– Karen Chester, Deputy Chair, ASIC

## Acting against unlawful conduct in credit

In May, the Federal Court ordered Layaway Depot Pty Ltd to pay a penalty of \$375,000. The court found that Layaway engaged in unlicensed credit activity and charged excessive interest rates on 70 loans taken out by consumers to buy electronic goods.

The court also ordered an injunction to permanently restrain Layaway from engaging in credit activity and entering into credit contracts with an annual cost rate that exceeds 48%. Layaway consented to the orders being made.

We started civil penalty proceedings in the Federal Court in May against car finance provider Money3. We alleged Money3 breached its responsible lending obligations when providing finance for the purchase of second-hand vehicles.

We allege that in the period between May 2019 and February 2021, Money3 failed to properly assess whether certain borrowers, including First Nations peoples, could meet their repayment obligations before entering into loan contracts for the purchase of second-hand vehicles. Each of these consumers, and a substantial proportion of Money3 customers, were either receiving Centrelink payments as their sole income or were on low incomes.

### Read more

[23-139MR](#) Layaway penalised \$375,000 for providing high-cost credit and unlicensed credit activity (2 June 2023)

[23-126MR](#) ASIC sues Money3 Loans for responsible lending breaches (17 May 2023)

## Financial institutions urged to improve approach to scams

In April, we called on all financial institutions to improve their approaches to handling scams. Our latest analysis revealed that scam losses for major bank customers exceeded \$550 million last financial year and impacted over 31,700 customers.

These figures are set out in [Report 761 Scam prevention, detection and response by the four major banks \(REP 761\)](#), which examined the approaches taken by the major banks to prevent, detect and respond to scams.

We strongly encourage all financial services businesses to consider the findings in the report.

We also published an alert in June to warn investors about suspicious 'investment opportunities' offered on [www.cambridgeassetmanagement.com](http://www.cambridgeassetmanagement.com). We have received reports that Australian consumers who invested their superannuation through the website were unable to withdraw the funds they invested.

Combating scams is an ASIC and government priority. We will continue our work with the new National Anti-Scams Centre and other regulators, ASIC-regulated entities, and internet service providers to disrupt scams.

### Read more

[23-101MR](#) ASIC calls for improved approaches to scams as major bank customers report over \$550 million in scam losses (20 April 2023)

[Alert: Suspicious website – Do not deal with \[www.cambridgeassetmanagement.com\]\(http://www.cambridgeassetmanagement.com\)](#) (29 June 2023)

*'Combating scams is a critical task for all of corporate Australia – financial institutions, telecommunication providers, digital platforms and other organisations need to work cohesively to stop scams at the source.'*

– Sarah Court, Deputy Chair, ASIC

## Addressing unfair contract terms

In April, we commenced our first case alleging unfair contract terms in an insurance contract. The case involves standard form home and contents insurance contracts issued by Auto & General Insurance Company Limited.

The following month, we initiated another proceeding alleging unfair and misleading contract terms in insurance policies issued by HCF Life Insurance Company Pty Limited.

### Read more

[23-088MR](#) ASIC sues Auto & General Insurance Company for alleged unfair contract terms in insurance (4 April 2023)

[23-123MR](#) ASIC sues HCF Life for alleged unfair and misleading contract terms in insurance (12 May 2023)



# Acting against misconduct

ASIC remains committed to being a strong and active litigator against misconduct. We continue to actively target cases of high deterrent value and those involving egregious harm.

During the quarter, we acted against misconduct across the financial system, including breaches by directors and self-managed superannuation fund (SMSF) auditors of their duties and obligations.

Our key highlights include permanent injunctions made by the Federal Court against a social media 'influencer' from carrying on a financial services business in Australia, and the sentencing of a former financial adviser to six years imprisonment for committing fraud.

## Enforcement priorities



Protecting financially vulnerable consumers



Governance and directors' duties failures



Misconduct that involves misinformation through social media

## Deterring financial adviser misconduct

In April, former financial adviser Brett Gordon was sentenced to six years imprisonment with eligibility for parole after one and a half years. Mr Gordon had plead guilty to nine counts of fraud, totalling \$652,500.

Mr Gordon was the director and financial adviser of his financial planning business, Refocus Financial Group Pty Ltd. Between 2015 and 2018 he withdrew funds without authorisation from his clients' SMSF accounts and from Diverse Capital Management Pty Ltd. Diverse Capital Management held funds deposited by his SMSF clients for property development purposes. He dishonestly used those funds for personal debts and expenses, as well as for Refocus' business expenses.

Separately, we permanently banned Brisbane-based former financial adviser Kristofer Ridgway from having any involvement in financial services. We found

that Mr Ridgway, while an authorised representative of Australian financial services (AFS) licensee Shaw and Partners, had recommended his clients invest in a range of international unlisted shares sourced by McFaddens Securities Pty Ltd. Among other things, he caused some unlisted shares to be transacted between his clients at a significant price differential and used the price margin for his own benefit, including to pay personal debts.

### Read more

[23-105MR](#) *Former Queensland financial adviser Brett Gordon sentenced to six years imprisonment (25 April 2023)*

[23-095MR](#) *Former financial adviser Kristofer Ridgway permanently banned (13 April 2023)*

## Acting against breaches of directors' duties

In April, the Federal Court found four current and former directors of Endeavour Securities (Australia) Ltd (in liquidation) and Linchpin Capital Group Ltd (in liquidation) breached their duties as officers of a responsible entity of a registered managed investment scheme and did not act in the best interests of members.

We are seeking orders from the court to impose pecuniary penalties and periods of disqualification from managing corporations against the relevant current and former directors.

In May, the Federal Court fined former Australian Mines managing director, Benjamin Bell, \$70,000 and disqualified him from managing corporations for two years for breaching his duties as a director. Mr Bell admitted he failed to act with the degree of care and diligence required of a director when he gave presentations at investment conferences in Hong Kong and London and made comments that caused Australian Mines to breach its continuous disclosure obligations.

### Read more

[23-089MR](#) *Federal Court finds current and former officers of Linchpin and Endeavour breached duties* (4 April 2023)

[23-125MR](#) *Former Australian Mines managing director fined \$70,000, disqualified for two years* (12 May 2023)

*'Continuous disclosure obligations are fundamental principles of fairness and transparency that sit at the heart of Australia's financial markets. When directors fail in their obligations, they undermine these core principles and ASIC will look to take action.'*

– Sarah Court, Deputy Chair, ASIC

## Addressing breaches by SMSF auditors

Over the period 1 October 2022 to 31 March 2023, we acted against 11 SMSF auditors for breaches of their obligations. This included breaches of auditing and assurance standards, independence requirements, registration conditions, or because we were satisfied the individual was not a fit and proper person to remain registered.

In June we announced the cancellation of the registration of a further 29 SMSF auditors who failed to lodge their annual statements.

### Read more

[23-094MR](#) *ASIC continues to act against SMSF auditors* (13 April 2023)

[23-150MR](#) *ASIC cancels registration of a further 29 SMSF auditors* (6 June 2023)

## Combating unlicensed activities

In April, the Federal Court made permanent injunctions against social media influencer Tyson Robert Scholz, prohibiting him from carrying on a financial services business in Australia. In December last year the court found Mr Scholz had been carrying on a financial services business between March 2020 and November 2021 without an AFS licence.

In May, Athan Papoulias, a former contractor to and promoter of investments in the Courtenay House companies, was sentenced to two years imprisonment after he pleaded guilty to one charge of carrying on an unlicensed financial services business. Mr Papoulias will serve the sentence by way of an intensive corrections order, and was also ordered to complete 120 hours of community service.

In June, the Federal Court permanently restrained unlicensed financial adviser Monica Kaur from carrying on a financial business and ordered that her unregistered managed investment scheme be wound up. Ms Kaur has been disqualified from managing corporations for life.

### Read more









[23-096MR](#) *Permanent injunctions ordered against social media influencer Tyson Scholz* (13 April 2023)

[23-118MR](#) *Former Courtenay House contractor sentenced* (8 May 2023)

[23-155MR](#) *Federal Court winds up MKS Property and restrains director* (8 June 2023)

# Summary of enforcement outcomes

Figure 1: Summary of enforcement outcomes (1 January to 30 June 2023)

PROSECUTIONS		
<b>Commonwealth Director of Public Prosecutions (CDPP) criminal prosecutions</b>		
18	individuals charged by the CDPP in criminal prosecutions	
125	criminal charges laid against individuals prosecuted	
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14	custodial sentences, including fully suspended sentences (three people imprisoned)	
6	non-custodial sentences	
<hr/>		
<b>Internal summary prosecutions</b>		
124	individuals charged with strict liability offences in summary prosecutions	
333	criminal charges laid against individuals prosecuted for strict liability offences	
CIVIL PENALTIES		
\$109.1m	in civil penalties imposed by the courts	
<hr/>		
7	civil penalty cases commenced	
BANNINGS		
46	individuals removed or restricted from providing financial services or credit	
19	individuals disqualified or removed from directing companies	
INFRINGEMENT NOTICES AND COURT ENFORCEABLE UNDERTAKINGS		
7	infringement notices issued	
\$5.8m	in infringement notice penalties paid	
2	court enforceable undertaking accepted	
INVESTIGATIONS		
70	investigations commenced	
144	investigations ongoing	

**Note:** Figure 1 summarises all enforcement outcomes recorded between 1 January and 30 June 2023, including those that have not been reported in public announcements. For example, outcomes arising from summary prosecutions for strict liability offences are not generally announced in ASIC media releases.

**Read more** For more information, see [Summary of enforcement outcomes: January to June 2023](#).

# Strengthening market integrity

We continued to combat misconduct damaging the integrity of the Australian financial markets, including insider trading and market manipulation.

A influencer was sentenced to two and a half years imprisonment for manipulating shares listed on ASX and illegally disseminating information relating to the manipulation.

We cancelled the AFS licence of the entity trading as Binance Australia Derivatives.

We continued our investigation into ASX's oversight of the CHESSE Replacement Program.

We also won the Australian Public Service Data Analytics and Visualisation Award 2023 for our development of a sophisticated insider trading surveillance and detection capability.

## Enforcement priorities



Misconduct damaging to market integrity



Misconduct involving high-risk products, including crypto assets

## Combating insider trading

In May, ASIC won the Australian Public Service Data Analytics and Visualisation Award 2023 for our development of a sophisticated insider trading surveillance and detection capability. A team of ASIC staff specialising in data, analytics, and surveillance developed the capability.

The capability hunts for and detects suspected market misconduct and suspicious trading patterns, and identifies connections between traders and potential sources of inside information. This allows ASIC to identify harms more quickly and accurately, and combat misconduct damaging to market integrity.

During the quarter, Vaughan Bowen was indicted on two counts of insider trading. We allege that in June 2019, Mr Bowen disposed of over five million shares in Vocus Group Limited while in possession of undisclosed information that EQT Infrastructure IV Fund was likely to withdraw their proposal to acquire Vocus.

In June, former CFO of Big Un Limited, Andrew Scott Corner, was charged with insider trading. We alleged that Mr Corner was in possession of inside information in late 2017 when he procured two private companies to sell 1.7 million Big Un shares for a total value of more than \$5 million.

### Read more

[ASIC's insider trading detection project wins data award](#) (22 May 2023)

[23-124MR](#) *Vaughan Bowen indicted on insider trading charges* (12 May 2023)

[23-161MR](#) *Former CFO of Big Un Limited charged with insider trading* (13 June 2023)

## Addressing breaches of market integrity rules

In May, Ord Minnett Limited Ltd paid a penalty of \$888,000 to comply with an infringement notice issued by the Markets Disciplinary Panel (MDP).

Ord Minnett received instructions in September 2021 to commence a buy-back on behalf of AWN Holdings Ltd. The MDP had reasonable grounds to believe that Ord Minnett twice contravened market integrity rules when conducting the buy-back.

The MDP considered that Ord Minnett did not intend to breach the rules but failed to adequately investigate the question of crossings in a buy-back, and failed to recognise the contraventions or implement any changes to its systems to prevent or mitigate the risks of further breaches.

Compliance with the infringement notice is not an admission of guilt or liability, and Ord Minnett is not taken to have contravened s798H(1) of the Corporations Act.

### Read more

[23-114MR](#) *Ord Minnett Limited Ltd ACN 002 733 048 pays \$888,000 infringement notice* (3 May 2023)

## Acting against market manipulation

In May we banned former Gleneagle Securities fund manager and authorised representative Gregory Tolpigin from providing financial services for three years. We found that Mr Tolpigin had engaged in the naked short selling on 150 occasions, of shares totalling over \$7 million.

In addition to banning Mr Tolpigin from providing financial services, we also banned him from controlling a financial services business or performing any function involved in carrying on a financial services business as an officer.

We are reviewing compliance by market participants with the short selling regime. We see the prohibition on naked short selling as an essential policy for the maintenance of financial market integrity.

### Read more

[23-131MR](#) *ASIC bans former fund manager for naked short selling* (22 May 2023)

## Areas identified for improved reporting

In June, we urged directors, preparers of financial reports and auditors to assess the impact of uncertain market and economic conditions on reporting for the full and half-years ending 30 June 2023.

We highlighted a number of areas for attention. We also noted that companies would be affected differently by changing and uncertain economic and market conditions, depending on their industry, where they operate, how their suppliers and customers are affected, and a range of other factors.

### Read more

[23-149MR](#) *ASIC highlights focus areas for 30 June 2023 reporting* (6 June 2023)





## Case study: Gabriel Govinda sentenced and fined for market manipulation and influencer conduct

**In May, Gabriel Govinda (known online as 'Fibonarchy') was sentenced to two and a half years imprisonment, to be released immediately on a five-year recognisance in the amount of \$5,000, and fined \$42,840. Mr Govinda pleaded guilty to charges of manipulation of ASX-listed shares and illegal dissemination of information relating to the manipulation.**

Mr Govinda used a social media forum as an integral part of his market manipulation. He promoted certain shares that he had an undisclosed interest in, and that he had manipulated, with a view to selling out at a higher price.

The court considered Mr Govinda's posts on HotCopper about his market manipulation activity to be a breach of s1041D of the *Corporations Act 2001* (Corporations Act). This is the first time a person has been sentenced under this provision.

### Read more

[23-116MR](#) *Gabriel Govinda sentenced to two and a half years imprisonment and fined for market manipulation and influencer conduct* (3 May 2023)

*'Individuals who look to social media, whether that be online forums or via platforms such as Instagram and Facebook, to promote stocks or financial products, should take notice of today's court decision. Influencer conduct, whether by using social media to manipulate the market, using a platform to profit from promoting manipulation done by others, or to promote financial products you are not licensed to promote, can result in serious consequences.'*

Sarah Court, Deputy Chair, ASIC

## ASX CHESSE replacement assessment progresses

On 5 June, ASX released public versions of the special report and the audit report on the current CHESSE clearing and settlement (CS) facility. ASX produced the reports after we issued notices requiring ASX Clear Pty Ltd and ASX Settlement Pty Ltd to report in December last year.

The reports will help ASIC assess whether any further regulatory action is required. We are prepared to bring to bear a range of regulatory options to ensure that the ASX Group licensees – in particular, ASX Clear and ASX Settlement – adhere to the regulators' expectations and comply with their CS facility licence obligations.

We are continuing our investigation into ASX Limited, ASX Clear and ASX Settlement, and their directors and officers, in relation to:

- › the oversight of the CHESSE Replacement Program
- › statements and disclosures on the status of the program between October 2020 and March 2022.

### Read more

[23-145MR](#) ASIC acknowledges ASX's release of the CHESSE Special Report and Audit Report (5 June 2023)

*'We are looking for assurance that any gaps or deficiencies are addressed before ASX pushes forward on the new CHESSE replacement solution and any other future program ASX undertakes. We want to make sure ASX's program management framework is able to successfully deliver programs of change and upgrades to Australia's market infrastructure.'*

Joe Longo, Chair, ASIC



## Case study: Binance Australia Derivatives – AFS licence cancelled

**On 6 April, we cancelled the AFS licence held by Oztures Trading Pty Ltd trading as Binance Australia Derivatives (Binance) in response to a request to cancel received from Binance.**

The terms of the cancellation include a provision that Binance must continue to be a member of Australian Financial Complaints Authority (AFCA) until the end of 8 April 2024.

We have been conducting a targeted review of Binance's financial services business in Australia, including its classification of retail and wholesale clients. On 29 March, we issued a notice of hearing under s915C of the Corporations Act to consider whether we should cancel or suspend the AFS licence held by Oztures Trading Pty Ltd.

We have repeatedly warned potential crypto-asset investors that crypto-assets are risky and complex. Crypto derivatives pose additional risks to consumers through the operation of leverage. Many crypto-assets and crypto-asset related services are not regulated by ASIC. More than with other types of investments, consumers should be prepared to lose any funds they invest in crypto-assets.

We continue to take action to disrupt and deter harm and misconduct within ASIC's jurisdiction.

### Read more

[23-091MR](#) *Binance Australia Derivatives – AFS licence cancelled* (6 April 2023)

*'ASIC supports a regulatory framework for crypto with a focus on consumer protection and market integrity. The final decision as to the regulatory settings is one for Government.'*

Joe Longo, Chair, ASIC

# Fostering industry compliance

To take the 'cyber pulse' of corporate Australia, we invited ASIC-regulated entities to self-assess their cyber resilience by responding to our cyber pulse survey.

We also released the findings of three ASIC reviews of superannuation trustee practices, and called on superannuation trustees to improve their practices in a number of areas.

Other measures enacted to help businesses comply with their obligations included updating the implementation timeframe of the internal dispute resolution (IDR) data reporting framework, releasing updated guidance on making notifications to ASIC under the reportable situations regime and extending the date by which financial advisers must be registered.

## Assessing the cyber resilience capability of corporate Australia

In June, we invited ASIC-regulated entities to take part in our cyber pulse survey to measure cyber resilience in Australia's corporate and financial markets. The survey was one of the largest conducted into Australia's cyber resilience, and measured entities' current cyber security and controls, governance arrangements, and incident preparedness.

We will publish a report with key findings from the survey later this year.

### Read more

[23-160MR](#) ASIC invites Australian entities to assess their cyber resilience (13 June 2023)

## Calling for improvement in superannuation trustee practices

In April, our review into performance communications by four superannuation trustees found that they again failed the annual performance test for MySuper products in 2022. [Report 729](#) *Review of trustee communications about the MySuper performance test* (REP 729) showed that even though trustees have made improvements, some trustees needed to be more member-centric in their approach.

In June, we called on superannuation trustees to ensure they are meeting their legal obligations for dealing with incoming money from consumers if a new or increased interest in a superannuation product cannot be issued by the next business day. The call followed our review of a sample of 12 superannuation trustees to understand how they met requirements for dealing with money received for a financial product set out in the Corporations Act.

Following the review, all trustees with deficiencies took action of some kind. This included implementing process changes for dealing with application moneys to become compliant, improving disclosures about application moneys, and formally notifying ASIC of a reportable situation or paying remediation.

Separately, we warned superannuation trustees to effectively consolidate duplicate member accounts after a review identified poor trustee practices resulting in consumer harm. The warning followed our review of nine trustees, covering both industry and retail funds.

To help trustees to better comply with their obligations, in April we released an information sheet that consolidates superannuation trustee transparency and disclosure obligations into one webpage with links.

#### Read more

[23-093MR](#) *Super trustees told to focus more on their members in communications about performance test failure* (12 April 2023)

[23-171MR](#) *ASIC calls on super trustees to appropriately deal with member money when it is first received* (26 June 2023)

[23-175MR](#) *ASIC warns super trustees to boost efforts to consolidate duplicate member accounts* (29 June 2023)

[ASIC releases Information Sheet 278: Inventory of superannuation trustee transparency and disclosure obligations](#) (11 April 2023)

*'It shouldn't take an ASIC review for super trustees to comply with the law.*

*We are concerned about some of the failures uncovered in our review, and are considering other regulatory action for more serious concerns.'*

– Danielle Press, Commissioner, ASIC

## Supporting implementation of IDR

In May, we updated the implementation timeframe of the IDR data reporting framework to support smooth implementation for firms reporting IDR data for the first time.

We will not publish IDR data until all financial firms have commenced reporting (after 29 February 2024). We will analyse the data as it comes in to inform our final approach to publication – and will communicate our final approach well in advance of publication.

Financial firms can get more information on the requirements from our [IDR data reporting](#) webpage, which includes frequently asked questions.

#### Read more

[23-117MR](#) *ASIC updates the implementation timeframe for the internal dispute resolution data reporting framework* (5 May 2023)

## Updating guidance on the reportable situations regime

In April, we released updated guidance for industry on making notifications to ASIC under the reportable situations regime (formerly breach reporting).

The updates to [Regulatory Guide 78 Breach reporting by AFS licensees and credit licensees](#) (RG 78) clarify aspects of the existing guidance and provide new guidance in response to operational issues that have arisen since the implementation of the regime on 1 October 2021.

#### Read more

[23-106MR](#) *ASIC releases updated guidance for licensees on reportable situations* (27 April 2023)

## Extension of financial adviser registration requirement

In 2021, the Australian Government introduced the requirement for financial advisers who provide personal advice to retail clients on relevant financial products (including time share advisers) to be registered. In May, we extended the date by which relevant providers must be registered to 1 October 2023.

### Read more

[ASIC to extend date for financial adviser registration requirement](#) (30 May 2023)

## Updated ePayments Code comes into effect

On 2 June, the updated ePayments Code came into effect. This followed a 12-month transition period to allow subscribers time to get ready for, and ensure compliance with, changes that provide clarity on a number of existing protections for consumers.

### Read more

[23-144MR ePayments Code subscribers to comply with updated Code from today](#) (2 June 2023)

*'The ePayments Code sets out important details about the relationship between the consumer and their bank or credit union. It forms the basis of important consumer protections related to everyday banking and payments transactions.'*

– Danielle Press, Commissioner, ASIC



# Regulatory developments timetable

This timetable outlines proposed timeframes for ASIC regulatory work, such as the publication of draft or final guidance, or the anticipated making of a legislative instrument. The timetable generally excludes review, surveillance and enforcement activities. The timetable is published every six months.

This is a point-in-time summary and reflects ASIC's best estimate as at the date of publication. These are subject to change and care should be taken in relying on these dates for planning purposes.

## General

Quarter	Initiative	Expected action
July to September 2023	Extend <a href="#">ASIC Corporations (Design and Distribution Obligations Interim Measures) Instrument 2021/784</a> , which expires on 5 October 2023	Amended legislative instrument
July to September 2023	Rollover the existing transitional relief for foreign financial services providers, which is provided by <a href="#">ASIC Corporations (Repeal and Transitional) Instrument 2016/396</a> , <a href="#">ASIC Corporations (CSSF-Regulated Financial Services Providers) Instrument 2016/1109</a> and <a href="#">ASIC Corporations (Foreign Financial Service Providers – Limited Connection) Instrument 2017/182</a>	Remade legislative instrument
October to December 2023	Update <a href="#">Regulatory Guide 236</a> <i>Do I need an AFS licence to participate in carbon markets?</i> (RG 236)	Updated regulatory guide

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

- › the implementation of the Financial Accountability Regime, which will be administered jointly with the Australian Prudential Regulation Authority
- › the reference checking and information sharing protocol for financial advisers and mortgage brokers (by updating [Information Sheet 257](#) *ASIC reference checking and information sharing protocol* (INFO 257)).

## Corporate finance

Quarter	Initiative	Expected action
October to December 2023	Update <a href="#">Regulatory Guide 5</a> <i>Relevant interests and substantial holding notices</i> (RG 5) and <a href="#">Regulatory Guide 9</a> <i>Takeover bids</i> (RG 9), make new legislative instruments, and publish a report on submissions in response to <a href="#">Consultation Paper 365</a> <i>Remaking ASIC class orders on takeovers, compulsory acquisitions and relevant interests</i> (CP 365)	New legislative instruments, report on submissions and updated regulatory guide

## Financial advisers

Quarter	Initiative	Expected action
July to September 2023	Publish a new information sheet that will provide general information about the new requirement that all relevant providers (persons who are authorised to provide personal advice to retail clients on relevant financial products) be registered with ASIC by 1 October 2023	New information sheet
July to September 2023	Publish a new information sheet that will provide guidance on making the declarations required by s921ZA and 921ZB of the Corporations Act when registering a relevant provider	New information sheet

## Financial reporting and audit

Quarter	Initiative	Expected action
July to September 2023	Remake <a href="#">Class Order [CO 13/1050] Financial reporting by stapled entities</a> , which sunsets on 1 October 2023	Amended legislative instrument
October to December 2023	Make minor amendments to the following financial report and directors' report instruments to accommodate types of entity that are newly reporting under the Corporations Act: <ul style="list-style-type: none"> <li>› <a href="#">ASIC Corporations (Post Balance Date Reporting) Instrument 2015/842</a> – updating for corporate collective investment vehicles (CCIVs) and RSE licensees</li> <li>› <a href="#">ASIC Corporations (Disclosing Entities) Instrument 2016/190</a> – updating for CCIVs</li> <li>› <a href="#">ASIC Corporations (Rounding in Financial/Directors' Reports) Instrument 2016/191</a> – updating for RSE licensees</li> </ul>	Amended legislative instruments
October to December 2023	Update <a href="#">Regulatory Guide 95 Disclosing entity provisions relief (RG 95)</a>	Updated regulatory guidance
January 2024 and beyond	Remake <a href="#">ASIC Corporations (Auditor Independence) Instrument 2021/75</a> , which sunsets on 30 April 2024	Amended legislative instrument
January 2024 and beyond	Remake <a href="#">ASIC Corporations (Parent Entity Financial Statements) Instrument 2021/195</a> , which sunsets on 1 April 2024	Amended legislative instrument

## Investment managers

Quarter	Initiative	Expected action
July to September 2023	Remake <a href="#">Class Order [CO 13/655]</a> Provisions about the amount of consideration to acquire interests and withdrawal amounts not covered by ASIC Corporations (Managed investment product consideration) Instrument 2015/847 and <a href="#">Class Order [CO 13/657]</a> Discretions affecting the amount of consideration to acquire interests and withdrawal amounts, which sunset on 1 October 2023, as a single legislative instrument	Remade legislative instrument
July to September 2023	Remake <a href="#">Class Order [CO 13/656]</a> Equality of treatment impacting on the acquisition of interests, which sunsets on 1 October 2023	Remade legislative instrument
July to September 2023	Remake <a href="#">Class Order [CO 13/760]</a> Financial requirements for responsible entities and operators of investor directed portfolio services, which sunsets on 1 October 2023, and <a href="#">ASIC Corporations (Financial Requirements for Corporate Directors of Retail Corporate Collective Investment Vehicles) Instrument 2022/449</a> as a single legislative instrument	Remade legislative instrument
July to September 2023	Remake <a href="#">Class Order [CO 13/761]</a> Financial requirements for custodial or depository service providers, which sunsets on 1 October 2023	Remade legislative instrument
July to September 2023	Publish a report on submissions in response to <a href="#">Consultation Paper 367</a> Remaking ASIC class orders on financial requirements: [CO 13/760], [CO 13/761] and ASIC Instrument 2022/449	Report on submissions
July to September 2023	Remake <a href="#">Class Order [CO 13/762]</a> Investor directed portfolio services provided through a registered managed investment scheme, which sunsets on 1 October 2023	Remade legislative instrument
July to September 2023	Remake <a href="#">Class Order [CO 13/763]</a> Investor directed portfolio services, which sunsets on 1 October 2023	Remade legislative instrument
July to September 2023	Update <a href="#">Regulatory Guide 166</a> AFS licensing: Financial requirements (RG 166) following remaking of legislative instruments prescribing financial resource requirements for responsible entities, IDPS operators, corporate directors of retail CCIVs and custodians	Updated regulatory guide
July to September 2023	Update <a href="#">Regulatory Guide 134</a> Funds management: Constitutions (RG 134), following remaking of legislative instruments related to the constitutions of managed investment schemes	Updated regulatory guide

Quarter	Initiative	Expected action
July to September 2023	Update <a href="#">Regulatory Guide 148</a> <i>Platforms that are managed investment schemes and nominee and custody services</i> (RG 148), following remaking of legislative instruments related to platforms	Updated regulatory guide
October to December 2023	Consult on the following class orders, which sunset on 1 April 2024: <ul style="list-style-type: none"> <li>› <a href="#">Class Order [CO 13/721]</a> <i>Relief to facilitate quotation of exchange traded funds on the AQUA Market</i></li> <li>› <a href="#">Class Order [CO 13/1200]</a> <i>Periodic statements relief for AQUA quoted and listed managed investment scheme manager</i></li> <li>› <a href="#">Class Order [CO 13/1406]</a> <i>Land holding for primary production schemes</i></li> <li>› <a href="#">Class Order [CO 13/1409]</a> <i>Holding assets: Standards for responsible entities</i></li> <li>› <a href="#">Class Order [CO 13/1410]</a> <i>Holding assets: Standards for providers of custodial and depository services</i></li> <li>› <a href="#">Class Order [CO 13/1621]</a> <i>Exemption and declaration for the operation of mFund</i></li> </ul>	Consultation paper
January 2024 and beyond	Remake class orders relating to relief for managed investment schemes that are listed or quoted, primary production schemes and custody standards, which sunset on 1 April 2024	Remade legislative instruments
January 2024 and beyond	Update <a href="#">Regulatory Guide 133</a> <i>Funds management and custodial services: Holding assets</i> (RG 133) following remaking of legislative instruments related to custodial standards	Updated regulatory guide

## Market intermediaries and infrastructure

Quarter	Initiative	Expected action
July to September 2023	Consult on the outstanding matters relating to the <a href="#">ASIC Derivatives Transaction Rules (Reporting) 2022</a> that were not updated in December 2022	Consultation paper
July to September 2023	Remake the <a href="#">ASIC Derivative Trade Repository Rules 2013</a> in substantially the same form, after considering the feedback received on <a href="#">Consultation Paper 370</a> <i>Proposed remake of the ASIC Derivative Trade Repository Rules 2013</i> (CP 370)	Remade legislative instrument
July to September 2023	Remake the <a href="#">ASIC Regulated Foreign Markets Determination [OTC DET 13/1145]</a> , which sunsets on 1 October 2023	Remade legislative instrument

Quarter	Initiative	Expected action
July to September 2023	Publish a report that summarises our key observations on how issuers of retail over-the-counter (OTC) derivatives are meeting the design and distribution obligations and highlights areas for improvement	Report
October to December 2023	Update the <a href="#">ASIC Derivative Transaction Rules (Clearing) 2015</a> , after considering the feedback received on <a href="#">Consultation Paper 366 Proposed amendments to the ASIC Derivative Transaction Rules (Clearing) 2015: Second consultation (CP 366)</a>	Updated rules
October to December 2023	Update <a href="#">Regulatory Guide 249 Derivative trade repositories (RG 249)</a> , following the remaking of the <a href="#">ASIC Derivative Trade Repository Rules 2013</a>	Updated regulatory guide
October to December 2023	Consult on the <a href="#">ASIC Market Integrity Rules (Futures Markets) 2017</a> , with proposals to include rules on automated order processing and amend Rule 2.2.1 relating to aggregate loss limits	Consultation paper
January 2024 and beyond	Update <a href="#">Regulatory Guide 251 Derivative transaction reporting (RG 251)</a> to reflect the remade <a href="#">ASIC Derivative Transaction Rules (Reporting) 2022</a> , which come into force in October 2024	Updated regulatory guide

## Registered liquidators

Quarter	Initiative	Expected action
July to September 2023	Consult on proposed changes to <a href="#">Regulatory Guide 258 Registered liquidators: Registration, disciplinary actions and insurance requirements (RG 258)</a> , particularly regarding initial registration and ongoing obligations	Consultation paper
July to September 2023	Consult on proposed changes to <a href="#">Regulatory Guide 217 Duty to prevent insolvent trading: Guide for directors (RG 217)</a> , which respond to recommendations in the <a href="#">Review of the insolvent trading safe harbour</a>	Consultation paper
October to December 2023	Consult on proposed changes to <a href="#">Regulatory Guide 16 External administrators – Reporting and lodging (RG 16)</a>	Consultation paper
October to December 2023	Consult on proposed changes to <a href="#">Regulatory Guide 242 ASIC's power to wind up abandoned companies (RG 242)</a> to include winding up on public interest grounds	Consultation paper

Quarter	Initiative	Expected action
January 2024 and beyond	Consult on new regulatory guide about ASIC's power to appoint reviewing liquidators	Consultation paper
January 2024 and beyond	Update <a href="#">RG 217</a> after considering feedback received through consultation	Updated regulatory guide
January 2024 and beyond	Update <a href="#">RG 16</a> after considering feedback received through consultation	Updated regulatory guide
January 2024 and beyond	Consult on a new regulatory guide about requesting eligible applicant authorisation	Consultation paper
January 2024 and beyond	Update <a href="#">RG 258</a> after considering feedback received through consultation	Updated regulatory guide
January 2024 and beyond	Update <a href="#">RG 242</a> after considering feedback received through consultation	Updated regulatory guide
January 2024 and beyond	Publish a new regulatory guide about ASIC's power to appoint reviewing liquidators	Regulatory Guide
January 2024 and beyond	Publish a new regulatory guide about requesting eligible applicant authorisation	Regulatory Guide

## Superannuation

Quarter	Initiative	Expected action
October to December 2023	Remake <a href="#">Class Order [CO 14/541]</a> RSE licensee s29QC SIS Act disclosure exemption, which provides relief from compliance with s29QC(1) of the SIS Act and sunsets on 1 January 2024	Remade legislative Instrument