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6.1 Appendices relating to ASIC's governance and operations

Parliamentary oversight

Responsible Minister

At 30 June 2021, the Minister responsible for ASIC was the Treasurer, the Hon. Josh Frydenberg MP.

Parliamentary committees

ASIC is accountable to Parliament through the following Parliamentary committees:

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

Correspondence with members of Parliament

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

We aim to respond to 100% of correspondence within 28 days of receipt. In 2020–21, we received 204 letters and emails from members of Parliament and responded to 202. We responded to 67% of this correspondence within 14 days and 96% within 28 days.

Financial and operational oversight

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

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

ASIC's Interim Corporate Plan, to address the impact of the COVID-19 pandemic, was published in June 2020 and the priorities outlined in it have been incorporated into our current Corporate Plan. ASIC's Corporate Plan for 2020–24 was published in August 2020.

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

External scrutiny of our agency

Implementation of Royal Commission recommendations

The Royal Commission provided its final report to the Government on 1 February 2019. On 4 February 2019, the Treasurer released the Government's response to the Royal Commission recommendations.

We have remained focused on a range of initiatives we began before or in response to the Royal Commission's recommendations and we continue to take action on all Royal Commission recommendations directed at ASIC.

We have published regular updates on our actions to implement Royal Commission recommendations, including in April 2021: **Report 688 ASIC enforcement update July to December 2020.**

Details of our actions are set out in Chapter 1.

Judicial decisions and decisions of administrative tribunals and the Office of the Australian Information Commissioner

There were no judicial decisions, administrative tribunal decisions, or decisions by the Office of the Australian Information Commissioner in 2020–21 that have had, or may have, a significant impact on ASIC's operations.

Parliamentary Joint Committees

During 2020–21, ASIC testified before the following Parliamentary Joint Committees and provided answers to Questions on Notice:

- › Joint Committee on Corporations and Financial Services – Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
- › Joint Committee on Corporations and Financial Services – Inquiry into litigation funding and the class action industry
- › Joint Committee on Corporations and Financial Services – Inquiry into mobile payment and digital wallet financial services
- › Joint Committee on Law Enforcement – Inquiry into criminal activity and law enforcement during the COVID-19 pandemic.

ASIC made submissions to the following Parliamentary Joint Committee inquiries:

- › Joint Committee on Corporations and Financial Services – Inquiry into mobile payment and digital wallet financial services
- › Joint Standing Committee on Trade and Investment Growth – Inquiry into the prudential regulation of investment in Australia's export industries
- › Joint Committee on Law Enforcement – Inquiry into criminal activity and law enforcement during the COVID-19 pandemic.

Senate Committees

During 2020–21, ASIC testified before the following Senate Committees and provided answers to Questions on Notice:

- › Senate Economics Legislation Committee – Senate Estimates
- › Senate Economics References Committee – Treasury Laws Amendment (2021 Measures No. 1) Bill 2021
- › Senate Economic Legislation Committee – Inquiry into the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020
- › Senate Economic Legislation Committee – Inquiry into the Treasury Laws Amendment (Your Future, Your Super) Bill 2021 [Provisions]
- › Senate Select Committee on Australia as a Technology and Financial Centre.

ASIC made submissions to the following Senate Committee inquiries:

- › Senate Economics References Committee – Treasury Laws Amendment (2021 Measures No. 1) Bill 2021
- › Senate Economic Legislation Committee – Inquiry into the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020
- › Senate Economic Legislation Committee – Inquiry into the Treasury Laws Amendment (Your Future, Your Super) Bill 2021 [Provisions]
- › Senate Select Committee on Australia as a Technology and Financial Centre.

House of Representatives Committees

During 2020–21, ASIC testified before the following House of Representatives Committee and provided answers to Questions on Notice:

- › House of Representatives Standing Committee on Economics – Review of ASIC Annual Report.

ASIC made submissions to the following House of Representatives Committee inquiry:

- › House of Representatives – Inquiry into the Tax Treatment of Employee Share Schemes.

Corporate governance

The role of the Chair and the Commission

In line with the PGPA Act, the Chair as accountable authority will govern ASIC in a way that is not inconsistent with the policies of the Australian Government.

Our Chair has sole executive management responsibility and relies on and uses our key senior executives to carry out day-to-day management activities and deal with operational issues. The Chair delegates functions where he considers this would benefit the executive management of ASIC.

The Commission acts as a strategic non-executive body, focusing on high-level regulatory and statutory decision making and stakeholder management. It provides support to the Chair on organisational oversight.

In 2020–21, ASIC continued to implement its program to improve its governance, structure and decision-making processes. As set out in Chapter 1, ASIC introduced the role of Chief Risk Officer to implement our new risk management framework. We also introduced a Head of Office function to increase internal oversight and executive accountability and enable the Commission to give greater focus to strategic matters, regulatory decision making, external engagement and communication.

The Commission utilises a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles. Details of these committees are set out in Chapter 1.

Commission meetings take place twice a month and may be convened more regularly as required. The Commission also meets as a team on a weekly basis to provide early direction or guidance on issues, or to consider urgent matters. Unscheduled Commission meetings are called to obtain Commission decisions on specific issues where required outside of the meeting timetable.

The Commission appoints and evaluates the performance of its Executive Directors and Senior Executive Leaders and approves budgets and business plans for each team.

Commissioners are appointed by the Governor-General on the nomination of the Treasurer. The Treasurer may nominate only those people who are qualified by knowledge of, or experience in, business, the administration of companies, financial markets, financial products and financial services, law, economics or accounting.

Commissioners are appointed on fixed terms that may be terminated only for the reasons set out in section 111 of the ASIC Act. The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

The ASIC Act requires Commissioners to disclose to the Minister direct or indirect pecuniary interests in corporations carrying on business in Australia, businesses in Australia, interests regulated by ASIC, or expectations, understandings, arrangements or agreements for future business relationships.

Chris Savundra, General Counsel, is the primary source of legal advice to the Commission, providing legal counsel on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission delegates various powers and functions to Executive Directors, Senior Executive Leaders, Regional Commissioners and employees reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

The Commission held 38 meetings in 2020–21. The Commission Enforcement Committee met 21 times, the Commission Regulatory Committee met 13 times, and the Commission Risk Committee met 10 times in 2020–21.

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

Audit Committee and audit services

The Audit Committee operates independently of management and plays a key role in assisting the Chair to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. The Committee does this by providing independent assurance to the Chair on ASIC's financial and performance reporting, risk oversight and management, and system of internal control.

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

The Committee met six times during the year, with four regular and two special meetings. Details of the Audit Committee's membership in 2020–21, including remuneration for the period, are set out in Table 6.1.1.

Table 6.1.1 Membership of the Audit Committee, 2020–21

Member	Member experience	No. of meetings	Remuneration (excluding GST)
Peter Achterstraat AM (Chair)	<p>Peter holds a Bachelor of Economics (Hons), a Bachelor of Laws, and a Bachelor of Commerce from the Australian National University, and has been inducted into the ANU College of Business and Economics Hall of Fame. He has been awarded a Member of the Order of Australia for significant service to public administration through financial management and governance roles. Peter currently retains the following positions:</p> <ul style="list-style-type: none"> › NSW Productivity Commissioner › Chairman, Bankstown Airport Limited › Chair, Sydney Financial Forum › Chair, Australian Taxation Office Audit and Risk Committee. 	6	\$38,409

Member	Member experience	No. of meetings	Remuneration (excluding GST)
Lisa Woolmer (Deputy Chair)	<p>Lisa holds a Bachelor of Economics and Postgraduate Diploma in Japanese Business Communication from Monash University, and a Postgraduate Diploma of Employment Relations from the University of Canberra. She is a member of both the Australian Institute of Company Directors and Chartered Accountants Australia and New Zealand. Lisa currently retains the following positions:</p> <ul style="list-style-type: none"> › Independent Chair/member of audit and risk committees for Comcare, Adult Community and Further Education Board, Bayside City Council, Glen Era City Council, City of Whitehorse, Mornington Peninsula Shire Council and Orygen. <p>She is a former Principal at PWC, Melbourne.</p>	6	\$29,023
Timothy Montgomery	<p>Timothy holds a Bachelor of Economics and a Bachelor of Science (Hons) from the Australian National University, a Graduate Certificate in Management from the Australian Graduate School of Management, and a Graduate Certificate in Statistics from the University of Canberra. He currently retains the following positions:</p> <ul style="list-style-type: none"> › Program Manager, Technology and Security Division, Australian Bureau of Statistics › Senior ICT roles across Commonwealth agencies › ICT management consultant roles. 	6	nil (a)

Member	Member experience	No. of meetings	Remuneration (excluding GST)
Cathie Armour (ASIC Commissioner)	Cathie is an ASIC Commissioner and holds a Bachelor of Economics and a Bachelor of Laws (Hons) from the Australian National University, and a Masters of Law from Sydney University.	6	nil (b)

(a) Audit Committee services are being provided free of charge in accordance with an MOU between ASIC and the Australian Bureau of Statistics (ABS).

(b) Commissioner Armour ceased as a Committee member on 12 June 2021. ASIC's key management personnel remuneration details are provided in Table 6.1.10.

Peter Achterstraat AM

Chair
Audit Committee
August 2021

Consultative panels and committees

ASIC takes a consultative approach to addressing harms and emerging developments in Australia's financial system.

As part of ASIC's strategic change program, we have enhanced our advisory panel processes to bolster their efficiency and to ensure that we are effectively engaging with our stakeholders to gain a deeper understanding of industry and consumer developments, consult on policy matters, and identify threats and harms in the sectors we regulate.

ASIC Business Advisory Panel

ASIC's Business Advisory Panel enables direct consultation with the business community about our registry and licensing services, with an emphasis on small business. It advises on strategic direction, including proposed legislative and policy changes, as well as operations and improvement initiatives, with a focus on registry and assessing the impacts to business.

Panel members were drawn from a wide range of business, industry and professional organisations. Each member represents an area of relevant experience and expertise.

During the 2020–21 year, the Panel's themes of engagement included the continuation of the Government's commitment to modernise business registers and the introduction of a director identification number.

The Panel was discontinued in March 2021 following the transfer of ASIC registry staff and functions to the ATO.

ASIC Consultative Panel

The ASIC Consultative Panel was established in 2020 to provide ASIC with a flexible and responsive approach to external engagement. It enables ASIC to consult on proposed regulatory changes; provides intelligence on the external environment, including market conditions; and can assist ASIC in identifying threats and harms in the markets we regulate.

Panel members are senior representatives from the academic, consumer, industry, legal and regulatory sectors and are appointed in their personal capacity. They can be called upon to consult on emerging issues as they arise and meet as a group at a plenary meeting at least once annually.

In November 2020, the inaugural plenary meeting of the Panel was hosted virtually by ASIC. Members discussed trends in financial services, banking and consumer behaviour. The Panel also reflected on emerging threats and harms within ASIC's regulatory remit to assist in the development of its strategic priorities for 2021–22.

Consumer Advisory Panel

Established in 1998, ASIC's Consumer Advisory Panel (CAP) advises ASIC on current issues affecting retail investors and consumers in the financial services and wealth management industries. Information from CAP members also informs ASIC's surveillance, enforcement, policy and financial education initiatives.

Due to the COVID-19 pandemic, CAP met virtually three times in 2020–21. Priority areas of CAP member focus included:

- › impacts of the pandemic and measures responding to it on different consumer cohorts (borrowers and debtors, superannuation fund members, insurance policy holders, retail investors, timeshare members and small businesses)
- › implementation of reforms resulting from the Royal Commission, including the deferred sales model for add-on insurance
- › product intervention orders and ASIC's consultation on the implementation of the design and distribution obligations
- › ASIC's consultation on the issues and impediments relating to the supply of good quality and affordable personal advice
- › the Financial Advisers Standards and Ethics Authority Code
- › ASIC consultations on updates to internal dispute resolution standards and requirements and remediation guidance in Regulatory Guide 256 *Client review and remediation conducted by advice licensees* and the inaugural independent review of AFCA
- › responsible lending, debt management firms and the buy now pay later sector.

CAP also held two out-of-session virtual meetings, the first focusing on retirement incomes and the second a joint meeting with the ACCC's equivalent consumer panel, the Consumer Consultative Committee.

Corporate Governance Consultative Panel

The Corporate Governance Consultative Panel was established in 2020 to enable ASIC to gain a deeper understanding of developments and emerging issues in corporate governance practices.

Members of this Panel include listed company directors, industry association representatives, institutional investors and academics.

The Panel met twice in 2020–21 to discuss the impact of the COVID-19 pandemic; environmental, social and governance issues; cyber resilience; and insolvency reforms.

Digital Finance Advisory Panel

The Digital Finance Advisory Panel (DFAP) was established in 2015 to help inform ASIC's fintech and regtech approach and to advise on engagement with the sector. Members of DFAP are drawn from a cross-section of the fintech and regtech communities, academia and consumer organisations.

DFAP also has active observer members from public sector and regulatory agencies, which facilitates dialogue between industry and the public sector. The establishment of DFAP has helped foster a network of domestic departments and agencies dealing with innovative businesses, which has promoted a coordinated approach to financial innovation and regtech.

DFAP met four times in 2020–21 and discussed and provided observations to ASIC on topics such as the issues of interest to the Senate Select Committee on Financial Technology and Regulatory

Technology, decentralised finance, open banking, consumer credit reforms, central bank digital currencies, and the implementation of the Government's enhanced regulatory sandbox.

Financial Advisers Consultative Panel

The Financial Advisers Consultative Panel was established in 2017. Its members are practising financial advisers who are skilled in insurance, superannuation (including self-managed funds) and digital financial advice. The members sit in a personal capacity.

The Panel met three times in 2020–21. It discussed a number of topics of interest this year, including Royal Commission law reform and ASIC's work in relation to unmet advice needs, life insurance, general advice, and fee and cost disclosure for superannuation and managed investment products.

Markets Consultative Panel

The Markets Consultative Panel was established in 2010 and advises on ASIC's approach to its responsibilities for supervision of the Australian market and on broader market developments. Members are drawn from the financial services industry, with experience in retail markets, institutional banking, asset management and academia.

During 2020–21, the Panel met five times. Issues discussed included equity and debt capital markets, retail investor trading, climate disclosures, resilience, cyber risk, crypto assets, market events, and the implementation of the product intervention power and design and distribution obligations.

Disciplinary or peer review panels

The panels listed below have disciplinary or peer review functions and assist in our regulatory decision making.

Financial Services and Credit Panel

The Financial Services and Credit Panel (FSCP) makes decisions about whether to ban individuals from providing financial services or engaging in credit activities. Matters are referred to sitting panels drawn from the FSCP. Each sitting panel consists of two experienced industry participants from the financial services or credit sector and an ASIC staff member.

The FSCP regime, which operates alongside ASIC's existing administrative decision-making processes, is reserved for matters that we consider are appropriate for peer review because of their

significance, complexity or novelty. No matters were referred to the FSCP during 2020–21.

Liquidator registration and disciplinary committees

Applications for registration as a liquidator, or to vary or remove conditions imposed on a liquidator's registration, and potential disciplinary action against registered liquidators are referred to committees convened by ASIC.

Each committee consists of an ASIC delegate who chairs the committee, a registered liquidator chosen by the Australian Restructuring, Insolvency and Turnaround Association, and a person appointed by the Minister, as set out in sections 20-10, 20-45 and 40-45 of Schedule 2 to the Corporations Act.

During 2020–21, ASIC convened 37 committees to consider applications for registration as a liquidator, and registered 31 liquidators, as set out in Table 6.1.2.

Table 6.1.2 Committees convened, 2020–21

Results of committees convened in 2020–21	Convened	Registered
Applicants should be registered (no conditions)	17	15 ¹
Applicants should be registered (conditions)	10	10
Applicant – not registered	8	–
Committee decision pending	2	–
Prior year committee decision registered during the year	–	6
Total	37	31

¹ Two registrations were pending at the end of 2020–21.

During 2020–21, ASIC received two applications from liquidators to vary or remove conditions attached to their registration. The applications were referred to committees convened by ASIC for consideration. One committee decided to remove a condition imposed on the liquidator’s registration and ASIC implemented that decision. One committee decided to vary the conditions imposed and ASIC implemented that decision.

Also during 2020–21, two disciplinary committees considered matters referred by ASIC. Both committees decided that the liquidator registrations should continue.

The register of liquidators and a summary of disciplinary actions can be found on the ASIC website.

Markets Disciplinary Panel

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

During 2020–21, the MDP issued infringement notices in respect of two matters:

- › Macquarie Securities (Australia) Limited (MSAL) paid a \$126,000 infringement notice in connection with a buy-back transaction. The MDP was of the view that MSAL had not acted in accordance with its client’s instructions by entering

into a transaction on ASX’s common ‘dark market’ that was not made in the ordinary course of trading because MSAL’s order was preferenced ahead of another participant’s orders that had time priority.

- › Life Trading Pty Ltd Limited (Life Trading) paid a \$200,000 infringement notice, and entered into an enforceable undertaking to appoint an independent expert to review and report on Life Trading’s supervisory framework in relation to its futures trading business, in connection with the MDP’s view that Life Trading did not have an appropriate supervisory framework throughout the period from January 2019 to June 2020.

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

Regional action

Australian Capital Territory

This year, the ACT team continued to build collaborative working relationships at the state and Commonwealth levels of the public service.

Throughout the year, the team met regularly with representatives from the Department of Social Services, Services Australia, the Department of Education, Skills and Employment, the Department of the Prime Minister and Cabinet (Office for Women), the ABS, the Department of Agriculture, Water and the Environment, the National Indigenous Australians Agency, the ATO and Treasury to discuss the Government support available to Australians during the pandemic.

In August 2020, Regional Commissioner Laura Higgins invited Australian Statistician and Agency Head of the ABS, Dr David Gruen, to provide a virtual group of 200+ stakeholders with insights on the role of data in shaping responses to the pandemic.

The Consumer Insights and Communications team in the ACT office has a strong relationship with ACT schools. This year, as part of our education outreach work, we led a number of financial education presentations and workshops in Canberra secondary schools. The team also met regularly with the ACT Education Directorate to support the expansion of its financial education program.

In May 2021, Commissioner Danielle Press joined presenters from the Australian Small Business and Family Enterprise Ombudsman, the ACCC, the Fair Work Ombudsman and the ATO in Canberra for a live-streamed webcast providing information for small business operators across Australia.

New South Wales

Throughout 2020–21, we met with financial institutions based in New South Wales to assess how they are dealing with the impacts of the COVID-19 pandemic and their operational resilience. Generally, institutions have introduced programs to address the effects of the pandemic at an operational level.

Our New South Wales Acting Regional Commissioner and Executive Director of Markets, Greg Yanco, warned first-time investors to be aware of the inherent volatility and complexities of market trading. He advised first-time investors to focus on long-term goals and not make rash decisions based on a fear of missing out on market falls or gains.

We continue to monitor institutions remotely to gather information on trends, identify risks and respond to requests, including through information-sharing arrangements with APRA and leveraging established working arrangements with senior executives to both supervise and support institutions.

Our regulatory work and priorities have temporarily changed to allow us and regulated entities to focus on the impact of the COVID-19 pandemic. This includes the deferral of some activities and the redeployment of staff to address issues of immediate concern, maintaining the integrity of markets and protecting vulnerable consumers. We have established three ASIC-wide working groups to focus on scams, false and misleading advertising, and unlicensed advice.

Northern Territory

We have maintained consistent in-person engagement and communication with multiple Commonwealth and Northern Territory Government agencies, industry bodies, regional and community groups, and other key industry stakeholders throughout the year. In October 2020, ASIC delivered 'COVID-19 and Small Business' workshops and participated in business fairs in Alice Springs, Katherine and Darwin.

In May 2021, ASIC hosted an event for 60 people from the business, education and community sectors to discuss challenges that local stakeholders may be facing, ASIC's role during the COVID-19 pandemic, and ASIC's current and future priorities. Commissioner Sean Hughes spoke at the event alongside Australian Small Business and Family Enterprise Ombudsman Bruce Billson and Northern Territory Minister for Small Business Paul Kirby MLA. ASIC also attended and supported Financial Counselling Australia's national conference in Darwin in May 2021.

Queensland

This year, we took part in a range of stakeholder events which were primarily conducted virtually. We continued to meet with consumer groups and regulators, as well as our Regional Liaison Committee, to better understand how the COVID-19 pandemic conditions were affecting consumers and businesses in Queensland, and take action as appropriate.

In March 2021, we participated in panel discussions at the Financial Counsellors Association Queensland Conference in Far North Queensland.

South Australia

Regional engagement continued in a virtual format throughout 2020–21. Then-Chair James Shipton and Commissioner Danielle Press joined Regional Commissioner Melissa Smith at a meeting of members of the Regional Liaison Committee and discussion with our key industry stakeholders focusing on ASIC's response to the pandemic and the shared experiences faced by South Australian industry.

The South Australian office has a strong relationship with local universities. Our Small Business Engagement team presented to the University of Adelaide's Entrepreneur and Venture Advice Clinic, which provides advice to small businesses. In October 2020 and May 2021, the team provided a general overview of ASIC and its investigation powers.

In May 2021, Commissioner Danielle Press joined presenters from the Australian Small Business and Family Enterprise Ombudsman, the ACCC, the Fair Work Ombudsman and the ATO in Canberra for a live-streamed webcast from South Australia, providing information for small business operators across Australia.

Tasmania

Due to the uncertainty caused by the COVID-19 pandemic and restrictions, we did not undertake many of our normal stakeholder activities. We did, however, maintain our connections with the University of Tasmania, attending a University open day in April.

Victoria

Throughout this financial year, Victoria's Regional Commissioner, Warren Day, appeared on ABC's *Drive* program to discuss a range of topics, including debt, hardship assistance, superannuation and buy now pay later services.

In November 2020, ASIC team members were invited to a virtual NAIDOC Week event discussing Victoria's truth and justice process with guest speaker Marcus Stewart, Co-Chair of the First Peoples' Assembly of Victoria.

In March 2021, ASIC's Small Business Engagement and Compliance team supported the Victorian Government's Small Business Bus program and attended various locations across Melbourne. The buses provide an opportunity to engage with the community, sole traders and small businesses by actively listening, answering queries and providing assistance.

In April 2021, ASIC's registry colleagues in Traralgon were farewelled ahead of their transition to the ATO. The event was attended by then-Chair James Shipton, Deputy Chair Karen Chester and Commissioners Sean Hughes, Cathy Armour and Danielle Press. Hosting the event was Chief Operating Officer and Victoria's Regional Commissioner, Warren Day.

Western Australia

In 2020–21, we continued virtual meetings with stakeholders in light of the COVID-19 pandemic restrictions. Our engagement with local and interstate stakeholders included 10 liaison meetings during the period, convened by the Credit and Banking, Financial Reporting and Audit, Corporations, Insolvency Practitioners and Market Supervision teams.

The Regional Liaison Committee convened on three occasions, with virtual attendance by Deputy Chair Karen Chester in August 2020, Commissioner Danielle Press in November 2020 and Commissioner Cathie Armour in April 2021.

ASIC's people

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

As at 30 June 2021, ASIC had a total of 2,008 full-time equivalent (FTE) employees. Table 6.1.3 and Table 6.1.4 show a breakdown by location for each classification in 2020–21 and 2019–20 respectively. Table 6.1.5 and Table 6.1.6 provide a detailed picture of the gender breakdown of our people in 2020–21 and 2019–20 respectively.

Table 6.1.3 ASIC employees (FTE), by location, 2020–21^{1,2,3,4}

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	1
Deputy Chair	1	–	–	–	–	–	–	–	1
Member	2	1	–	–	–	–	–	–	3
SES	19	35	–	2	2	–	1	–	59
ELS	–	1	–	–	–	–	–	–	1
Exec 2	208	289	50	29	11	14	7	–	608
Exec 1	138	230	45	34	13	3	6	1	470
ASIC 4	147	181	43	24	12	1	1	–	409
ASIC 3	116	109	32	16	8	5	3	–	289
ASIC 2	123	11	13	1	1	1	1	–	151
ASIC 1	16	–	–	–	–	–	–	–	16
Total	771	857	183	106	47	24	19	1	2,008

1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).

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

3 Excludes contractors and secondments from other agencies.

4 Data rounded – some totals and subtotals may vary.

Table 6.1.4 ASIC employees (FTE), by location, 2019–20^{1,2,3,4}

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	1
Deputy Chair	1	1	–	–	–	–	–	–	2
Member	3	1	–	–	–	–	–	–	4
SES	16	35	–	1	1	–	1	–	54
Exec 2	190	284	48	28	8	11	5	–	574
Exec 1	135	220	41	32	11	3	4	1	447
ASIC 4	151	161	38	27	13	2	–	–	392
ASIC 3	125	91	32	12	8	4	5	–	277
ASIC 2	142	13	11	1	2	1	–	–	170
ASIC 1	19	–	–	–	–	–	–	–	19
Total	783	806	170	101	43	21	15	1	1,940

- 1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).
- 2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
- 3 Excludes contractors and secondments from other agencies.
- 4 Data rounded – some totals and subtotals may vary.

Table 6.1.5 Combined totals by gender and employment type, 2020–21^{1,2,3,4}

Roles	Permanent				Temporary				Total
	Full-time		Part-time		Full-time		Part-time		
	Female	Male	Female	Male	Female	Male	Female	Male	
Chair	–	–	–	–	–	1	–	–	1
Deputy Chair	–	–	–	–	1	–	–	–	1
Member	–	–	–	–	2	1	–	–	3
SES	27	18	–	1	7	6	–	–	59
ELS	1	–	–	–	–	–	–	–	1
Exec 2	200	282	77	12	21	14	1	1	608
Exec 1	180	193	53	3	15	21	5	–	470
ASIC 4	196	140	27	3	18	24	1	–	409
ASIC 3	129	101	15	1	23	16	4	–	289
ASIC 2	62	27	26	4	18	7	5	2	151
ASIC 1	5	1	3	–	3	2	1	1	16
Total	800	762	201	24	108	92	17	4	2,008

1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).

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

3 Excludes contractors and secondments from other agencies.

4 Data rounded – some totals and subtotals may vary.

Table 6.1.6 Combined totals by gender and employment type, 2019–20^{1, 2, 3, 4}

Roles	Permanent				Temporary				Total
	Full-time		Part-time		Full-time		Part-time		
	Female	Male	Female	Male	Female	Male	Female	Male	
Chair	–	–	–	–	–	1	–	–	1
Deputy Chair	–	–	–	–	1	1	–	–	2
Member	–	–	–	–	2	2	–	–	4
SES	17	14	4	1	9	9	–	–	54
Exec 2	182	268	73	12	18	19	1	1	574
Exec 1	157	192	48	6	16	23	5	–	447
ASIC 4	184	127	26	1	24	26	3	1	392
ASIC 3	101	86	14	–	44	28	1	3	277
ASIC 2	73	23	33	6	18	4	11	2	170
ASIC 1	7	1	3	1	4	2	–	–	19
Total	721	711	201	27	136	115	21	8	1,940

- 1 Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).
- 2 Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors Disciplinary Board.
- 3 Excludes contractors and secondments from other agencies.
- 4 Data rounded – some totals and subtotals may vary.

Table 6.1.7 shows ASIC employees by stakeholder team. Most of our staff are employed under the ASIC Enterprise Agreement 2019–22, which is ongoing. Table 6.1.8 shows the industrial arrangements for all ASIC employees.

We continue to provide our people with the opportunity to receive an annual performance bonus. Table 6.1.9 shows the performance payments we made in 2020–21.

Table 6.1.7 ASIC employees (FTE) by stakeholder team, 2020–21

Stakeholder teams	Total net FTE
Markets	
Corporations	33
Financial Reporting and Auditing	30
Insolvency Practitioners	27
Market Infrastructure	31
Market Supervision	87
Financial Services and Wealth	
Financial Advisers	54
Investment Managers	42
Superannuation	39
Credit, Retail Banking and Payments	62
Insurers	40
Financial Capability/Consumer Insights and Communications	45
Assessment and Intelligence	170
Supervision	33
Office of Enforcement¹	
Financial Services Enforcement	
Financial Services Enforcement	173
Wealth Management Enforcement Major Financial Institutions ²	75
Markets Enforcement	
Corporations and Corporate Governance	45
Enforcement WA and Criminal Intelligence Unit	49
Markets Enforcement	47
Registry	147
Total net FTE	1,229

1 Plus 73 FTE staff working on ESA matters, and an additional 101 FTEs providing Enforcement support services and legal counsel.

2 We adopt the definition used in the last few financial years. The 75 FTEs for Wealth Management Enforcement Major Financial Institutions are reported as a separate line under Office of Enforcement. The remaining FTE working on Enforcement in the ESA group are reported in note 1 above.

Table 6.1.8 Industrial arrangements for ASIC employees as at 30 June 2021¹

Classification	ASIC Act s120(1)	AWA ²	EA ³	Total
ASIC 1	–	–	10	10
ASIC 2	–	–	74	74
ASIC 3	–	–	238	238
ASIC 4	–	–	432	432
Exec 1	–	–	530	530
Exec 2	–	–	736	736
ELS	8	–	–	8
SES	34	7	16	57
Total	42	7	2,036	2,085

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

2 Australian Workplace Agreement.

3 Enterprise agreement.

Table 6.1.9 Performance payments, 2020–21, by classification

Classification	No. of recipients	Aggregate	Minimum	Maximum	Average
ASIC 4	317	\$1,059,893	\$583	\$14,867	\$3,312
Exec 1	456	\$2,613,259	\$681	\$18,334	\$5,681
Exec 2	686	\$6,122,662	\$521	\$28,537	\$8,848

Note: This table includes payments for the 2019–20 performance year which were paid in 2020–21, plus any pro-rata payments for the 2020–21 performance year for staff who left ASIC in 2020–21. The table includes the registry.

Executive remuneration

ASIC's executive remuneration is determined by:

- › the *Remuneration Tribunal Act 1973*
- › the ASIC Act
- › the ASIC Enterprise Agreement 2019–22
- › remuneration policies and procedures.

Commission remuneration is set according to the *Remuneration Tribunal Act 1973* and the Remuneration Tribunal Determinations. This year, ASIC implemented a new Statutory Appointments Governance Framework – Remuneration Expense and Relocation Policy to support the Determinations and provide clear guidance on Commission remuneration.

Executive Director and Senior Executive Leader remuneration

is determined under section 120 of the ASIC Act. Remuneration and conditions are consistent across the cohort and jobs are evaluated under Mercer IPE methodology. Remuneration for Executive Directors and Senior Executive Leaders is based on a fixed total remuneration package that comprises base salary and superannuation and may include car allowance. Contracts under the ASIC Act provide for contingent remuneration (bonuses) of between 3% and 15% of base salary, conditional upon achieving performance priorities. No bonuses have been paid during 2020–21 due to the COVID-19 pandemic Government wage freeze. Bonuses were provisioned in the financial statements; however, at the time of publication, they were not yet awarded. ASIC is moving to remove bonuses from executive remuneration over the course of the next financial year, in line with the APSC Performance Bonus Guidance.

As a Commonwealth entity, we provide an annual update on the remuneration paid to the executives in the agency. Details for the 2020–21 reporting period are outlined in Tables 6.1.10, 6.1.11 and 6.1.12.

Table 6.1.10 Remuneration paid to key management personnel in 2020–21^{1,2}

Name	Position title	Short-term benefits			Post-employment benefits			Termination benefits (\$)	Total remuneration
		Base salary (\$)	Bonuses ⁹ (\$)	Other benefits and allowances (\$)	Superannuation contributions (\$)	Long service leave	Other long-term benefits		
Joseph Longo	Chair ³	67,384	-	-	1,418	1,229	-	-	70,031
James Shipton	Chair ⁴	743,484	-	-	21,674	(43,803)	-	-	721,355
Sarah Court	Deputy Chair ³	49,479	-	-	4,596	902	-	-	54,977
Daniel Crennan	Deputy Chair ⁵	192,094	-	-	8,848	(28,545)	-	-	172,397
Karen Chester	Deputy Chair	550,728	-	-	66,916	13,801	-	-	631,445
Catherine Armour	Commissioner	557,286	-	-	21,694	13,271	-	-	592,251
Danielle Press	Commissioner	569,536	-	-	21,694	13,271	-	-	604,501
Sean Hughes	Commissioner	528,792	-	-	59,746	12,322	-	-	600,860
Christopher Savundra	General Counsel	356,939	21,242	21,388	25,000	8,810	-	-	433,379
Greg Kirk	Executive Director Strategy	307,657	19,237	21,388	56,400	7,980	-	-	412,662
Timothy Mullaly	Executive Director Financial Services Enforcement	322,714	19,404	18,550	57,196	8,051	-	-	425,915

		Short-term benefits			Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration
Warren Day	Chief Operating Officer	344,446	20,683	25,791	56,400	8,550	-	455,870
Joanna Bird	Executive Director Wealth Management	314,874	19,237	20,931	54,210	7,980	-	417,232
Sharon Concisom	Executive Director Markets Enforcement	332,386	19,404	17,558	57,727	8,051	-	435,126
Greg Yanco	Executive Director Markets	342,216	20,350	21,388	40,248	8,430	-	432,632
Diana Steicke	Acting Executive Director Assessment & Intelligence ⁶	240,088	14,306	21,823	21,154	5,874	-	303,245
Louise Macaulay	Chief of Staff ³	28,100	1,397	2,288	3,865	530	-	36,180
Paul Newson	Executive Director Financial Services ⁷	56,495	-	5,163	5,424	1,566	88,870	157,518

		Short-term benefits	Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration		
Rosanne Bell	Executive Director Registry ⁸	269,328	14,973	20,831	45,554	6,395	–	357,081

- 1 This table is prepared on an accrual basis. This includes accrued long service leave which can only be realised when the vesting requirements have been met.
- 2 The remuneration for these positions is set by the Remuneration Tribunal. This is outlined in the Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2020.
- 3 Part year remuneration disclosure – commenced as a KMP on 1 June 2021.
- 4 Part year remuneration disclosure – ceased as a KMP on 31 May 2021.
- 5 Part year remuneration disclosure – ceased as a KMP on 26 October 2020.
- 6 Part year remuneration disclosure – commenced as a KMP on 24 August 2020.
- 7 Part year remuneration disclosure – ceased as a KMP on 24 August 2020.
- 8 Part year remuneration disclosure – ceased as a KMP on 13 April 2021.
- 9 Bonus values are notional only, based on the 6% bonus provision in the financial statements. Bonus percentages had not yet been awarded at the time of publication.

Table 6.1.11 Remuneration paid to senior executives in 2020–21¹

Remuneration band (\$)	Number of senior executives	Short-term benefits			Average other benefits and allowances (\$)	Post-employment benefits		Average long-term service leave benefits	Average other long-term benefits	Termination benefits (\$)	Total remuneration
		Average base salary (\$)	Average bonuses ² (\$)	Average salary bonuses ² (\$)		Average superannuation contributions (\$)	Average long-term service leave benefits				
0–220,000	14	84,407	4,127	2,659	11,950	2,023	–	–	–	–	105,166
220,001–245,000	1	196,407	11,323	–	27,485	4,718	–	–	–	–	239,933
245,001–270,000	3	201,353	11,805	17,538	29,737	4,919	–	–	–	–	265,352
270,001–295,000	6	213,073	8,251	27,247	28,313	5,345	–	–	–	–	282,229
295,001–320,000	17	224,436	13,591	27,759	34,430	5,663	–	–	–	–	305,879
320,001–345,000	9	251,243	12,969	26,287	34,329	5,825	–	–	–	–	330,653
345,001–370,000	6	264,354	15,901	27,524	43,951	6,625	–	–	–	–	358,355
370,001–395,000	1	270,891	16,729	29,738	47,288	6,971	–	–	–	–	371,617
395,001–420,000	1	343,412	14,244	26,306	20,275	5,935	–	–	–	–	410,172
420,001–445,000	2	361,537	20,888	24,333	26,346	8,703	–	–	–	–	441,807

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

² Bonus values are notional only, based on the 6% bonus provision in the financial statements. Bonus percentages had not yet been awarded at the time of publication.

Other highly paid team members are remunerated either under the ASIC Act with similar conditions to Executive Directors and Senior Executive Leaders, or through higher duties or individual flexibility arrangements under the ASIC Enterprise Agreement 2019–22.

Table 6.1.12 Remuneration paid to other highly paid staff in 2020–21¹

Remuneration band (\$)	Number of other highly paid staff	Short-term benefits			Post-employment benefits			Other long-term benefits			Termination benefits		Total remuneration	
		Average base salary (\$)	Average bonuses (\$)	Average other benefits and allowances (\$)	Average superannuation contributions (\$)	Average long service leave	Average other long-term benefits	Average termination benefits (\$)	Average total remuneration					
230,001–245,000	16	187,770	14,314	–	30,185	4,607	–	–	–	–	–	–	236,876	
245,001–270,000	14	203,539	14,358	–	33,635	4,934	–	–	–	–	–	–	256,466	
270,001–295,000	3	217,667	17,549	–	35,853	5,451	–	–	–	–	–	–	276,520	
295,001–320,000	1	238,249	22,461	–	34,354	5,587	–	–	–	–	–	–	300,651	

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

Governance arrangements

Remuneration reviews for senior executives are conducted by the Chair around June–July each year. In 2020–21, ASIC did not provide salary increases or bonuses to senior executives under the ASIC Act. Highly paid team members employed under the ASIC Enterprise Agreement 2019–22 had their 2% salary increase deferred six months to November 2021 in accordance with the COVID-19 pandemic Government wage freeze.

Remuneration decisions are based on:

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

6.2 Appendices relating to assessments

Assessing misconduct and other reports

Misconduct reports from the public

We record and assess every report of alleged misconduct we receive and use this information to identify and respond to misconduct.

In 2020–21, we dealt with 10,711 reports of alleged misconduct. Table 6.2.1 shows the outcome of the misconduct reports received by ASIC during the financial year.

Table 6.2.1 Misconduct issues, by category, 2020–21

Category	2020–21
Corporations and corporate governance	
Governance issues	10%
Failure to provide books and records or a report on company affairs and property to a registered liquidator	7%
Fraud allegations	3%
Registered liquidator misconduct	8%
Insolvency matters	2%
Other (e.g. shareholder issues, reporting issues)	9%
Subtotal	39%
Financial services and retail investors	
Credit issues	10%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	17%
General licence obligations	5%
Other (e.g. insurance, advice, misleading or deceptive conduct, unconscionable conduct)	8%
Subtotal	40%

Category	2020–21
Market integrity – including insider trading, continuous disclosure, misleading statements, and market manipulation	12%
Registry integrity – including incorrect address recorded on ASIC’s register, lodging false documents with ASIC, and issues with business names	3%
Subtotal	15%
Issues out of ASIC’s jurisdiction	6%
Total	100%

Table 6.2.2 Misconduct issues, by outcome, 2020–21 and 2019–20

Misconduct reports	2020–21 Number	2019–20 Number
Total misconduct reports finalised ¹	10,711	12,355
Outcome	Percentage	Percentage
Referred for action by ASIC²	15%	19%
Resolved³	9%	10%
Compliance achieved	<0.5%	1%
Warning letter issued	6%	3%
Referred for internal or external dispute resolution	3%	6%
Assistance provided	<0.5%	<0.5%
More appropriate agency	<0.5%	<0.5%
Analysed and assessed for no further action⁴	65%	61%
Insufficient evidence	48%	41%
No action	17%	20%
No jurisdiction⁵	9%	8%
No breach or offences	2%	2%
Total	100%	100%

- 1 Where ASIC receives reports about the same entity and issue, we merge these matters.
- 2 The matters ASIC takes into account when deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.
- 3 This can involve referral to an external dispute resolution scheme, ASIC issuing a warning letter to the party that may be in breach of the Corporations Act, ASIC providing assistance to the reporter in the form of guidance and information about how best to resolve the matter themselves, or ASIC taking action to achieve compliance.
- 4 Preliminary inquiries made and information provided analysed and assessed for no further action by ASIC, due to insufficient evidence or other reason, such as where another agency or law enforcement body or third party (e.g. a liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.
- 5 Where relevant, ASIC directs reporters to the appropriate agency or solution.

Breach reports from licensees and auditors

The Corporations Act requires AFS licensees to tell us in writing within 10 business days about any significant breach (or likely breach) of their obligations. We also receive breach reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by the company, managed investment scheme or AFS licensee that they are appointed to audit.

Table 6.2.3 provides a breakdown of the breach reports we assessed in 2020–21 by type and outcome.

Table 6.2.3 Breach reports by type and outcome, 2020–21

Type	Number
Breach reports provided by auditors	1,174
Breach reports about AFS licensees and managed investment schemes	2,435
Total breach reports finalised	3,609
Outcome	Percentage
Referred for action by ASIC	11%
Referred for compliance, investigation or surveillance	11%
Assist existing investigation or surveillance	NA ¹
Analysed and assessed for no further action	89%
No further action	77%
Awaiting update	12%
Total	100%

¹ Assist existing investigation or surveillance is no longer tracked separately. It is now included in the 'Referred for action by ASIC' figure.

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

Statutory reports from registered liquidators

The Corporations Act requires registered liquidators to report to ASIC if it appears that company officers are guilty of an offence. Liquidators (except in the case of a simplified liquidation) must also report if the return to unsecured creditors may be less than 50 cents in the dollar.

We received 4,566 initial reports from registered liquidators, 3,810 of which reported possible offences by company

officers. The remainder were lodged because the return to unsecured creditors may be less than 50 cents in the dollar. Of the 3,810 reports of misconduct, we requested supplementary reports from the registered liquidators in 709 cases.

These supplementary reports typically set out the results of the registered liquidator's inquiries and the evidence to support the alleged offences. We referred 18% of supplementary reports assessed in 2020–21 for compliance, investigation or surveillance action, compared to 23% in 2019–20.

Table 6.2.4 provides details of the statutory reports we assessed in 2020–21 by type and outcome.

Table 6.2.4 Statutory reports from registered liquidators, 2020–21

Type	Number
Initial reports from registered liquidators¹	4,566
Reports alleging misconduct	3,810
Reports not alleging misconduct	756
Supplementary reports finalised	517
Total reports finalised (initial + supplementary)	5,083
Outcome	Percentage
Supplementary report analysed and assessed, no further information required²	82%
Supplementary reports referred	18%
Total	100%

1 We requested a further report (supplementary report) from the registered liquidator in 19% of cases.

2 There was insufficient evidence to warrant commencing a formal investigation in 82% of the cases where a supplementary report was requested and subsequently it was determined that no further information was required. We retain these reports for intelligence purposes for possible future use.

Whistleblowing

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

This year, we dealt with 817 disclosures by whistleblowers, an increase compared to the previous year. Around 73% of these disclosures related to corporations and corporate governance, including internal company disputes. We also dealt with matters related to credit and financial services and the conduct of licensees (20%), markets (5%) and other issues (2%).

ASIC is unable to comment on our assessment of, or investigation into, whistleblower disclosures, considering the strong confidentiality protections for whistleblowers. Following our preliminary inquiries, we assessed approximately 91% of disclosures as requiring no further action by ASIC due to insufficient evidence, no actionable breach being disclosed, or the breach being in the jurisdiction or remit of other regulators. In a number of cases, we referred the matter to another agency, law enforcement body, or third party (such as a liquidator) that was better placed to deal with the issue or was already taking action.

6.3 Appendices relating to statements required by law

Portfolio Budget Statement outcomes

Table 6.3.1 Agency resource statement, 2020–21

		Actual available appropriation for 2020–21 \$'000	Cash payments made ¹ 2020–21 \$'000	Balance remaining 2020–21 \$'000
Ordinary annual services²				
Departmental				
Departmental appropriation ³		637,949	536,440	101,509
Administered expenses				
Outcome 1 – Bill 1				
Administration fund		22,985	7,674	15,311
Total ordinary annual services	A	660,934	544,114	116,820
Other services				
Departmental non-operating				
Equity injections ⁴		13,396	9,035	4,361
Total other services	B	13,396	9,035	4,361
Total available appropriations (A+B)		674,330	553,148	121,181
Special appropriations limited by criteria/amount				
Banking Act 1959		N/A	52,551	N/A
Life Insurance Act 1995		N/A	4,960	N/A
Total special appropriations	C	N/A	57,511	N/A
Total appropriations excluding special accounts (A+B+C)		674,330	610,659	N/A

		Actual available appropriation for 2020–21 \$'000	Cash payments made ¹ 2020–21 \$'000	Balance remaining 2020–21 \$'000
Special Account⁵				
Opening balance		39,599	N/A	N/A
Appropriation receipts		59,221	N/A	N/A
Costs recovered		5,964	N/A	N/A
Payments made		N/A	59,610	N/A
Total special account	D	104,784	59,610	N/A
Total resourcing (A+B+C+D)		779,114	670,269	N/A
Less appropriations drawn from annual appropriations above and credited to special accounts		(59,221)	N/A	N/A
Total net resourcing for ASIC		719,893	670,269	N/A

1 Does not include GST.

2 Appropriation Bill (No. 1) 2020–21, Appropriation Bill (No. 3) 2020–21, prior year departmental appropriation and section 74 relevant agency receipts.

3 Includes \$20.856 million for the Departmental Capital Budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

4 Appropriation Bill (No. 2) and (No. 4) 2020–21

5 Does not include Special Public Money.

Table 6.3.2 Expenses by outcome

	Budget ¹ 2020–21 (1) \$'000	Actual expenses 2020–21 (2) \$'000	Variance column (1) minus column (2) \$'000
Outcome 1: Improved confidence in Australia’s financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets, and delivering efficient registry systems.			
A Administered expenses funded by administered appropriations	12,399	7,727	4,672
B Departmental expenses funded by departmental appropriations and own-source revenue	430,583	421,602	8,981
Total for Outcome 1 (A+B)	442,982	429,329	13,653
Average FTE ²	1,993	2,008	(15)

- 1 Based on the 2020–21 forecast as set out in ASIC’s 2020–21 Portfolio Budget Statements.
- 2 2020–21 Portfolio Budget Statements quoted the average staffing level, which is different from FTE. The average staffing level includes employees working on capital projects, while the FTE excludes employees working on capital projects.

Reports required under statute and other reporting requirements

ASIC Act

As required by section 136(1)(a) of the ASIC Act, in 2020–21, ASIC reports that we provided relief under Part 29 of the SIS Act from the requirement to hold a meeting of members for the 2019–20 year of income for one superannuation fund whose members were transferring to another fund as part of a successor fund transfer on conditions that included a requirement that the meeting of the recipient fund

allow for questions to be asked about the former fund and the successor fund transfer. We did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997*.

As required by section 136(1)(c), ASIC reports that during 2020–21 we did not conduct joint inspections with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations.

We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de

Surveillance du Secteur Financier or share any information with them under relevant provisions of the ASIC Act during 2020–21.

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

Commonwealth fraud control guidelines

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

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

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

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

Auditor-General reports

This financial year, there was one report by the Auditor-General on ASIC's operations.

On 23 October 2020, the Auditor-General released a report on the ASIC 2019–20 financial statements audit. During the audit, the Australian National Audit Office (ANAO) identified payments made on behalf of the then-ASIC Chair and a then-Deputy Chair that it considered

may exceed the limits set in the remuneration determination made by the Remuneration Tribunal.

ASIC acknowledged the ANAO's audit findings and agreed to its recommendations.

ASIC made further changes following the release of Dr Vivienne Thom AM's review of ASIC governance. Details on these changes can be found in Chapter 1, pages 4 and 8. In August 2021, ASIC approved a new remuneration, expense and relocation policy for statutory appointees.

Commonwealth Ombudsman reports

This financial year, there was one report by the Commonwealth Ombudsman on ASIC's operations.

In February 2021, the Commonwealth Ombudsman released its annual report, *Monitoring agency access to stored communications and telecommunications data under Chapters 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, for the period 1 July 2018 to 30 June 2019.

The report noted that ASIC had disclosed 28 instances where officers who were no longer authorised to do so had made telecommunications data authorisations. The report further noted that ASIC took appropriate remedial action to quarantine all telecommunications data received as a result of these unauthorised disclosures.

Other reports

This financial year, ASIC reported one alleged instance of fraud valued at approximately \$31,182.28 to the Finance Minister under section 19 of the PGPA Act. The matter was referred to the Australian Federal Police.

This financial year, there were no:

- › reports by parliamentary committees on ASIC operations
- › capability reviews of ASIC.

Freedom of Information Act 1982

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

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

Requests by email should be sent to:

foirequest@asic.gov.au

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

For further information on how to apply, visit our website at www.asic.gov.au.

Categories of documents in ASIC's possession include, for 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.

And, for other matters, categories of documents include:

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

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

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

ASIC Digest is available by subscription from Thomson Reuters, telephone 1300 304 197.

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

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

ASIC’s Information Publication Scheme Plan, showing what information is published in accordance with the scheme requirements, can be found at <https://asic.gov.au/about-asic/freedom-of-information-foi/information-publication-scheme/>.

ASIC’s use of compulsory information-gathering powers

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

This appendix discloses data by number of instances in 2020–21, with comparative data for 2019–20.

Table 6.3.3 Use of significant compulsory information-gathering powers

		Number of notices 2020–21	Number of notices 2019–20
Appear for examination			
ASIC Act, s19 ¹	Requirement to appear for examination	975	857
ASIC Act, s58	Power to summons a witness and take evidence	0	0
National Credit Act, s253 ¹	Requirement to provide reasonable assistance	74	153
Give reasonable assistance			
Corporations Act, s1317R	Power to require assistance in prosecutions	3	22
ASIC Act, s49(3)	Power to require reasonable assistance in prosecutions	39	13

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

		Number of notices 2020–21	Number of notices 2019–20
National Credit Act, s51	Requirement to provide reasonable assistance	0	0
Corporations Act, s601FF	Power to conduct surveillance/monitor managed investment scheme	0	0
National Credit Act, s274(4)	Requirement to provide reasonable assistance	0	0
Corporations Act, s912E	Power to require assistance and disclosure of books and information from an AFS licensee	170	274
Produce documents			
National Credit Act, s266	Requirement to produce books (credit activities)	75	100
National Credit Act, s267	Requirement to produce books	135	247
ASIC Act, s30	Notice to produce books about affairs of body corporate or registered scheme	862	1,040
ASIC Act, s31	Notice to produce books about financial products	10	29
ASIC Act, s32A	Notice to produce books about financial services	3	0
ASIC Act, s33	Notice to produce books in person's possession	1,969	1,589
Corporations Act, s1213P	Power to require a notified foreign passport fund to lodge a copy of the register of members.	0	0
Provide access			
ASIC Act, s29	Power to inspect books	0	0
Corporations Act, s821D	Power to require access to a CS facility	0	0

		Number of notices 2020–21	Number of notices 2019–20
Provide information			
ASIC Act, s12GY(2)	ASIC to require claims to be substantiated	0	0
ASIC Act, s37(9)(a)	Power requiring explanation of books	0	0
Corporations Act, s601HD	Power to request information about compliance plan of a registered scheme	0	0
National Credit Act, s49(1)	Requirement to provide information (statement)	46	40
Corporations Act, s912C	Power to require information from an AFS licensee	667	962
National Credit Act, Sch 2 item 17	Power to require information (obtain statement or audit report)	0	0
Corporations Act, s672A	Power to require disclosure of relevant interests	0	4
Corporations Act, s672B	Power to require disclosure of relevant interests	0	0
National Credit Act, s37(4)	Power to request information or audit report from licence applicant	0	0
Corporations Act, s792D	Power to require reasonable assistance from a market licensee	41	22
Provide information and produce books			
ASIC Act, s30A	Notice to auditors requiring information or books	58	70
ASIC Act, s30B	Notice to registered liquidators requiring information or books	9	5
Search warrants			
<i>Crimes Act 1914</i> , s3E	Warrants to search premises/ conveyance or person	0	10
ASIC Act, s36	Warrant to search premises	30	0

Table 6.3.4 Use of other powers

Use of other powers		Number of notices 2020–21	Number of notices 2019–20
Obligations of carriers and carriage service providers			
<i>Telecommunications Act 1997, s313</i>	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	0	0
Provide documents, information or evidence			
<i>Mutual Assistance in Business Regulation Act 1992, s10(2)</i>	Requirement to produce documents, to give information or to appear to give evidence and produce documents	62	50

Grants programs

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

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

- › the appointment of liquidators to abandoned companies under Part 5.4C of the Corporations Act.

On 1 July 2020, ASIC was allocated \$7.118 million, which, together with an amount of \$6.964 million rolled over from the previous financial year, resulted in total available funds of \$14.082 million. ASIC paid and committed the amount of \$9.6 million to liquidators in 2020–21. Applications in progress and grants approved have substantially committed the balance of the funding allocation.

The 2010–21 year saw an approximate 45% decrease in liquidations. Despite this, ASIC received 781 applications (an overall 2% decrease on the previous financial year) for funding comprising:

- › 612 director banning reports (a 3.5% decrease)
- › 107 matters other than section 206F director banning reports (a 28.5% decrease)

- › 62 funding liquidator actions to recover assets (a fivefold increase).

ASIC approved grant funding for 197 director banning reports, 60 matters other than director banning reports and 2 asset recovery actions. An additional 15 variations for increased funding were approved.

ASIC also funded liquidators appointed by ASIC to 19 windings up of abandoned companies.

The AA Fund assisted in:

- › 41 director bannings, representing 93% of the total of 44 directors banned
- › 2 criminal convictions/prosecutions.

There have also been in-principle approvals across several matters for liquidators to undertake public examinations of between an estimated 37 and 45 parties.

Information on grants by ASIC under the AA Fund can be found at <https://asic.gov.au/for-finance-professionals/registered-liquidators/your-ongoing-obligations-as-a-registered-liquidator/assetless-administration-fund/>.

Managing property vested in ASIC or the Commonwealth

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

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

In 2020–21, the number of new cases received increased to 1,737 and the number of cases finalised increased to 1,683.

Table 6.3.5 shows vested properties of deregistered companies by number of cases.

Assets of deregistered companies vesting in ASIC or the Commonwealth

Section 601AD of the Corporations Act provides that when a company is deregistered, all of its property vests in ASIC or, in the case of trust property, the Commonwealth.

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

**Table 6.3.5 Vested properties of deregistered companies
(by number of cases)**

Claims by type	2020–21	2019–20
Total new cases	1,737	1,608
Total finalised cases	1,683	1,610
Property disposals		
Transferred	46	68
Sold	13	16
No longer vested ¹	769	767
Other ²	43	60
Total property disposals	871	911

- 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.

Ecologically sustainable development

ASIC continues to focus on our environmental performance in accordance with Government policy. In 2020–21, we continued to mitigate our impact on the environment through initiatives consistent with the *Environment Protection and Biodiversity Conservation Act 1999* principles of ecologically sustainable development (ESD). The progress and results of these initiatives are reported and reviewed by our Executive on a twice-yearly basis.

In our core business in 2020–21, we ensured that direct contributions to ESD principles were achieved by way of activities such as increasing options for

online lodgement, online self-service and digital communication channels which included reduction of hard copy mail.

Energy efficiency

Our total electricity consumption has reduced by 57% since 2010–11.

A major driver of consumption decrease has been a reduction in our leased floor space with a 31% decrease since 2014–15, while reducing work points by only 4%. This space efficiency is complemented by ongoing energy minimisation initiatives, including programmable motion sensor-controlled lighting, LED lighting and default power saving modes for equipment. These approaches ensure the reduction of associated environmental impacts and we continue to review and report on our energy consumption

results against the Energy Efficiency in Government Operations (EEGO) Policy targets.

Our consumption of energy during the 2020–21 reporting period was influenced by significant numbers of staff working

from home during this time and the closure of various offices around the country during state lockdowns to control the COVID-19 pandemic.

Table 6.3.6 Consumption of office energy

Indicator	2020–21	2019–20
Light and power – ASIC tenancies (kWh)	2,124,313	2,947,775
MJ per person	2,864	4,011
Light and power – ASIC computer centres (kWh)	620,355	758,544
MJ per m ²	5,120	6,064
Greenhouse gas emissions (tonnes CO ₂ -e) – attributed to all light and power	2,138	3,318

Resource efficiency and waste

We have improved our sustainable consumption to minimise the environmental impacts over the whole-of-life of products. Strategies include reducing the environmental impacts of shipping by buying Australian-made copy paper and consumables supplied from state-based warehouses, reducing the waste volume going to landfill by extending waste streams to include organics and coffee cups, and reducing the potential release of harmful substances into the environment by introducing a waste stream for batteries and our continued zero IT waste to landfill policy.

The fit-out of our offices in Melbourne, Brisbane and Sydney has included landfill reduction by the extensive re-use of furniture in our offices, excess furniture sent for external re-use or recycling, and the extensive use of environmentally friendly materials such as carbon neutral flooring and 100% recyclable wall panels.

Table 6.3.7 Resource efficiency and waste

Indicator	2020–21	2019–20
Office paper purchased by FTE (A4 reams/FTE)	1.1	3.4
Percentage of office paper purchased with recycled content	100%	100%
Toner cartridges recycled (kgs)	140.92	416
IT equipment recycled or re-used (tonnes)	13.88	9.3

Travel

This year, there has been an ongoing requirement for staff to work from home, given COVID-19 pandemic restrictions, with limited business essential travel. This has seen a 95% decrease in flights and associated carbon emissions. Alternative communication tools, such as telephone and video conferencing, have been extensively used, with over 220,224 video connections between ASIC employees and externals.

Table 6.3.8 Type and amount of travel undertaken by ASIC employees

Indicator	2020–21	2019–20
Ground travel¹		
Total number of fleet vehicles	1	2
Total distance travelled by fleet vehicles (kms)	555	20,672
Average fuel consumption of fleet vehicles (litres/100 kms)	8.83	8.53
Total direct greenhouse emissions of fleet (tonnes CO ₂ -e)	.229	4.19
Total distance travelled using GoGet carshare (kms)	12,524	25,407
Air travel		
Total distance of air flights (kms)	575,445	10,524,116
Total greenhouse emissions of flights (tonnes CO ₂ -e)	153	1,012
Alternative meeting communications		
Total number of video conferencing calls	220,224	41,526

¹ The fleet data is for the period 1 April to 31 March each year.

Information and engagement

This year, we continued to provide options for team members' participation in our sustainability initiatives. We improved and refreshed our intranet information for team members on sustainability initiatives and performance reporting, complemented by ongoing participation in environmental activities such as Earth Hour.

Consultancies and expenditure on advertising

During 2020–21, ASIC conducted the advertising campaigns set out in Table 6.3.9.

Further information on ASIC's advertising campaigns is available on our website at www.asic.gov.au. Information on advertising campaign expenditure greater than \$250,000 is available in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available at www.finance.gov.au.

Table 6.3.9 Expenditure on advertising agency services, 2020–21

Agency	Expenditure (\$)	Purpose
Mediabrand Australia Pty Ltd	192,500.00	Ads campaign
Mediabrand Australia Pty Ltd	137,500.00	Google Ads campaign
Mediabrand Australia Pty Ltd	14,681.11	Graduate advertising 2021–22 via GradConnection
Mediabrand Australia Pty Ltd	55,959.55	Seek ad packs FY 2020–21
Mediabrand Australia Pty Ltd	16,498.90	2021 GradAustralia Subscription
Mediabrand Australia Pty Ltd	29,645.62	LinkedIn renewal FY 2020–21
Mediabrand Australia Pty Ltd	16,498.90	GradAustralia yearly advertising campaign 2021–22
The Nielsen Company (Australia) Pty Ltd	187,930.60	Advertising Monitoring Services 2020–21
Total	651,214.68	

Procurement

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

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

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

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

Our procurement framework aims to facilitate compliance with the core principles and policies of the CPRs to achieve 'value for money' by 'encouraging competition', 'efficient, effective, ethical and economical use of resources', 'accountability and transparency', and 'appropriate engagement with risk' through a process that is 'commensurate with the scale and scope of the business requirement'.

We undertake regular audits of procurement and any instances of non-compliance are reported

through the compliance report and addressed, as required, through process improvement initiatives.

All major contracts entered into in 2020–21 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

Using AusTender

This annual report contains information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available through the AusTender website, www.tenders.gov.au.

During 2020–21, ASIC awarded 795 procurement activities (each valued at \$10,000 or more reported on AusTender) for a total value of \$144.231 million. Of these procurements, 246 were valued in excess of \$80,000 for a total value of \$123.676 million.

Contracts of \$100,000 or more were reported on AusTender, in accordance with the Senate order on departmental and agency contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2021 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

Table 6.3.10 Expenditure on non-consultancy contracts

Business data	2020–21
Number of new non-consultancy contracts	757
Expenditure on new non-consultancy contracts (\$ millions)	60.349
Number of ongoing non-consultancy contracts	992
Expenditure on ongoing non-consultancy contracts (\$ millions)	87.573

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

Table 6.3.11 Additional information – reportable non-consultancy contracts

Organisations receiving a share of reportable non-consultancy contract expenditure 2020–21	Expenditure (\$)
Oracle Corporation (Aust) Pty Ltd	4,282,385.40
Broadspectrum Property Pty Ltd	3,135,958.71
Johnson Winter & Slattery	2,293,856.44
Australia Post	2,284,599.60
DXC Technology Australia Pty Ltd	2,077,542.50

Note: The above figures are GST inclusive and include the names of the organisations that received the five largest shares of ASIC’s total expenditure on such contracts during the 2020–21 financial year, and the total amounts they received.

Consultancy contracts

During 2020–21, ASIC entered into 39 new consultancy contracts, involving total expenditure of around \$5.826 million. In addition, 35 ongoing consultancy contracts were active during the year, involving total expenditure of \$8.280 million.

Table 6.3.12 Consultancy trend data

Business data	2020–21	2019–20
Number of new consultancies	39	39
Expenditure on new consultancies (\$ millions)	4.539	6.733
Number of ongoing consultancies	35	35
Expenditure on ongoing consultancies (\$ millions)	5.073	8.638

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

Table 6.3.13 Additional information – reportable consultancy contracts

Organisations receiving a share of reportable consultancy contract expenditure 2020–21	Expenditure (\$)
State of Matter Consulting Pty Ltd	2,868,137.83
LAB3 Pty Ltd	793,727.00
Unify Solutions Pty Ltd	514,910.00
Wardy IT Solutions Pty Ltd	430,451.45
Deloitte Access Economics Pty Ltd	422,181.07

Note: The above figures are GST inclusive and include the names of the organisations that received the five largest shares of ASIC's total expenditure on such contracts during the 2020–21 financial year, and the total amounts they received.

Policy on selection and engagement of consultants

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

Of the 39 consultants that ASIC engaged during 2020–21:

- › 36 were for specialised or professional skills
- › three were for independent research or assessment.

The method of procurement used was open tender for 30 engagements (including engagements from panels) and limited tender for 9 engagements.

The consultants were engaged for the following main service categories:

- › information technology consultation services
- › research programs
- › risk management consultation services
- › business intelligence consulting services
- › management advisory services
- › market research
- › strategic planning consultation services.

Procurement initiatives to support small business

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

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

ASIC's procurement practices support small businesses by:

- › use of the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000, where applicable
- › encouraging use of the SME exemption under the Commonwealth Procurement Rules
- › using the Digital Transformation Agency's digital marketplace, which is accessible to SMEs and clearly identifies their SME status.

Australian Financial Complaints Authority

ASIC has oversight of AFCA. AFCA is a single external dispute resolution (EDR) scheme for financial services that aims to resolve complaints that a financial firm could not resolve by internal dispute resolution (IDR).

Financial firms must have a dispute resolution system that consists of IDR procedures that meet the standards or requirements made or approved by ASIC, as well as membership of AFCA.

AFCA deals with financial services, credit and superannuation complaints made by consumers, small businesses and primary producers that a firm has not resolved at IDR.

In 2020–21, AFCA received 70,510 complaints, a 12.5% decrease on 2019–20, securing \$240.64 million in compensation to consumers and small businesses. AFCA continued to respond to complaints arising from the COVID-19 pandemic in 2020–21, although these complaints also declined relative to last financial year.

As an authorised EDR scheme, AFCA is governed by an independent board responsible for ensuring the scheme's ongoing compliance with the authorisation requirements, ministerial conditions and ASIC regulatory requirements.

In February 2021, Treasury published terms of reference for the inaugural Independent Review of AFCA. Required by legislation, this is an important and timely opportunity to assess AFCA's performance against its statutory mandate and to ensure that it continues to operate effectively.

In 2020–21, ASIC issued regulatory requirements and approved material changes to the AFCA Rules to close a gap in AFCA's jurisdiction identified in a judgment in the Supreme Court (NSW) in the matter of *DH Flinders Pty Ltd v AFCA*.

Under the legislative requirements, AFCA reported 67 systemic issues to ASIC in 2020–21. AFCA also reported possible serious contraventions and shared information with ASIC under applicable statutory requirements and provisions of the AFCA Rules.

Compliance with AFCA determinations is a critical part of a licensee's general obligations and critical to confidence in the financial services dispute resolution framework. In April 2021, ASIC commenced proceedings in the Federal Court against a credit assistance provider and its director for failing to comply with AFCA determinations. ASIC commenced this action under reforms resulting from the Royal Commission which mean that a failure to cooperate with AFCA is a civil penalty offence.

Other reforms affecting AFCA include:

- › ASIC's updated requirements about how financial firms deal with consumer and small business complaints under their IDR procedures (Regulatory Guide 271), which commence 5 October 2021
- › ASIC's further consultation on the IDR data collection and reporting framework
- › ASIC's updates to its remediation policy settings, which, together with the AFCA Independent Review, present an opportunity to consider the respective roles of financial firms, AFCA and ASIC in consumer remediations.

6.4 Five-year summary of key stakeholder data

Table 6.4.1 Five-year summary of key business and stakeholder data, 2017–21

Business data	2020–21	2019–20	2018–19	2017–18	2016–17
Registry services					
Companies (total)	2.9m	2.8m	2.7m	2.6m	2.5m
New companies registered	279,853	222,048	223,661	244,510	249,394
Business names (total)	2.4m	2.3m	2.3m	2.2m	2.2m
New business names registered	460,409	387,827	375,052	366,181	348,266
% company data lodged on time	94%	93%	95%	95%	95%
Total searches of ASIC databases	219.2m	243.7m	142.6m	122.5m	90.6m
Regulated entities					
AFS licensees	6,179	6,127	6,159	6,170	6,058
Credit licensees	4,777	4,930	5,188	5,503	5,576
Authorised market infrastructure providers	67	64	64	65	67
Registered SMSF auditors	5,540	5,699	5,919	6,039	6,339
Registered company auditors	3,553	3,781	3,962	4,226	4,365
Registered liquidators	649	633	651	663	711
Registered managed investment schemes	3,612	3,650	3,712	3,726	3,632

Business data	2020–21	2019–20	2018–19	2017–18	2016–17
Fundraising and takeovers					
Fundraising documents lodged	884	711	794	898	1,017
Fundraising where ASIC required additional disclosure	\$3.8bn	\$2.3bn	\$3.2bn	\$3.5bn	\$7.2bn
Control transactions – schemes and bids	85	55	73	60	72
Control transactions – schemes and bids implied target size	\$40.5bn	\$23.5bn	\$34.3bn	\$32bn	\$18bn
Enforcement outcomes					
Criminal and civil litigation completed ¹	75	72	108	127	101
% successful criminal and civil litigations ²	97%	93%	94%	99%	90%
Individuals imprisoned ³	7	7	10	6	13
Recoveries, costs, compensation or fines ⁴	\$10.2m	\$1.5m	\$77.7m	\$437.8m	\$849.7m
Reports of misconduct					
Reports of misconduct finalised	10,711	12,355	10,249	9,567	9,011
Other key statistics					
Fees and charges collected for the Commonwealth	\$1,513m	\$1,358m	\$1,273m	\$1,227m	\$920m
Staff (average FTEs) ⁵	2,008	1,940	1,701	1,656	1,640

1 This excludes summary prosecutions for strict liability offences.

2 This excludes summary prosecutions for strict liability offences.

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

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

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