



**ASIC**  
Australian Securities &  
Investments Commission



# Annual Report 2019–20

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ISSN 1448–3416 (Print)  
ISSN 1448–370X (Online)  
October 2020



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

**James R. F. SHIPTON**  
Chair

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13 October 2020

The Hon. Josh Frydenberg MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Treasurer

I am pleased to present the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2020.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), section 46 of the *Public Governance, Performance and Accountability Act 2013*, sections 17AA to 17AJ of the *Public Governance, Performance and Accountability Rule 2013* and Resource Management Guide No. 135 *Annual reports for non-corporate Commonwealth entities*, published by the Department of Finance in May 2020.

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

Yours faithfully

**James Shipton**  
Chair

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# 1

## ASIC's role

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# Chair's report

On behalf of my fellow Commissioners, I am pleased to present this report outlining ASIC's work and achievements in 2019–20.

It has been an extraordinary year for global markets and for the financial system in Australia.

Australia faced significant challenges as a result of the COVID-19 pandemic and those challenges continue. As the nation's corporate, markets, financial services and consumer credit regulator, ASIC is committed to making a real difference in the way our economy and our community weather this difficult time.

In the period from March to June 2020, we responded rapidly and strategically to the challenges created by the COVID-19 pandemic, coordinating our responses with the Council of Financial Regulators Crisis Management Working Group.

We were focused on ensuring that the system, although under stress, continued to be strong and efficient. In March, we issued directions requiring large equity market participants to limit the number of trades they executed each day. In May, once we were satisfied that activity had stabilised, we revoked the directions. We provided relief to facilitate virtual shareholder meetings and extended the period for lodging financial reports.

We responded rapidly to the needs of companies to raise capital quickly by giving temporary relief to enable certain 'low doc' offers to be made to investors, even if they did not meet all the usual requirements. These initiatives assisted Australia's capital markets to remain

strong and efficient and resulted in listed companies raising over \$31 billion since the pandemic began.

We recalibrated our regulatory priorities to allow us and the entities we regulate to focus on the impact of the COVID-19 pandemic. The temporary changes we made to our priorities included the deferral of some activities and the redeployment of staff to address issues of immediate concern, including protecting vulnerable consumers, maintaining the integrity of markets, and supporting businesses.

Our work to address the impact of the COVID-19 pandemic was guided by five strategic priorities, published in June 2020. These priorities were:

- › protecting consumers from harm at a time of heightened vulnerability
- › maintaining financial system resilience and integrity
- › supporting Australian businesses to respond to the effects of the COVID-19 pandemic
- › continuing to identify, disrupt and deter the most harmful conduct, including through enforcement action
- › continuing to build our organisational capability in challenging times.

These priorities addressed what we saw as the greatest threats and harms in the pandemic environment, such as the vulnerability of consumers to unscrupulous conduct, the challenges to market integrity, and the pressures faced by businesses.



Importantly, the key functions of our normal day-to-day operations – including registry operations and services, receipt of whistleblower reports and breach and misconduct reports, and general contact points for industry – remained available to those who relied on them.

We postponed the ASIC Annual Forum, originally scheduled for March 2020, in order to ensure that we could deliver a high-quality event for domestic and international participants that includes some face to face interaction between attendees. We plan to hold the next ASIC Annual Forum in 2022.

From April to June 2020, we regularly published updated information about the timing of our key outputs over the coming months to help industry with planning and resource allocation, as part of the transition of the business community to a post-pandemic world.

To help Australian consumers and businesses make well-informed decisions in the COVID-19 pandemic environment, we continually updated our Moneysmart website to reflect the common financial decisions many consumers were navigating. Over a million consumers visited ASIC's Moneysmart website each month during the pandemic.

In addition to the impact of the COVID-19 pandemic, Australian businesses and consumers faced significant challenges as a result of the devastating bushfires that affected many parts of Australia in the summer of 2019–20. ASIC was one of many agencies that supported individuals and businesses affected by the bushfire crisis and its aftermath.

Importantly, across this year ASIC also continued the change program we began in 2018, including our ongoing work to

implement the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission).

This change program included:

- › continuing our accelerated enforcement strategy, led by the Office of Enforcement and underpinned by our 'Why not litigate?' operational discipline
- › continuing to implement our more intensive supervisory approaches, including close and continuous monitoring, and targeted reviews of corporate governance practices in large listed entities
- › strengthening supervision of the superannuation sector, as we work towards our expanded role as the primary conduct regulator in this sector
- › using the new regulatory powers and remedies given to us
- › supporting the Government's legislative reform agenda and implementing reforms as they are passed by Parliament.

We also continued to strengthen our capabilities to support our vision by enhancing our capability in data and technology, improving our strategic planning and communication, implementing systems to better record and report what we do, and making it easier for stakeholders to interact with us.



**James Shipton**  
Chair

# 1.1 ASIC's role and responsibilities

ASIC is Australia's integrated corporate, markets, financial services and consumer credit regulator. ASIC is established under the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

## Our vision

Our vision is for a fair, strong and efficient financial system for all Australians.

## Our regulatory mission

To realise our vision, we will use all our regulatory tools to:

- › change behaviours to drive good consumer and investor outcomes
- › act against misconduct to maintain trust and integrity in the financial system
- › promote strong and innovative development of the financial system
- › help Australians to be in control of their financial lives.

## Our registry mission

To realise our vision, we will provide efficient and accessible business registers that make it easier to do business.

## Our legislative responsibilities

The ASIC Act states that ASIC has the function of monitoring and promoting market integrity and consumer protection in relation to the Australian financial system and the payments system.

It requires ASIC to strive to:

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

We enforce the law and regulate companies, financial markets and financial services under the following key legislation:

- › ASIC Act
- › *Business Names Registration Act 2011*
- › *Corporations Act 2001* (Corporations Act)
- › *Insurance Contracts Act 1984*
- › *National Consumer Credit Protection Act 2009* (National Credit Act).

We also administer parts of the following legislation:

- › *Banking Act 1959*
- › *Life Insurance Act 1995*
- › *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- › *Retirement Savings Accounts Act 1997*
- › *Superannuation (Resolution of Complaints) Act 1993*
- › *Superannuation Industry (Supervision) Act 1993* (SIS Act).

## Our regulatory approach

In everything we do, we are guided by our vision of a fair, strong and efficient financial system for all Australians. To achieve our vision, we undertake a range of regulatory activities to:

- › change behaviours to drive good consumer and investor outcomes
- › act against misconduct to maintain trust and integrity in the financial system
- › promote strong and innovative development of the financial system
- › help Australians be in control of their financial lives.

Our regulatory toolkit includes supervision and surveillance, enforcement, financial capability work, industry engagement, guidance and input into law reform.

We use this toolkit across the industry sectors we regulate to identify and respond to threats and harms, and to achieve our vision.

For most of the issues in our remit, we use a combination of our regulatory tools to achieve outcomes for consumers and investors. This includes using new powers, such as the product intervention power, to address practices and products that may cause harm to consumers.

## ASIC Corporate Plan

*ASIC's Corporate Plan 2019–23* (Corporate Plan) explains how we use our strategic planning framework to achieve our vision and mission.

The framework guides the development of our priorities and actions. It is based on monitoring and analysis of our operating environment, identification of threats and behaviours that lead to harm (through our threats, harms and behaviours framework), and the prioritisation of those harms that need to be addressed.

Our strategic planning process supports how we plan our regulatory action.

Our Corporate Plan this year focused on addressing five key thematic drivers of harm to consumers and markets, through seven regulatory priorities.

The key drivers of harm were:

- › poor design and inappropriate sale of investment and protection products
- › inappropriate sale of credit products to consumers and limited access for small business
- › poor conduct in financial markets driven by lack of competition, structural challenges or conflicts of interest
- › poor governance (by boards, executives and investors), lack of professionalism, poor culture and lack of accountability
- › regulated entities are not deterred from misconduct by ASIC's regulatory action.

The seven regulatory priorities identified in our Corporate Plan were:

1. High deterrence enforcement action
2. Prioritising the recommendations and referrals from the Royal Commission
3. Delivering as conduct regulator for superannuation
4. Addressing harms in insurance
5. Improving governance and accountability
6. Protecting vulnerable consumers
7. Addressing poor financial advice outcomes.

In Chapters 2 and 3, we set out our achievements against the qualitative and quantitative measures identified in our Corporate Plan.

## Interim Corporate Plan

In June 2020, we published the *ASIC Interim Corporate Plan 2020–21: Strategic priorities responding to the impact of the COVID-19 pandemic* (Interim Corporate Plan), with five priorities to tackle the challenges presented by the COVID-19 pandemic.

These short-term priorities were:

1. Protecting consumers from harm at a time of heightened vulnerability
2. Maintaining financial system resilience and stability
3. Supporting Australian businesses to respond to the effects of the COVID-19 pandemic
4. Continuing to identify, disrupt and deter the most harmful conduct, including through enforcement action
5. Continuing to build our organisational capacity in challenging times.

Key new activities that flowed from this plan included:

- › the establishment of dedicated cross-ASIC working groups on scams, false and misleading advertising, and unlicensed advice
- › expanding our markets supervision work to support the fair and orderly operation of markets and to ensure that investors are appropriately informed
- › providing relief in relation to capital raising, shareholder meetings, financial advice and the lodgement of financial reports
- › ensuring that there are measures in place to assist consumers who experience hardship, especially in relation to credit and insurance
- › facilitating access to effective advice when individuals are considering seeking early access to their superannuation.

**Chapters 2 and 3 include more detail about the work we have done on the priorities identified in our Interim Corporate Plan.**

## 1.2 ASIC's structure and management

### ASIC governance

Strengthening governance and accountability measures is part of ASIC's strategic change program.

This year, ASIC implemented key reforms to our governance structure and decision-making processes in light of recommendations from the Royal Commission and the application of the executive accountability regime.

A new governance and accountability framework was established to ensure we act strategically, with integrity and effectively deliver on our statutory objectives through well-defined responsibilities, accountabilities and processes for the Commission, our Executive and various committees.

Under ASIC's Management Accountability Regime established in December 2019:

- › the Commission works collectively to make *strategic* and/or *significant* decisions for ASIC
- › Executive Directors report directly to ASIC's Chair and hold responsibility for the delivery of the strategy set by the Commission and day-to-day management of ASIC's work.

ASIC's governance and accountability structures are consistent with ASIC being an independent Commonwealth agency that is a statutory body corporate and reflect the legislative framework within which ASIC operates. ASIC's Chair, James Shipton, is the accountable authority under section 9A of the ASIC Act and held this position throughout the reporting period.

A key purpose of the governance framework is to enable the Commission to spend more time focusing on and setting ASIC's strategy.

To assist the Commission in discharging its functions and exercising its powers, it has established the Committee structure set out on pages 16–17.

Further information about ASIC's governance and the role of the Commission is set out in the Appendices.

## ASIC organisational structure

Commission					
James Shipton Chair					
Cathie Armour Commissioner	Karen Chester Deputy Chair	Daniel Crennan QC Deputy Chair	Sean Hughes Commissioner	Danielle Press Commissioner	
Office of Enforcement					
Supervision Group	Financial Services	Markets	Wealth Management	Financial Services Enforcement	Markets Enforcement
Governance  Close & Continuous Monitoring	Credit, Retail Banking & Payments  Insurers	Corporations  Financial Reporting & Audit  Insolvency Practitioners  Market Infrastructure  Market Supervision	Financial Advisers  Investment Managers  Superannuation	Financial Services Enforcement  Wealth Management Enforcement – Major Financial Institutions  Wealth Management Enforcement	Corporations & Corporate Governance  Enforcement WA & Criminal Intelligence Unit  Markets Enforcement
Assessment & Intelligence	Strategy	Chief Legal Office	Operations	Commission Specialist Teams	
Licensing  Misconduct & Breach Reporting  Small Business Engagement & Compliance  Office of the Whistleblower	Financial Capability  International  Strategic Intelligence  Strategic Policy  Behavioural Research & Policy Unit	Administrative Law  Commission Counsel  Delegates Panel  Special Counsel	Corporate Services  Finance  Information Technology  Chief Data & Analytics  Officer Specialist Services	Corporate Affairs	
				Internal Audit	
				Risk	
				People & Development	
Registry					
Communication & Engagement  Governance & Strategy	Legal  Program Delivery	Service Delivery  Service Delivery Support	Registry Development  Workload, Insight & Reporting		

## ASIC Commissioners

### James Shipton

**Chair, BA, LLB (Hons)**

James Shipton commenced as ASIC Chair on 1 February 2018.



### Daniel Crennan QC

**BA, LLB (Hons)**

Daniel Crennan commenced as ASIC Deputy Chair on 16 July 2018.



### Karen Chester

**BEd (Hons)**

Karen Chester commenced as ASIC Deputy Chair on 29 January 2019.



### Cathie Armour

**BEd, LLB (Hons), LLM**

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013.



### Danielle Press

**BEd (Hons)**

Danielle Press commenced as an ASIC Commissioner on 17 September 2018.



### Sean Hughes

**BA, LLB (Hons), LLM**

Sean Hughes commenced as an ASIC Commissioner on 1 December 2018.



### John Price

**BA, LLB (Hons)**

John Price ceased his role as an ASIC Commissioner on 20 June 2020.

He commenced as an ASIC Commissioner on 21 March 2012.



## ASIC Executive Committee



### Executive Director Registry

**Rosanne Bell**  
BCom



### Executive Director Strategy

**Greg Kirk**  
BA, LLB (Hons)



### Executive Director Wealth Management

**Joanna Bird**  
BA, LLB (Hons), BCL (Hons)



### Chief Supervisory Officer Supervision Group

**Louise Macaulay**  
BA (Hons), LLB, LLM



### Executive Director Markets Enforcement

**Sharon Concisom**  
LLB (Hons)



### Executive Director Financial Services Enforcement

**Tim Mullaly**  
LLB, BBus



### Executive Director Assessment and Intelligence

**Warren Day**  
BBus (Acc), LLB (Hons),  
MProfAcc, LLM, MBus  
(InfoTech)



### Executive Director Financial Services

**Paul Newson**  
BA, LLB, MLS, LLM





**Chief Supervisory  
Officer  
Supervision Group**

**Oliver Harvey**  
BA, LLB, MPhil



**General Counsel**

**Chris Savundra**  
BCom, LLB (Hons), BCL  
(Distinction)



**Executive Director  
Operations (Acting)**

**Emily Hodgson**  
BCom

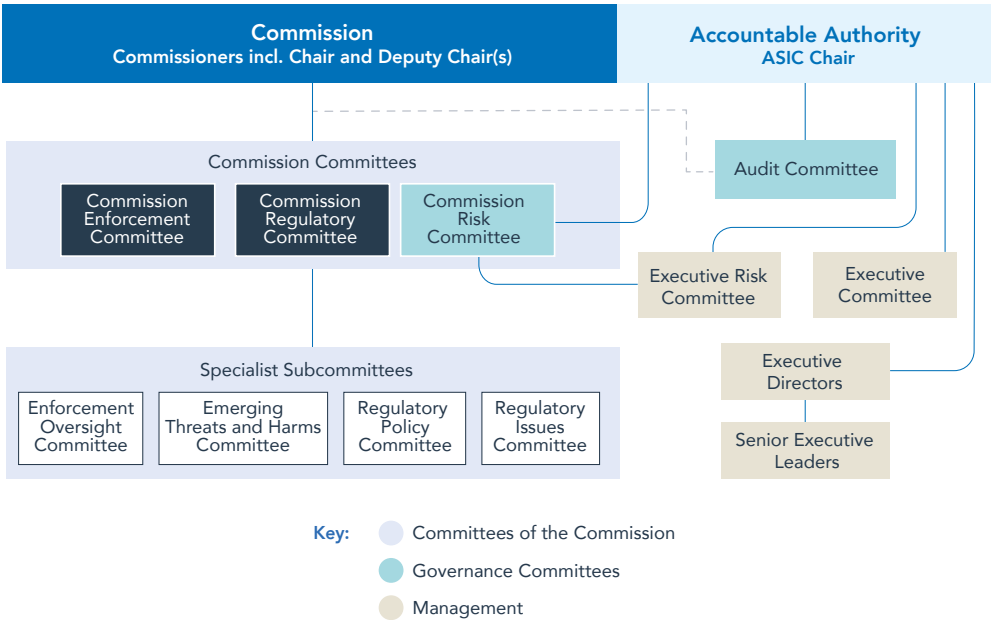


**Executive Director  
Markets**

**Greg Yanco**  
BBus (Acc), FCPA, MSAFAA

The Commission has established a number of committees to assist it with the effective and efficient performance of its regulatory and governance roles.

## ASIC governance structure



### Commission meetings

Commission meetings are convened by ASIC's Chair under section 103 of the ASIC Act. They 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.

### Commission committees

These are core decision-making committees that include all Commissioners and relevant Executive Directors and senior executives.

There are three Commission committees:

- Commission Enforcement Committee:** Chaired by Deputy Chair Daniel Crennan QC, this committee makes strategic and/or significant enforcement decisions, including in relation to the conduct, strategy and focus of major matters and enforcement policies, and oversees ASIC's enforcement and litigation work.
- Commission Regulatory Committee:** Chaired by Deputy Chair Karen Chester, this committee makes strategic and/or significant decisions relating to regulatory policy, law reform, applications for relief, policy frameworks and reports, and oversees ASIC's regulatory activities and functions.

- › **Commission Risk Committee:** Chaired by Deputy Chair Karen Chester, this committee considers all types of risk of a strategic and/or significant nature that affect ASIC, its regulated population, Australia's financial system and Australian consumers. It is responsible for setting and monitoring ASIC's Risk Management Framework and ASIC's risk appetite.

### Specialist subcommittees

These subcommittees support the Commission committees and provide guidance to the executive group.

There are four subcommittees:

- › **Enforcement Oversight Committee:** Assists the Commission with oversight of the Office of Enforcement and the execution of ASIC's enforcement strategy.
- › **Emerging Threats and Harms Committee:** Identifies and provides advice on the management of emerging and strategic risks in ASIC's regulated population or areas that it regulates.
- › **Regulatory Policy Committee:** Considers submissions recommending new or revised regulatory policy, law reform and novel applications for relief from the laws administered by ASIC.
- › **Regulatory Issues Committee:** Considers matters generated by the surveillance and supervisory work undertaken by ASIC's regulatory teams.

### Governance committees

Governance committees assist the Commission and the accountable authority in undertaking their governance roles. There are two such committees:

- › **Commission Risk Committee:** As set out above.
- › **Audit Committee:** Operates independently of management and assists the Chair to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. It also provides independent assurance to the Chair and the Commission on ASIC's financial and performance reporting, risk oversight and management, and systems of internal control.

### Management committees

The management committees are executive-level committees responsible for undertaking and overseeing the day-to-day management of ASIC. There are two such committees:

- › **Executive Committee:** Responsible for the day-to-day operation and management of ASIC; implementing and delivering ASIC's policies, plans and priorities; and leading the implementation of ASIC's business plans.
- › **Executive Risk Committee:** Responsible for identifying and monitoring significant risks to ASIC, maintaining risk management frameworks and policies, and implementing and overseeing audit/assurance processes and risk mitigation strategies.

## ASIC Regional Commissioners

ASIC's Regional Commissioners are our local ambassadors, promoting ASIC initiatives and engaging with regional communities through regular liaison.

### Australian Capital Territory

#### **Laura Higgins**

BEd, BA (Hons)

- › Commenced as Acting Regional Commissioner in May 2019.

### South Australia

#### **Melissa Smith**

LLB (Hons), BA (Juris), GDLP

- › Commenced as Regional Commissioner in June 2015.

### New South Wales

#### **Greg Yanco**

BBus (Acc), CPA, MSAFAA

- › Commenced as Acting Regional Commissioner in December 2019.

### Tasmania

#### **Chris Green**

LLB, GDipBA (Exec)

- › Commenced as Regional Commissioner in November 2013.

### Northern Territory

#### **Duncan Poulson**

BA, LLB

- › Commenced as Regional Commissioner in February 2006.

### Victoria

#### **Warren Day**

BBus (Acc), LLB (Hons), MProfAcc, LLM, MBus (InfoTech)

- › Commenced as Regional Commissioner in October 2008.

### Queensland

#### **Amanda Zeller**

BCom, CPA

- › Commenced as Acting Regional Commissioner in May 2019.

### Western Australia

#### **Natalie Dürr**

LLB

- › Commenced as Regional Commissioner in July 2017.

## 1.3 Government priorities

### Response to the COVID-19 pandemic

ASIC recognised the extraordinary demands that the COVID-19 pandemic placed on the community and worked with the Government and the Council of Financial Regulators to support businesses and individuals through the challenges they were experiencing.

We acknowledged that participants in the Australian financial services sector were under enormous strain due to the effects of the COVID-19 pandemic and were taking special measures to support customers who are adversely affected.

We therefore limited the regulatory activity that entities were required to respond to as much as possible and worked with the financial services industry to identify areas where we could provide support.

On 23 March 2020, we announced a recalibration of our regulatory priorities to allow us and the entities we regulate to focus on the impact of the COVID-19 pandemic. These temporary changes included the deferral of some activities and the redeployment of staff to address issues of immediate concern, including protecting vulnerable consumers, maintaining the integrity of markets, and supporting businesses.

Our change in focus gave priority to matters where there was the risk of significant consumer harm, serious breaches of the law, and risks to market integrity, as well as time-critical matters.

Key business-as-usual functions were maintained, including registry operations and services; receipt of whistleblower, breach and misconduct reports; and general contact points for industry.

On 14 April 2020, we provided further details of how we had reprioritised our work due to the impact of the pandemic, including consultations, regulatory reports and reviews. While onsite supervisory work was not possible, we continued to monitor firms remotely, including through close working and information-sharing arrangements with the Australian Prudential Regulation Authority (APRA).

We also:

- › stepped up our markets supervision work to support the fair and orderly operation of markets, to ensure that investors were appropriately informed, and to protect against manipulation and abuse
- › heightened our support for consumers who may be vulnerable to scams, receive poor advice, or need assistance in finding information and support should they fall into hardship
- › took other action needed to support firms, such as facilitating the timely completion of capital raisings and other urgent transactions; providing regulatory relief, where appropriate; and identifying measures to support small business.

Despite the challenges posed by the COVID-19 pandemic, we made it clear that we expected entities to treat customers fairly, avoid adding further financial harm or burden to consumers, report material breaches of the law, maintain records of the services they provide, and ensure appropriate supervision of their activities, including where staff are working remotely.

On 11 June 2020, we published five short-term strategic priorities that guided our ongoing work to address the impact of the COVID-19 pandemic.

These priorities, and some of our key actions under each priority, were as follows.

### **Protecting consumers from harm at a time of heightened vulnerability**

- › Acting against scams, including cyber-enabled ones, in a coordinated way.
- › Helping to ensure that firms offered appropriate support and services to consumers, hardship assistance was provided fairly, and insurance claims were processed efficiently and in good faith.
- › Proactively engaging with industry to ensure that fair business standards were maintained.
- › Providing consumers with information to help them manage their finances through this crisis and ensuring that information provided by other entities was accurate, particularly around accessing early release of superannuation.

### **Maintaining financial system resilience and stability**

- › Responding promptly to market dislocation or disorder.
- › Supervising market infrastructure providers and participants to ensure the smooth and continuous operation of markets, including monitoring their cyber resilience.
- › Requiring companies to keep the market informed about the impacts of the COVID-19 pandemic on their business.
- › Supporting the efficient administration of companies in insolvency.
- › Enabling the sound and fair operation of managed investments, including liquidity management and winding up, where necessary.

### **Supporting Australian businesses to respond to the effects of the pandemic**

- › Facilitating timely completion of recapitalisations and other urgent transactions.
- › Operating our business registers and associated services efficiently and without interruption to access.
- › Providing regulatory relief, where appropriate, to help Australian companies do business and continue to provide services to customers.
- › Suspending some activities that were not time-critical, including consultations, regulatory reports and reviews.
- › Participating as a key member agency of the wider Australian Government response to the pandemic.

### Continuing to identify, disrupt and take enforcement action against the most harmful conduct

- › Continuing preparations for important future reforms and Government-supported reviews to address consumer harms.
- › Working with financial firms to further accelerate the payment of remediation to consumers.

### Continuing to build our organisational capability in challenging times

- › Putting systems in place to continue to operate effectively while our staff were required to work remotely.
- › Effectively mobilising resources around our organisation as priorities changed and some of our work was suspended.
- › Coordinating quickly and effectively with domestic and international regulators to respond to crisis impacts as they developed.
- › Continuing to build longer term capacity for the future, including in data, communications and the responsiveness of our organisation.

We regularly published updated information about the timing of key outputs to assist industry with planning and resource allocation as part of the transition of the business community to a post-pandemic world.

This included details of changes to our work implementing the recommendations of the Royal Commission, in light of changes to the parliamentary timetable and Government decisions on those measures.

We also warned consumers to be alert to scammers who tried to take advantage of the COVID-19 pandemic environment. The number of investment scam reports from Australian consumers and investors rose during the COVID-19 pandemic, especially related to fake crypto-assets and offers to help people access superannuation or high-return investment opportunities. Reports of misconduct received by ASIC from March to May 2020 were up 20% compared to the same period last year. We directed consumers to tools and resources to help them stay safe online and protect themselves from misinformation.

Our responses to the impact of the pandemic are found on the **COVID-19 regulatory information** page on our website. We also published a weekly tracker of regulatory document updates, including links to new and updated regulatory guides, information sheets, consultation papers and legislative instruments.

To help Australian consumers and businesses make well-informed decisions in the COVID-19 pandemic environment, we continually updated our **Moneysmart COVID-19 hub** to reflect the common financial decisions many consumers were navigating. Over a million consumers visited ASIC's Moneysmart website each month during the pandemic.

Further information about some of our specific initiatives and responses to the impact of the pandemic is set out in Chapter 3.

## Supporting Government legislative reform

Throughout the year, ASIC provided ongoing advice and input to support the Government's law reform agenda.

We are implementing reforms once they are passed by Parliament, including through regulatory guidance.

### Implementation of 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 are taking action on all Royal Commission recommendations directed at ASIC.

The Royal Commission made 76 recommendations. Over 40 of those require legislative reform to implement, either by amendment to primary legislation or by the making of regulations. The Government made a further 18 commitments in its response to the Royal Commission to address issues raised in the Royal Commission's final report, a majority of which also require legislation to implement.

Across the year, the Government released numerous exposure draft Bills that addressed the Government's responses to the Royal Commission final report.

Where recommendations were directed at ASIC or where ASIC could take the initiative, we have acted as a matter of priority. We are expediting the finalisation of our Royal Commission-related enforcement work and we continue to provide advice and input to support the program of law reform agreed by the Government in its response to the Royal Commission's recommendations.

This includes contributing to Government consultation with stakeholders, focusing on implementation arrangements for new laws as they commence, developing and consulting on supporting legislative instruments, and issuing regulatory guidance to meet industry demand.

We have released a number of consultation papers and guidance, including:

- › RG 273 – regulatory guidance about the new best interests duty for mortgage brokers, released 24 June 2020
- › CP 329 – consulting on draft legislative instruments implementing aspects of reforms relating to advice fee consents and independence disclosure, and seeking feedback on our proposed approach to guidance on ongoing fee arrangements, released 10 March 2020
- › CP 325 – consulting on draft guidance about the new design and distribution obligations, which require issuers and distributors to design, market and distribute products that meet consumer needs, released 19 December 2019



- › RG 272 – regulatory guidance about our administration of the product intervention power, including how we use the power and how we make a product intervention order, released 17 June 2020.

On 8 May 2020, the Government announced that, in light of the impact of the COVID-19 pandemic:

- › the measures that the Government had indicated would be introduced into Parliament by 30 June 2020 would be introduced by December 2020
- › the measures originally scheduled for introduction by December 2020 would be introduced by 30 June 2021
- › the commencement dates contained in all exposure draft legislation issued before the pandemic would be extended by an additional six months.

This deferral was intended to allow financial services entities to focus their attention and resources on their COVID-19 pandemic responses and plan for the post COVID-19 pandemic economic recovery.

Immediately after the Government's announcement, ASIC announced the deferral of commencement of the mortgage broker best interests duty and remuneration reforms to 1 January 2021, and the design and distribution obligations until 5 October 2021, six months after their original commencement dates.

On 11 June 2020, ASIC published information about the proposed timing of consultation and the release of regulatory guidance in relation to legislation implementing the recommendations of the Royal Commission. We will issue further legislative instruments and guidance once Bills implementing various recommendations have been introduced into Parliament. We will continue to communicate with industry in relation to the timing of guidance.

Table 1.3.1 sets out action taken by ASIC in relation to legislative reforms that have already been introduced or are scheduled to be introduced in late 2020.

Table 1.3.2 sets out action taken by ASIC in relation to a number of Royal Commission measures that do not require legislative reform.

**Table 1.3.1 Measures requiring legislative reform**

For those measures involving law reform, ASIC has issued regulatory guidance or consulted on draft legislative instruments relating to four recommendations, and has taken a number of interim actions ahead of the introduction of legislation as set out in the table below.

Title	Commencement	Action taken by ASIC
<b>Measures already introduced</b>		
ASIC enforcement review measures: search warrants, telecommunications intercept material, licensing and banning powers ( <i>Additional commitment – Recommendation 7.2</i> )	Commenced 17 February 2020	On 9 April 2020, ASIC issued updates to INFO 240 to reflect additional information required by ASIC when assessing AFS licence applications, including in relation to the 'fit and proper person' test in section 913BA of the Corporations Act.
Removal of funeral expenses exemption ( <i>Recommendation 4.2</i> )	Commenced 1 April 2020	On 31 March 2020, ASIC released INFO 243 <i>Licensing requirements for providers of funeral expenses facilities</i> .
Mortgage broker best interests duty and remuneration ( <i>Recommendations 1.2 and 1.3</i> )	Commences 1 January 2021	On 24 June 2020, ASIC released RG 273 <i>Mortgage brokers: Best interests duty</i> .  On 8 May 2020, we announced the deferral of this measure, following the Government announcement of deferral of Royal Commission measures due to the COVID-19 pandemic.
Ending grandfathered commissions for financial advice ( <i>Recommendation 2.4</i> )	Commences 1 January 2021	ASIC communicated to product issuers that we expect them to turn off grandfathered commission arrangements as soon as possible and no later than 1 January 2021. All rebates and/or reductions in fees should be passed on to consumers as quickly as possible.  As a result of the COVID-19 pandemic, we deferred collection of industry data about grandfathering (pursuant to the Treasurer's Direction of 22 February 2019) until further notice.

Title	Commencement	Action taken by ASIC
Unfair contract terms in insurance ( <i>Recommendation 4.7</i> )	Commences 5 April 2021	On 29 May 2020, ASIC publicly emphasised its expectation that insurance firms should be preparing to extend unfair contract terms prohibitions to insurance contracts, in the context of the Federal Court declaring several terms in small business contracts used by Bendigo and Adelaide Bank Limited to be unfair.
Product design and distribution obligations ( <i>non-Royal Commission measure</i> )	Commences 5 October 2021	<p>On 19 December 2019, ASIC released draft guidance on the product design and distribution obligations for consultation.</p> <p>On 8 May 2020, we announced the deferral of this measure, following the Government announcement of deferral of Royal Commission measures due to the COVID-19 pandemic.</p>

#### Measures scheduled for introduction in 2020

Deferred sales model for add-on insurance ( <i>Recommendation 4.3</i> )	12 months after Royal Assent	<p>On 1 October 2019, ASIC released Consultation Paper 324, setting out a proposal to use the product intervention power to introduce a deferred sales model for the sale of add-on insurance and warranties by car yards.</p> <p>On 5 August 2020, ASIC consulted on an updated version of the proposed order. The deferred sales model and additional obligations in the draft order are tailored to the unique risks consumers experience when offered these products and complement the proposed industry-wide deferred sales model for add-on insurance to be implemented as part of the Government's response to the Royal Commission.</p>
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Title	Commencement	Action taken by ASIC
No hawking of superannuation or insurance products (Recommendations 3.4 and 4.1)	Later of 1 January 2021 or Royal Assent	On 13 January 2020, ASIC used its modification power to implement a ban on unsolicited 'cold call' telephone sales of direct life insurance and consumer credit insurance. The ban is consistent with recommendations made by the Royal Commission and provides protections to consumers that complement broader legislative reform by the Government.
Superannuation regulator roles: Adjustment of APRA's and ASIC's roles in regulating superannuation, general principles for co-regulation, ASIC as conduct regulator of superannuation, APRA to retain superannuation regulatory functions (Recommendations 3.8, 6.3, 6.4 and 6.5)	Later of 1 January 2021 or Royal Assent	On 14 February 2020, ASIC and APRA issued a joint letter to superannuation trustees about how regulatory oversight will operate under the proposed reforms.
Annual renewal and payment for financial advice (Recommendation 2.1)	Later of 1 January 2021 or Royal Assent	On 10 March 2020, ASIC consulted on our proposed approach to implementing aspects of Recommendations 2.1, 2.2 and 3.3 relating to advice fee consents and independence disclosure.
Disclosure of lack of independence of financial advisers (Recommendation 2.2)	Later of 1 January 2021 or Royal Assent	On 10 March 2020, ASIC consulted on our proposed approach to implementing aspects of Recommendations 2.1, 2.2 and 3.3 relating to advice fee consents and independence disclosure.
Limitations on deducting advice fees from choice accounts (Recommendation 3.3)	Later of 1 January 2021 or Royal Assent	On 10 March 2020, ASIC consulted on our proposed approach to implementing aspects of Recommendations 2.1, 2.2 and 3.3 relating to advice fee consents and independence disclosure.

### Table 1.3.2 Non-legislative measures

ASIC has either completed or taken action in relation to the following recommendations of the Royal Commission that do not require legislative reform.

Title	Status	Action taken by ASIC
ASIC's approach to enforcement ( <i>Recommendation 6.2</i> )	Completed	On 1 July 2019, ASIC established the Office of Enforcement to strengthen the governance and effectiveness of ASIC's enforcement work.
APRA–ASIC cooperation memorandum ( <i>Recommendation 6.10</i> )	Completed	On 29 November 2019, APRA and ASIC published an updated memorandum of understanding.
Application of accountability regime to regulators ( <i>Recommendation 6.12</i> )	Completed	On 19 December 2019, ASIC published its Management Accountability Regime.
Amendments to the Banking Code ( <i>Recommendations 1.8, 1.10, 1.13 and 1.16</i> )	Ongoing	In December 2019, ASIC approved an updated version of the Banking Code, which commenced on 1 March 2020. On 25 June 2020, we approved a variation of the March 2020 Code, proposed by the Australian Banking Association due to the impact of the COVID-19 pandemic.
Life insurance commissions review ( <i>Recommendation 2.5</i> )	Ongoing	Due to the COVID-19 pandemic, ASIC deferred collection of life insurance advice data from licensees until the second half of 2020. We also gave insurers more time to respond to earlier requests and deferred collection of first-half 2020 data to 2021.

## APRA–ASIC cooperation

ASIC and APRA have a strong, open and collaborative relationship and regularly consult and engage on matters of shared interest.

The Royal Commission recommended that ASIC and APRA prepare and maintain a joint memorandum setting out how they intend to comply with the proposed statutory obligation to cooperate.

On 29 November 2019, APRA and ASIC released a revised **memorandum of understanding (MOU)**. The MOU facilitates more timely supervision, investigations and enforcement action and deeper cooperation on policy matters and internal capabilities.

It also supports additional measures to increase engagement between APRA and ASIC, including regular meetings of ASIC Commissioners and APRA Members, and working together on areas of common interest, including data, thematic reviews, governance and accountability.

Under the framework established by the revised MOU, APRA and ASIC are using dedicated cross-agency working groups to progress work in a number of areas of shared interest, including superannuation, enhanced supervision, corporate governance and culture, and policy considerations relating to the proposed Financial Accountability Regime.

The new structure has allowed ASIC and APRA to work together to consider the near and longer term impacts on jointly regulated industry sectors arising from the COVID-19 pandemic.

ASIC continues to work with APRA to ensure that arrangements are in place to give effect to the commitments in the MOU. This includes reviewing processes and documentation relating to cooperation and information sharing and providing guidance to staff.

ASIC and APRA are also working together to put in place systems and processes required to implement legislation creating a statutory obligation to cooperate and share information, due to be introduced into Parliament by the end of 2020.

## 1.4 Financial summary

### Outcomes

Parliament funds ASIC to achieve the outcome of improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets, and delivering efficient registry systems.

### Revenue for the Commonwealth

In 2019–20, ASIC raised \$1,358 million for the Commonwealth in fees, charges and supervisory cost recovery levies, an increase of 7% from the 2018–19 year.

### Revenue, appropriations and expenditure

In 2019–20, ASIC received approximately \$403 million in appropriation revenue from the Government, including \$41 million for the Enforcement Special Account (ESA), representing a \$29 million or 8% increase compared with 2018–19.

ASIC received approximately \$18 million of own-source revenue,<sup>1</sup> which is \$7 million higher than the previous year. The increase in own-source revenue relates mainly to higher court costs recoveries relating to ESA matters.

The increase in total expenses is consistent with the increase in appropriation and own-source revenues, plus additional expenditure on ESA matters associated with accelerated ESA enforcement actions.

The increase in the 2019–20 deficit result is mainly attributable to the additional expenditure on ESA matters associated with accelerated enforcement actions, which was funded from available ESA accumulated cash reserves.

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<sup>1</sup> Revenue generated and retained by ASIC, including court costs recovered, royalties and other sundry income.

**Table 1.4.1 Revenue, appropriations and expenditure**

	2019–20 (\$'000s)	2018–19 (\$'000s)	Change (\$'000s)	Percentage change
Revenues from Government (incl. ESA)	<b>403,261</b>	374,313	28,948	8%
Own-source revenue	<b>18,060</b>	11,443	6,617	58%
Total revenue	<b>421,321</b>	385,756	35,565	9%
Total expenses (incl. depreciation and amortisation, net of gains)	<b>489,507</b>	431,133	58,374	14%
Surplus/(Deficit)	<b>(68,186)</b>	(45,377)	(22,809)	50%

**Table 1.4.2 ASIC's use of taxpayers' money for outcomes approved by Parliament**

	2019–20	2018–19
<b>Operating expenses (incl. depreciation and amortisation, net of gains)</b>		
Total expenses (net of gains)	<b>\$490m</b>	\$431m
Annual change on previous year	<b>+14%</b>	+8%
<b>Fees and charges (incl. industry funding) raised for the Commonwealth</b>		
Total	<b>\$1,358m</b>	\$1,273m
Annual change on previous year	<b>+7%</b>	+5%



# 2

## ASIC's annual performance statement

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# Chair's statement

I, James Shipton, as the accountable authority of ASIC, present the 2019–20 annual performance statement of ASIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, the annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

## Our purpose

Our vision – a fair, strong and efficient financial system for all Australians – reflects our purpose as Australia's conduct regulator for corporations, markets, financial services and consumer credit and highlights the important role we play on behalf of all Australians.

## 2.1 Performance objectives

ASIC's performance reporting in 2019–20 was guided by ASIC's Corporate Plan 2019–23 and our 2019–20 Portfolio Budget Statement, which set out our objectives and targets related to investor and consumer trust and confidence, and fair and efficient markets.

In particular, we aim to achieve our **key performance outcome**, as stated in the Portfolio Budget Statement, of 'improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems'.

We aim to do this by:

- › pursuing enforcement outcomes
- › undertaking supervision and surveillance
- › engaging with consumers and industry stakeholders
- › providing guidance, input into law reform, and financial capability education.

These regulatory tools are used to achieve our vision of ensuring a fair, strong and efficient financial system for all Australians.

## 2.2 Key results – investor, consumer and markets performance objectives

Table 2.2.1 sets out our key results for 2019–20 across our supervision, surveillance, enforcement, guidance and education work.

The number of supervisory, surveillance and enforcement actions we undertake, the value of fines imposed or people convicted, and the length of their sentences vary from year to year. The variations depend on factors such as the severity of breaches of the law and the complexity of the investigations we undertake.

Last year, we reformed our approach to supervision and surveillance to focus on onsite supervisory work, as set out later in this chapter. The objective was to proactively identify strategic activities in Australia’s most significant

financial institutions and assess their effectiveness. The COVID-19 pandemic also meant that onsite supervisory work was not possible from March 2020. Both of these circumstances impacted on our supervision work and the number of activities reported below.

ASIC also moved to a new regulatory workflow platform in 2019–20. As a result, the way enforcement activities are recorded has changed. Some statistics reported in previous years, including the number of investigations completed and the time taken to complete investigations, are not reported this year. We have included further information about the timeliness of our enforcement work and about increases in relevant enforcement activity on pages 41–48.

**Table 2.2.1 Key results**

Outcome	Total 2019–20	Total 2018–19
<b>Onsite supervisory exercises<sup>1</sup></b>		
Onsite supervisory exercises commenced	5	6
Findings letters issued	6	4
Number of days onsite	98	124
Number of representatives met during onsite supervisory exercises	357	462

<sup>1</sup> These are enhanced institutional supervisory exercises conducted by the close and continuous monitoring team. Onsite supervisory activities were temporarily suspended in March 2020 due to the COVID-19 pandemic. Therefore, these results reflect exercises undertaken in the second half of 2019 plus one week in 2020.

Outcome	Total 2019–20	Total 2018–19
<b>Surveillance</b>		
Surveillances completed <sup>2</sup>	Over 1,250	Over 1,200
Instances of potentially misleading or deceptive promotional material withdrawn or amended <sup>3</sup>	48	37
Interim stop orders and final stop orders <sup>4</sup>	22	N/A
<b>Enforcement</b>		
<b>Investigations<sup>5</sup></b>		
Investigations commenced	134	126
<b>Criminal actions</b>		
Criminal litigation completed	35	33
Criminal litigation completed successfully (as a percentage)	90%	89%
New criminal litigation commenced	38	14
Number of people convicted	30	27
Custodial sentences (including fully suspended)	22	14
Non-custodial sentences/fines	8	16
Total dollar value of fines	\$731,650	\$266,050
<b>Civil actions</b>		
Civil litigation completed	37	75
Civil litigation completed successfully (as a percentage)	97%	96%
New civil litigation commenced	50	55
Total dollar value of civil penalties	\$24.9m	\$12.7m

<sup>2</sup> This includes over 80 surveillances involving an onsite presence.

<sup>3</sup> This includes corrective disclosures obtained from the websites of entities.

<sup>4</sup> New measure for 2019–20.

<sup>5</sup> Investigations for these purposes meet the definition in section 13 of the ASIC Act and section 247 of the National Credit Act.

Outcome	Total 2019–20	Total 2018–19
<b>Administrative actions<sup>6</sup></b>		
Administrative actions completed	39	84
New administrative actions commenced	31	61
<b>Administrative outcomes<sup>7</sup></b>		
People disqualified or removed from directing companies <sup>8</sup>	51	59
Action taken against auditors and liquidators	62	55
People/Companies removed, restricted or banned from providing financial services <sup>9</sup>	79	85
People/Companies removed, restricted or banned from providing credit services	29	97
<b>Court enforceable undertakings<sup>10</sup></b>		
Court enforceable undertakings accepted	0	10
<b>Infringement notices<sup>11</sup></b>		
Total number of infringement notices issued	4	14
Total dollar value of infringement notices	\$671,000	\$731,700
<b>Summary prosecutions</b>		
Summary prosecutions for strict liability offences	248	369
Total value of fines and costs	\$793,670	\$1.6m

6 Administrative actions completed and commenced refer to enforcement action following a formal investigation, as defined by section 13 of the ASIC Act and section 247 of the National Credit Act.

7 This includes all disqualifications, suspensions, cancellations and bannings resulting from surveillance and enforcement activities.

8 This includes five bannings arising from civil proceedings, where the court ordered the defendants be banned from financial services.

9 This includes six disqualifications arising from civil proceedings, where the court ordered the defendants be disqualified from directing companies.

10 ASIC did not accept any court enforceable undertakings in 2019–20 and is instead focusing on accelerating court-based enforcement outcomes.

11 These notices were issued for infringements related to the market integrity rules and ASIC derivative transaction rules. Compliance with infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

Outcome	Total 2019–20	Total 2018–19
<b>Compensation agreed in court enforceable undertakings<sup>12</sup></b>		
Compensation or remediation	\$0	\$19.7m
Community benefit payments	\$0	\$15.6m
<b>Relief applications</b>		
Relief applications received	1,308	1,455
Relief applications approved	919	963
Relief applications refused or withdrawn	217	297
Relief applications in progress	172	195
<b>Licensing and professional registration activities</b>		
<b>AFS licences, including limited AFS licences (new and variations)</b>		
Applications approved	741	822
Applications refused/withdrawn	248	315
Licences cancelled/suspended	333	358
Applications in progress	484	455
<b>Australian credit licences (new and variations)</b>		
Applications approved	233	356
Applications refused/withdrawn	117	221
Licences cancelled/suspended	390	552
Applications in progress	158	104

<sup>12</sup> Compensation or remediation programs monitored by ASIC are not reflected in this statistic. Amounts in compensation, remediation or community benefit payments reported in previous years were agreed in court enforceable undertakings accepted by ASIC.

Outcome	Total 2019–20	Total 2018–19
<b>Registered auditors – registered company auditors, authorised audit company and SMSF auditors</b>		
Applications approved	116	148
Applications refused/withdrawn	38	59
Licences cancelled/suspended	521	568
Applications in progress	11	11
<b>Registered liquidators</b>		
Applications approved	17	12
Applications refused/withdrawn	4	2
Applications in progress	11	9
<b>Stakeholder engagement</b>		
Meetings with industry groups and other stakeholders <sup>13</sup>	Over 2,100	Over 1,400
Consultation papers published	15	13
Industry reports published	44	45
<b>Guidance</b>		
New or revised regulatory guides published	29	23
New or revised information sheets	31	27
Legislative instruments made, amended and repealed	50	53
<b>Education</b>		
Users visiting ASIC's Moneysmart website <sup>14</sup>	10.4m	8.4m
Average number of users to the Moneysmart website per month	979,957	832,000
Number of users who have used a Moneysmart online tool	3.4m	2.7m
Average number of users using a Moneysmart tool per month	325,027	266,000

<sup>13</sup> These meetings involve ASIC operational staff at all levels. This year's data reflects the impact of the COVID-19 pandemic and our focus on ensuring ASIC remains engaged with our regulated population.

<sup>14</sup> The number of people visiting the Moneysmart website includes users from around the world. Of the 10.4m users, 9.6m (92%) were in Australia using an Australian IP address.

## 2.3 Analysis – implementing our investor, consumer and markets performance objectives

This year, our work aligned with the priorities outlined in *ASIC's Corporate Plan 2019–23: Focus 2019–20*.

These priorities were:

- › high-deterrence enforcement action
- › prioritising the recommendations and referrals from the Royal Commission
- › delivering as the conduct regulator for superannuation
- › addressing harms in insurance
- › improving governance and accountability
- › protecting vulnerable consumers
- › addressing poor financial advice outcomes.

In June 2020, we published ASIC's Interim Corporate Plan, which outlined our strategic priorities in response to the impact of the COVID-19 pandemic. These priorities focused on:

- › protecting consumers from harm at a time of heightened vulnerability
- › maintaining financial system resilience and stability
- › supporting Australian businesses to respond to the effects of the COVID-19 pandemic
- › continuing to identify, disrupt and take enforcement action against the most harmful conduct
- › continuing to build our organisational capacity in challenging times.

Key actions in response to the impact of the pandemic are set out in Chapters 1 and 3.

### Measuring our performance

We use qualitative and quantitative measures to evaluate our performance over time. We measure both:

- › **regulatory outcomes**, which include the direct results from using our suite of regulatory tools
- › **market outcomes**, which reflect the impact of our regulatory work on the markets and sectors we regulate, including on investors and consumers.

Our regulatory toolkit includes:

- › enforcement
- › supervision and surveillance
- › licensing
- › engagement
- › guidance
- › education
- › input into law reform.

For most of the issues in our remit, we use a multidimensional approach to address regulatory challenges and consumer harms, employing a combination of our regulatory tools to achieve outcomes for consumers and investors.

In reporting on our work, we combine quantitative and qualitative indicators to provide a narrative about our approach.



Our regular reports about the volume and results of our activities include our six-monthly enforcement updates and regular reports about relief applications.

This chapter sets out key results against our priorities and how we have used our regulatory toolkit to achieve those results.

## ASIC Corporate Plan priorities

### High deterrence enforcement action

We have focused on efficient and effective enforcement action, particularly cases that have a high deterrence value and those responding to egregious misconduct – for example, misconduct impacting vulnerable consumers.

Key results and examples are set out on pages 34–36 and 41–48.

### Prioritising the recommendations and referrals from the Royal Commission

Our work was guided by the outcomes of the Royal Commission and we supported key law reforms to achieve the recommendations of the Royal Commission.

More details are set out on pages 22–27.

### Delivering as conduct regulator for superannuation

We continued to work on establishing ASIC as the primary regulator of conduct in superannuation, consistent with the Government's response to the Royal Commission recommendations. We have begun to take on this role where we can without needing the law to change.

We took action to deter misconduct, supported relevant legislative reforms, and continued our supervision and surveillance of superannuation trustees, focusing on whether trustees act in the best interests of consumers and treat them fairly.

Key results and examples are set out on pages 83–86.

### Addressing harms in insurance

We continued to review product features and practices that raised concerns. We supported implementation of insurance law reforms and, as they are implemented, will take regulatory action on unfair contract terms and problems in claims handling.

Key results and examples are set out on pages 75–78.

### Improving governance and accountability

We have continued our enhanced and intensive supervision of key firms, including by way of our close and continuous monitoring program and targeted reviews of corporate governance practices in large listed entities.

We remain committed to supporting and implementing the proposed financial accountability regime and new laws on phoenix activity to deter misconduct among company directors and practitioners.

Key results of our supervision work are set out on pages 48–53 and 95–97.

### Protecting vulnerable consumers

Considering the impact of harm on consumers, particularly those who are vulnerable, is central to how we prioritise our work. We will take regulatory action against unfair treatment of consumers facing hardship, as well as irresponsible actions by financial services providers.

We also remain committed to our Indigenous Outreach Program, which helps Indigenous Australians better manage their finances and improves the quality of financial services provided to them.

Key results and examples are set out on pages 71–74 and 100–105.

### Addressing poor financial advice outcomes

We supported measures to improve the professionalism of financial advisers and target the potential misconduct and harms to consumers that arise if advisers provide personal advice to retail clients but portray this advice as general advice.

Key results and examples are set out on pages 79–81.

## Strengthening our capabilities to support our vision

### Data and analytics

This year, we undertook a major program of work to enhance our data and analytics capability. Some of our key data initiatives included:

- › establishing a new Data Lake platform to provide ASIC with a central place for storing our data securely, as well as easy access to data and analytics tools
- › cataloguing all our data assets in a customised data cataloguing application
- › making our data more widely available to our staff through a series of dashboards.

For example, users can self-service information and insights through:

- › the External Dispute Resolution (EDR) Datamart and Dashboard, which allows analysts to explore EDR data and extract insights from the Australian Financial Complaints Authority (AFCA) dataset
- › the enhanced Financial Advisers Register dashboard, which gives our teams key regulatory data for a range of functions, including reports of misconduct, breach reports and surveillance information.

These initiatives will ensure that we can optimise the data we collect and use, and also govern it safely and securely. Deploying our data through dashboards and other tools also facilitates rapid identification of areas of concern.

ASIC has also progressed with an interim data strategy that will align all data initiatives across ASIC over the next 12 months and make them visible across the organisation. This interim strategy is a precursor to creating our next multi-year data strategy.

## Regulatory Transformation Program

Our Regulatory Transformation Program has continued to improve how stakeholders interact with ASIC.

A new suite of regulatory transactions was added to the ASIC Regulatory Portal this year, including:

- › breach reporting for Australian financial services (AFS) licensees and registered auditors
- › insolvency statutory reporting
- › applications for Assetless Administration Funding
- › liquidator requests for ASIC assistance.

These transactions joined industry funding metrics submissions and invoices, and a range of transactions for self-managed superannuation fund (SMSF) auditors and Asia Regional Funds Passport holders.

Lodgement of applications for relief and corporate finance and fundraising documents will move to the portal in July 2020.

Transactions in the portal are structured to make it easier for stakeholders to provide ASIC with required information. Some information is prefilled based on our records and smart forms ask the relevant questions, ensuring that the information ASIC requires is provided upfront.

A range of security features ensures that stakeholders can determine who can see, edit or submit their transactions. Stakeholders can also record correspondence with ASIC about submitted transactions and track their status.

Within ASIC, our regulatory work is now recorded in one place, making it easier to trace matters from initial reports of misconduct to our supervisory work, investigations and enforcement. Consistent recording provides increased visibility, which enhances decision making in individual matters. Increased digitised data gives us better information and understanding of stakeholders and key risks and harms in the sectors we regulate.

Below is a summary of how we have used our regulatory tools to achieve outcomes for consumers and investors. More detail about outcomes achieved in various industry sectors is set out in Chapter 3.

## Enforcement

Enforcement action is one of the key regulatory tools available to us to help achieve a fair, strong and efficient financial system for all Australians.

We use a range of regulatory and enforcement sanctions and remedies, including punitive, protective, preservative, corrective and compensatory action.

Our accelerated enforcement work is guided by our 'Why not litigate?' approach, which addresses the community expectation that unlawful conduct should be punished and publicly denounced through the courts.

## Office of Enforcement

ASIC's Office of Enforcement was established in July 2019 and has centralised decision-making processes and ensured consistent adoption of the 'Why not litigate?' approach.

Its role is also to increase the focus on priority matters, ensure adequate and flexible resourcing, and achieve greater consistency in our enforcement approach.

## Enforcement priorities

As a priority, we target cases of high deterrence value and those involving egregious harm or misconduct, particularly towards vulnerable consumers.

In addition to Royal Commission referrals and case studies, ASIC's Office of Enforcement prioritises:

- › misconduct related to superannuation and insurance
- › cases that engage our new powers or provisions that now carry penalties or higher penalties
- › illegal phoenix activity
- › auditor misconduct
- › new or emerging types of misconduct, including misconduct carried out online or with the use of emerging technologies.

ASIC will also always prioritise taking action on:

- › significant market misconduct
- › misconduct that is serious either by its nature or extent of harm, or that involves a large market participant or licensed entity

- › misconduct that involves a high risk of significant consumer harm, particularly involving vulnerable consumers
- › misconduct by individuals, particularly criminal conduct, or governance failures at board or executive level.

## Enforcement priorities in response to the COVID-19 pandemic

ASIC implemented interim enforcement priorities to guide our response to COVID-19 pandemic-related misconduct. These priorities were:

- › misconduct arising from behaviour seeking to exploit the COVID-19 pandemic environment, including predatory lending practices, mis-selling of unsuitable insurance or investment products, and poor claims handling
- › opportunistic conduct such as scams, unlicensed conduct, and misleading and deceptive advertising
- › failure to disclose material negative information to the market
- › opportunistic and misleading market announcements
- › egregious governance failures within corporations, schemes and superannuation funds.

## Increased enforcement activity

Although many investigations were significantly delayed in the period from March 2020 as a result of the COVID-19 pandemic, ASIC has used its increased resources to build its enforcement capability and deal more quickly with matters falling within its priority areas.

In 2019–20, there has been:

- › an 11% increase in the number of investigations
- › a 48% improvement in the time taken to file civil penalty proceedings
- › an increase in the total civil penalties imposed, from \$12.7 million to \$25 million
- › a 57% increase in the number of custodial sentences imposed (including those fully suspended).

In relation to major financial institutions (the four big banks and AMP Limited), there has been a 100% increase in the number of civil penalty proceedings commenced and a 25% increase in matters referred to the Commonwealth Director of Public Prosecutions (CDPP).

There has also been a greater focus on individual accountability in ASIC's enforcement work this year, which has resulted in:

- › the number of individuals charged with non-summary criminal offences increasing by 35%
- › the number of civil penalty claims made against individuals increasing by 40%.

For more details about our enforcement outcomes, see ASIC's regular updates, including:

- › *19-249MR ASIC update on Royal Commission implementation* (11 September 2019)
- › *REP 660 ASIC enforcement update July to December 2019*
- › *20-047MR ASIC update on enforcement and regulatory work* (26 February 2020)
- › *REP 666 ASIC enforcement update January to June 2020.*

## Criminal convictions

In 2019–20, as a result of our investigations, 30 people were convicted of financial crime, with 22 people receiving custodial sentences (including fully suspended).

## Civil actions

In 2019–20, we completed 37 court actions, covering issues such as misleading and deceptive conduct; unconscionable conduct; continuous disclosure contraventions; unfair contract terms; failure to provide financial services efficiently, honestly and fairly; and failure to comply with the best interests duty and related obligations under the Corporations Act.

Of these civil court cases, 97% were successful. The total value of penalties for these cases was \$24.9 million.

## Protective actions

We banned, removed or restricted 79 people or companies from providing financial services, and 29 people or companies from providing credit services. We disqualified or removed 51 people from directing companies.

## Corrective actions

We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. There were 48 instances of potentially misleading or deceptive promotional material withdrawn or amended in 2019–20.

## Infringement notices

In 2019–20, we issued two infringement notices and received a total of \$526,000 in payments pursuant to these infringement notices. We issued infringement notices against:

- › AMP Life Limited (\$275,500)
- › AMP Capital Investors Limited (\$250,500).

The Markets Disciplinary Panel issued two infringement notices, specifying a total of \$145,000 in penalties for alleged breaches of the market integrity rules.<sup>15</sup>

## Efficiency and timeliness of our enforcement action

Across the last few years, ASIC has improved the timeliness of commencement of civil and criminal proceedings – including, for example:

- › a reduction in the median time for charges to be laid from 28.7 months in 2017–18 to 24.8 months in 2019–20
- › a reduction in the median time to commence civil penalty litigation from 24 months in 2017–18 to 11.9 months in 2019–20
- › a reduction in the median time to commence other civil litigation from 9.2 months in 2017–18 to 4.7 months in 2019–20.

ASIC takes a taskforce approach to the resourcing of enforcement work, which ensures that dedicated resources can be deployed to address the most serious or prevalent types of misconduct. Using this approach to address misconduct within major financial institutions since 2018 and to deal with referrals and case studies from the Royal Commission has increased the efficiency of those investigations and referrals.

<sup>15</sup> Compliance with infringement notices is not an admission of guilt or liability, and these entities are not taken to have contravened the law.

## George Nowak sentenced to 10 years imprisonment

In April 2020, former financial adviser George Nowak was sentenced in the District Court of South Australia to 10 years imprisonment with a non-parole period of six years and three months. Part-way through his criminal trial, Mr Nowak pleaded guilty to 17 charges of aggravated deception and one charge of dishonest dealings with documents.

The offences relate to Mr Nowak's conduct in dealing with members of SMSFs that were undertaking property purchases offered by companies of which Mr Nowak was a director, including EJ Property Developments Pty Ltd.

ASIC alleged that between December 2012 and December 2013, Mr Nowak misappropriated \$1.2 million in SMSF money, failed to hold these funds in a designated account, and did not apply them towards the intended property purchases. Mr Nowak dishonestly and deliberately misled his clients and used their funds for his own benefit.

In delivering the sentence, the judge described the offending as of the utmost seriousness, noting that the fraud had a significant impact on the victims' lives. The 10 years imprisonment represents the maximum penalty for dishonest dealings with documents under section 140 of the *Criminal Law Consolidation Act 1935* (SA).

## Gilman Edwin Wong – insider trading

In June 2020, Gilman Edwin Wong, the former chief executive officer of Sirtex Medical Limited (Sirtex), was sentenced for insider trading to a term of imprisonment of one year and six months, suspended by a recognisance release order in the sum of \$10,000 and to be of good behaviour for a period of three years.

On 15 May 2020, Mr Wong pleaded guilty to one count of insider trading in relation to his disposal of Sirtex shares on 26 October 2016. At the time of his trading, Mr Wong was in possession of information in relation to the actual global dose sales of the main commercialised product marketed by the company. This was information that was not generally available. Mr Wong sold his Sirtex shares for an average price of \$28.56 per share, with the total gross value of the sale proceeds being \$2,141,310.98.

On 9 December 2016, Sirtex notified the market of downgraded dose sale growth forecasts. Following the ASX announcement, the opening price of Sirtex shares fell to \$13.01 per share, a fall of approximately 49% from the previous day's closing price. By reason of his sale of the shares on 26 October 2016, Mr Wong avoided the significant loss he would have incurred had he sold his shares on 9 December 2016.

## **CommInsure – criminal conviction and remediation program**

In November 2019, the Colonial Mutual Life Assurance Society Limited (trading as CommInsure) was convicted of 87 charges of offering to sell insurance products in the course of unlawful unsolicited telephone calls, contrary to section 992A(3) of the Corporations Act.

CommInsure, at the relevant time a wholly owned subsidiary of the Commonwealth Bank of Australia (CBA), pleaded guilty to the charges and was fined \$700,000.

Between October and December 2014, CommInsure sold life insurance policies to CBA customers through a telemarketing firm. The customers had not requested to be contacted for the sale of these products or to receive marketing information. The 'hawking provisions' in the Corporations Act are intended to provide protections to consumers receiving these types of contact. In the 87 relevant calls, CommInsure did not comply with the requirement to offer customers the option of having certain information about the 'hawked' products read to them before the offer to issue or sell.

In a separate but related action, CommInsure conducted a \$12 million remediation program in relation to unfair life insurance telephone sales. The concerning sales practices were identified by ASIC during its 2018 review of the sale of direct life insurance, which found that outbound telephone sales were 'more commonly associated with poor sales conduct and increase[d] the risk of poor consumer outcomes'.

## **John Lindsay Merity – false and misleading statements**

In February 2020, John Lindsay Merity was sentenced by the District Court of New South Wales to an overall term of two years imprisonment, with a minimum period of one year in custody, after pleading guilty to two counts of making misleading statements to ASIC.

The charges were brought following ASIC inquiries in 2009 and 2010 to identify the parties who had a relevant interest in a substantial number of shares in Northwest Resources Limited that were held by two companies incorporated in the British Virgin Islands and operating from Hong Kong. During those inquiries, Mr Merity made false or misleading statements to ASIC by stating that he had no interest in the shares when in fact he did.

The sentence of Mr Merity follows orders previously obtained by ASIC from the Federal Court in April 2014 for the cancellation of the Northwest Resources shares held by one of the British Virgin Islands companies.



## **Octaviar Ltd – High Court finds Group CEO was an officer of subsidiary**

In April 2020, the High Court allowed ASIC's appeal from a decision of the Supreme Court of Queensland on the question of whether Michael Christodoulou King, the former CEO and executive director of MFS Ltd (also known as Octaviar Ltd), was an 'officer', as defined in the Corporations Act, of MFS Investment Management Pty Ltd (MFSIM).

MFS Ltd was the parent company of the MFS Group of companies (MFS Group). MFSIM was a subsidiary in the MFS Group and acted as a responsible entity for several registered managed investment schemes, the largest of which was the Premium Income Fund.

The court unanimously held that Mr King was an officer because the definition under the Act is not limited to those who hold or occupy a named office in a corporation or a recognised position with rights and duties attached to it. The court held that the factual findings of the primary judge that Mr King acted as the 'overall boss of the MFS Group' and assumed 'overall responsibility for MFSIM' were sufficient to establish that he had the capacity to affect significantly the financial standing of MFSIM and, therefore, was an officer of MFSIM.

ASIC noted that this High Court decision sent a clear signal to anyone running a company, in name or in effect, that they should be responsible and held accountable for their actions.

## Bendigo and Adelaide Bank – unfair contract terms

In May 2020, the Federal Court declared that particular terms in six small business contracts used by Bendigo and Adelaide Bank Limited were unfair and void from the outset.

The contracts were standard form small business loan contracts, which the bank entered into with customers after 12 November 2016. The court also declared that the same terms in any other standard form small business contracts entered into between the bank and its customers during that time were also unfair and void from the outset. The bank gave an undertaking to the court not to use, or rely upon, any of the impugned terms in a manner that is unfair or causes any customers to suffer loss or damage.

Since 1 July 2010, ASIC has administered the law dealing with unfair terms in standard form consumer contracts for financial products and services, including loans. From 12 November 2016, the unfair contract terms laws were extended beyond consumers to cover standard-form 'small business' contracts. This was ASIC's first 'unfair contract terms' case, demonstrating our commitment to protecting small business owners from unfair terms in loan contracts.

## Supervision and surveillance

Our enhanced supervisory initiatives progressed significantly in 2019–20.

In March 2020, we established ASIC's Supervision Group, embedding our enhanced supervision model within ASIC following completion of the pilot phases of our close and continuous monitoring program and our targeted reviews of corporate governance practices in large listed entities.

The establishment of the Supervision Group is core to our statutory mandate to monitor and promote market integrity and consumer protection in the Australian financial system.

The Supervision Group seeks to influence behavioural change in our most significant financial services institutions to prevent harm resulting from poor corporate systems and conduct. The Group is further developing ASIC's capability to conduct enhanced institutional supervisory work, including efficient collection of data and enhanced understanding and analysis of our target institutions.

## Close and continuous monitoring

Our close and continuous monitoring supervisory program is designed to drive enduring cultural and behavioural change and promote earlier identification of practices and processes that cause financial harm to consumers and erode community confidence in the integrity of Australia's major financial institutions.

In 2019, our onsite reviews focused on the institutions' approaches to the detection of, and response to, incidents (breach reporting) and their complaints handling and internal dispute resolution arrangements, including processes, practices, resourcing, governance and reporting. In 2020, our onsite review program had been designed to focus on the internal audit functions of these institutions. However, onsite work paused temporarily in March 2020 due to COVID-19 restrictions.

Since the program began in October 2018, ASIC staff have been onsite at the major banks and AMP for 222 days and have met with 803 banking staff at all levels during the onsite exercises. In 2019–20, we were only able to be onsite for the first half of the financial year plus one week in March 2020. During this time, we spent 98 days onsite and met with 357 bank representatives.

We have completed supervisory reviews or provided findings to each of AMP, ANZ, CBA, NAB and Westpac. Each set of review findings was communicated directly to the chair and CEO of the institution at the completion of the review, with a request for an action plan in response to the findings. ASIC staff maintain regular communication with each institution in relation to the action plans.

The findings of the reviews highlighted areas of poor corporate governance in four broad categories: poor technology systems, weak processes and practices, unclear lines of accountability, and a lack of focus on the profile and influence of non-financial risk. A public report of the findings of our first two reviews was due for publication in early 2020 but was rescheduled due to the COVID-19 pandemic.

During the pause of onsite work, we have focused on developing our supervisory infrastructure and capability and responding to issues arising from the COVID-19 pandemic. We have engaged with the institutions subject to the program to test how they are adjusting their non-financial risk oversight and management and to identify any risks emerging from the institutions' COVID-19 pandemic responses. We have ensured that our work is coordinated and targeted, and that it does not create unnecessary regulatory burden.

## Governance

As part of ASIC's focus on governance, the newly established Governance team is undertaking more intensive supervision and providing specialist governance expertise across ASIC.

This year, ASIC completed a targeted supervisory program to review the oversight of non-financial risk by directors and officers in seven of Australia's largest financial services entities and identify any shortcomings.

On 2 October 2019, we communicated our findings in a report on director and officer oversight of non-financial risk: Report 631 *Director and officer oversight*

of *non-financial risk*. The report detailed ASIC's observation that boards were challenged by important elements of non-financial risk management and their oversight was less mature than required, which resulted in some instances of systemic and significant misconduct.

ASIC also conducted a review of the governance of executive variable pay outcomes, and whether these are driving the right behaviours and accountabilities of executives in Australia's listed entities. This work focused on the practices of 21 large listed Australian entities, including the seven entities the subject of the initial report, as well as ASX-listed non-financial services entities.

For both of these supervisory reviews, in addition to any broader public findings, we directly communicated to the CEO and boards specific findings relevant to their entity. Our engagement was focused towards driving behavioural change to address specific issues we identified.

From March 2020, we directed our attention to issues that became more important in the COVID-19 pandemic environment, including risk oversight, the operation of virtual and hybrid AGMs and other member meetings, director share trading, dividend payments, executive pay decisions, and operational resilience. We released guidance on the conduct of meetings using virtual technology, director trading, and the governance of executive pay decisions in the COVID-19 pandemic context.

On 12 June 2020, we released Information Sheet 245 to help boards and remuneration committees of listed entities navigate decisions on executive pay in the challenging context of the COVID-19 pandemic.

Our guidance identifies key governance principles to help guide boards with these difficult judgements on pay decisions in the COVID-19 pandemic context. We also identified important principles through the findings of our supervisory review of the governance of executive variable pay outcomes. Many of these remuneration governance principles can be adopted by a broader range of listed entities and in any market.

### **Other sector-based and issue-based surveillance**

In 2019–20, we completed:

- › over 350 surveillances in the deposit-taking and credit, financial advice, investment management and superannuation sectors to ensure that financial services providers complied with their conduct obligations
- › over 850 surveillances in the corporations, market infrastructure and market intermediaries sectors.

Through our surveillance, we identified and addressed 422 cases of failures, or potential failures, to comply with regulatory obligations.

We published several reports in response to findings of our sector-based or issue-based surveillances, as set out on pages 52–53.

## Monitoring of remediation programs

We monitor several significant remediation programs; however, given their large number, many are administered by licensees without ASIC's direct supervision or involvement. ASIC does not have an explicit power to direct that remediations be carried out or that they be conducted in a particular way.

Examples of ASIC's monitoring and other work on remediation include the following.

**Financial advice-related remediation:** ASIC is monitoring remediation programs by six of Australia's largest banking and financial services institutions in relation to loss or detriment suffered by consumers due to non-compliant advice or fee-for-no-service (FFNS) conduct.

As at 30 June 2020, a total of \$1.05 billion in compensation has been paid or offered by those institutions.

**Insurance-related remediation:** ASIC's industry review of the sale of consumer credit insurance by 11 major banks and lenders has led to a significant remediation program of over \$160 million being paid to more than 434,000 consumers. To date, lenders and insurers have paid over \$128 million to more than 312,000 consumers to address ASIC's concerns. Shortly, over \$32 million will be paid to more than 122,000 consumers.

ASIC also earlier obtained remediation for consumers from providers of add-on insurance products, with refunds totalling over \$130 million.

In November 2019, CommInsure conducted a remediation program refunding over \$12 million to customers who had been sold a range of life insurance products via telemarketing calls.

**Regulatory tools and obligations:** The Government is consulting on a number of law reforms that create new obligations for licensees and enhance ASIC's ability to intervene in relation to remediation. ASIC is providing assistance and advice to support draft legislation that would allow us to direct licensees to establish a remediation program in relation to misconduct, as well as new laws that would require licensees to investigate and remediate misconduct by financial advisers and mortgage brokers.

**Regulatory guidance:** We are reviewing and revising our existing remediation policy and will consult on revised guidance this year. We intend to expand its application effectively across the entire financial services sector and clarify our expectations about how firms should conduct consumer-centric remediation. We will also seek to improve transparency about consumer remediation outcomes. Our updated guidance will be informed by our monitoring of significant remediation programs.

## Financial reporting and audit

In 2019–20, we proactively reviewed 287 financial reports of listed entities and other public interest entities for years ended 30 June 2019 and later. We issued media releases about 19 entities that recognised material changes to reported net assets and profits totalling more than \$670 million following our inquiries on financial reports. In recent years, material changes have been made to 5% of financial reports following our reviews.

In 2019–20, we proactively reviewed 53 audit files relating to audits of listed entity and other public interest entity financial reports.

Our inspection findings show that more needs to be done to improve audit quality (see Report 648 *Audit inspection report for 2018–19*, issued in December 2019). Auditors have primary responsibility for audit quality, supported by others in the financial reporting ecosystem, such as audit committees.

## Reports about supervision and surveillance work

ASIC publishes the results of our supervision, review and surveillance work.

Our reports advance good consumer outcomes and change behaviour by exposing and denouncing conduct that is below community standards, driving improved practices across a sector or market, and recommending changes in industry practice.

In 2019–20, we released 44 regulatory, surveillance or review reports, including on issues such as:

- › market cleanliness and the integrity of Australia's equity markets (REP 623 *Review of Australian equity market cleanliness: 1 November 2015 to 31 October 2018*)
- › consumer harm from over-the-counter (OTC) binary options and contracts for difference (CFDs) (REP 626 *Consumer harm from OTC binary options and CFDs*)
- › what consumers really think of financial advice (REP 627 *Financial advice: What consumers really think*)
- › the experiences of consumers in finding a home loan through a mortgage broker (REP 628 *Looking for a mortgage: Consumer experiences and expectations in getting a home loan*)
- › oversight of non-financial risk by non-executive directors and officers of companies (REP 631 *Director and officer oversight of non-financial risk*)
- › disclosure and why it shouldn't be the default: a joint report with the Dutch Authority for the Financial Markets, which shows that disclosure and warnings can backfire, contributing to consumer harm. The report focuses on the real-world context in which disclosure operates and explains why disclosure and warnings can be less effective than expected, or even ineffective, in influencing consumer behaviour (REP 632 *Disclosure: Why it shouldn't be the default*)
- › how superannuation funds provide financial advice to members and the quality of advice provided (REP 639 *Financial advice by superannuation funds*)

- › the experiences of consumers who received personal advice to purchase timeshare memberships (REP 642 *Timeshare: Consumers' experiences*)
- › industry implementation of the Insurance in Superannuation Voluntary Code of Practice (REP 646 *Insurance in superannuation 2019–20: Industry implementation of the Voluntary Code of Practice*)
- › the cyber resilience capabilities of firms operating in Australia (REP 651 *Cyber resilience of firms in Australia's financial markets: 2018–19*)
- › wholesale FX practices in Australia (REP 652 *Wholesale FX practices in Australia*)
- › member communications from superannuation funds impacted by the PYSP reforms (REP 655 *Review of member communications: Protecting Your Superannuation Package (PYSP) reform*)
- › a survey of crowd-sourced funding intermediaries (REP 657 *Survey of crowd-sourced funding intermediaries: 2018–19*)
- › ASIC regulation of registered liquidators: July 2018 to June 2019 (REP 658 *ASIC regulation of registered liquidators: July 2018 to June 2019*).

## Licensing

ASIC assesses applications for AFS licences and Australian credit licences. We also maintain a number of professional registers for registered companies, SMSF auditors, company auditors and liquidators.

Our licensing and registration function governs entry into the financial system. We use a risk-based approach to assessment, devoting most resources to complex and high-risk applications so as to ensure that only suitable persons and organisations are licensed or registered.

In 2019–20, we finalised 2,062 applications in relation to AFS licences and credit licences. We approved 741 AFS licences and 233 credit licences.

In total, 365 AFS licence and credit licence applications were withdrawn or refused. Applications were often withdrawn after we informed applicants they were unlikely to meet the statutory requirements to obtain a licence.

We assessed 675 applications for registration, cancellation or suspension of auditor licences, for either company auditors, authorised audit companies, or auditors of SMSFs. Of these, we approved 116 and had 38 applications either withdrawn or refused for material deficiencies. We processed 521 auditor-related cancellations and suspensions.

## Ongoing obligations associated with a licence

While obtaining a licence marks the commencement of a financial services business, these are continuing obligations until the licence is cancelled. Compliance with a licensee's obligations can be assessed by ASIC at any time, including when a licensee applies to expand the financial services it is licensed to provide.

Australian Golden Securities Ltd (formerly AFS Capital Securities Ltd) (AGS) applied to vary its AFS licence to remove a key person condition that applied to its responsible managers. One of the responsible managers who was subject to the key person condition had been banned from providing financial services until April 2022. ASIC refused the application, as we were concerned that the licensee did not demonstrate organisational competence.

On 21 May 2020, ASIC cancelled AGS's licence, as we were not satisfied that the licensee was meeting its licence obligations. The grounds for cancellation included failure to maintain adequate competence and capacity to provide the financial services covered by its licence, and failure to lodge financial statements and audit reports for 2017–18 and 2018–19.

## Provision of information in a timely manner

It is important that applicants seeking an AFS licence provide all information requested by ASIC in a timely manner.

In February 2020, the Corporations Act was amended so that an application for an AFS licence is deemed to be withdrawn if the applicant fails to provide information requested by ASIC within a specified time. ASIC will ordinarily request information without relying on a formal notice issued under the Act, but a notice may be issued when an applicant has failed to provide information requested.

The first deemed withdrawal of an AFS licence application occurred in April 2020. The applicant was asked to provide information relating to its external dispute resolution membership and professional indemnity insurance. When the information remained outstanding, a notice was issued setting a time by which the information must be provided. The applicant failed to respond to the notice and the application was deemed withdrawn. In choosing not to respond, the applicant also forfeited the application fee of \$2,470.



## Operating within authorisations granted by ASIC

Applicants must ensure that they operate within the licence authorisations granted by ASIC.

ASIC received an application from an AFS licensee that was authorised to provide advice and deal in spot foreign exchange, international money transfers and associated remittance services. The licensee applied to vary its licence to allow it to make a market in derivatives, providing OTC derivative trading services to retail and wholesale customers.

ASIC examined the licensee's business model and available intelligence relating to the applicant and identified that the licensee appeared to be operating a financial services business outside its existing authorisations, raising concerns about compliance with the law. We also identified that the licensee appeared to have included false or misleading information in its application, which is a potential offence. There were also concerns about the competence of the licensee's responsible manager.

ASIC's licensing function ensures that only appropriate persons are licensed to provide financial services. Acting outside an authorisation and making false statements to ASIC, including material omissions, may result in further regulatory action by ASIC.

Following further inquiry, ASIC deemed that the corrective actions made by the licensee in response to our contact adequately mitigated the concerns regarding potentially misleading statements and inadequate disclosure. There are now further consumer disclosures available on its website.

## Engagement

ASIC's engagement with stakeholders – including industry, consumer groups and other regulators – seeks to set and maintain regulatory standards, better inform industry practices, and identify harms in the market.

In 2019–20, we held over 2,100 meetings with stakeholders, including:

- › consumer and small business representatives, lenders, mortgage brokers, insurers and authorised deposit-taking institutions

- › companies, auditors, liquidators, market operators and market intermediaries
- › trustees, licensees, scheme operators and financial advisers
- › lawyers, corporate advisers and compliance professionals.

We also engage with stakeholders by releasing consultation papers seeking public comment on issues ASIC is considering. For more details on our consultation papers, see below.

## Guidance

ASIC provides guidance to industry on how we will administer the law, through regulatory guides, consultation papers and information sheets.

We do this to respond and adapt to structural changes and complexity in the financial services sector and enhance industry participants' understanding of their legal obligations and how we administer the law. Our feedback reports provide transparency about ASIC consultation.

In 2019–20, we published 29 new or reissued regulatory guides and 31 information sheets, on topics such as:

- › our product intervention power and how ASIC will administer it (RG 272 *Product intervention power*)
- › responsible lending obligations (RG 209 *Credit licensing: Responsible lending conduct*)
- › how companies can meet their obligation to have a whistleblower policy (RG 270 *Whistleblower policies*) and whistleblower rights and protections (INFO 239 *Whistleblower rights and protections*)
- › disclosure of fees and costs for superannuation and managed investment products (RG 97 *Disclosing fees and costs in PDSs and periodic statements*)
- › requirements for foreign financial services providers that wish to provide services in Australia (RG 176 *Foreign financial services providers*).

We issued 15 consultation papers on regulatory guidance and policy, including:

- › our proposed product interventions in relation to short-term lending, distribution of OTC binary options and CFDs, and sale of add-on financial products through car-yard intermediaries
- › the upcoming design and distribution obligations, which require issuers and distributors to design, market and distribute financial and credit products that meet consumer needs
- › the best interests duty for mortgage brokers
- › the implementation of Royal Commission recommendations into financial advice fee arrangements and disclosure of independence for advisers.

**Guidance and consultation documents** released this year include:

- › RG 97 *Disclosing fees and costs in PDSs and periodic statements* (updated)
- › RG 209 *Credit licensing: Responsible lending conduct* (updated)
- › RG 105 *AFS Licensing: Organisational competence* (updated)
- › RG 104 *AFS Licensing: Meeting the general obligations* (updated)
- › RG 176 *Foreign financial services providers* (updated)
- › RG 270 *Whistleblower policies*
- › RG 272 *Product intervention power*
- › RG 273 *Mortgage brokers: Best interests duty*
- › CP 316 *Using the product intervention power: Short term credit*
- › CP 325 *Product design and distribution obligations*

- › CP 329 *Advice fee consents and independence disclosure*
- › INFO 229 *Limited AFS licensees: Complying with your licensing obligations* (updated)
- › INFO 238 *Whistleblower rights and protections*
- › INFO 239 *How ASIC handles whistleblower reports*
- › INFO 240 *AFS licence applications: Providing information for fit and proper people and certain authorisations*
- › INFO 241 *Prohibition on influencing employers' superannuation fund choice*
- › INFO 243 *Licensing requirements for providers of funeral expenses facilities.*

For a complete list of the publications issued this year, see our website.

## Education

ASIC is the lead Government agency for financial capability, driving initiatives to help Australians be in control of their financial lives. This includes leading and coordinating the **National Financial Capability Strategy 2018**.

The National Strategy identifies three behavioural areas in which Australians can be empowered to take control of their financial lives:

- › managing money on a day-to-day basis
- › making informed money decisions
- › planning for the future.

Our work is informed by research, education and behavioural insights to help us understand how investors and consumers make decisions in practice.

Our education initiatives include:

- › promoting and supporting financial literacy through the formal education sector, including supporting teacher capability
- › delivering and promoting access to trusted and impartial financial information, tools and guidance for consumers and investors, especially vulnerable consumers
- › supporting and growing key partnerships with other organisations to enhance collaboration and increase the reach and impact of financial capability initiatives
- › contributing to research and measurement supporting the financial wellbeing of Australians
- › ensuring that ASIC is globally engaged and effectively participates in shaping and influencing the international financial capability agenda.

See Chapter 4 for more details about ASIC's rebranded and updated Moneysmart website, our Indigenous Outreach Program, and our work on the new National Indigenous Financial Capability Strategy.

## Input into law reform

ASIC provides advice to the Government on the operational implications of Government policy initiatives and legislative change.

We identify the opportunities and risks that inform our preferred position and influence law reform to facilitate and improve the performance of the financial system. In providing our advice, we research and analyse innovation, competition and emerging harms, and identify and plan for the impact of reforms on external stakeholders and our internal capabilities.

This year, we provided advice and input to the Government to facilitate measures to support business in the COVID-19 pandemic environment, including in relation to meetings and financial reporting requirements.

We also provided input to Treasury on key law reforms proposed by the Government, including legislation giving effect to recommendations from the Royal Commission. We have also provided submissions to parliamentary and Government inquiries on key law reform issues.

This included input in relation to the following reforms:

- › our new product intervention power, which equips us with the power to intervene when there is a risk of significant consumer detriment
- › financial product issuer design and distribution obligations, which strengthen our ability to prohibit retail products that do not align with consumer needs
- › ASIC's role as conduct regulator in superannuation
- › the best interests duty of mortgage brokers and remuneration for mortgage brokers
- › strengthening of the financial sector breach reporting regime
- › strengthening penalties for breaches of corporate and financial services laws
- › strengthening ASIC's licensing and banning powers and enhancing our investigatory capability
- › extending consumer protection provisions to funeral expenses insurance policies and extending unfair contract terms protections to insurance contracts
- › ending grandfathered conflicted remuneration in relation to financial advice provided to retail clients
- › the enforceability of financial services industry codes
- › the application of anti-hawking reforms to superannuation and insurance products
- › the proposed Financial Accountability Regime, including working with APRA to ensure that the agencies are ready to implement and jointly administer the regime
- › the requirement for litigation funders to hold an AFS licence and comply with the managed investment scheme regime from August 2020.

## 2.4 Registry services and outcomes

To realise our vision of a fair, strong and efficient financial system for all Australians, we aim to provide efficient and accessible business registers that make it easier to do business.

Our performance reporting in 2019–20 was guided by ASIC's *Corporate Plan 2019–23: Focus 2019–20*, which set out our objectives and targets related to providing efficient registry services, including the registers of companies and business names, as well as a range of professional registers.

### ASIC's registers

The ASIC registry is a critical part of Australia's economic infrastructure. The work we do ensures that the information

on our registers is accurate, up to date and available to those using the information, enabling business and consumer stakeholders to make informed decisions. ASIC administers registers of companies and business names, as well as a range of professional and other registers.

We are focused on making it easier for businesses to engage with ASIC and comply with the law, to enhance commercial certainty. We aim to provide services that are online and accessible to all Australians. We work to continuously improve our services to support efficient registration.

Until 30 June 2020, the cost of registration as an Australian company was \$495. The cost of registering a business name was \$36 for one year and \$85 for three years.

**Table 2.4.1: ASIC's registers**

Outcome	2019–20	2018–19
Total companies registered	<b>2.78m</b>	2.76m
New companies registered	<b>222,048</b>	223,661
Total business names registered	<b>2.3m</b>	2.3m
New business names registered	<b>387,827</b>	375,052
Calls and online inquiries responded to by Customer Contact Centre	<b>631,669</b>	670,741
Registry lodgements	<b>2.96m</b>	2.9m
Percentage of registry lodgements online	<b>93.2%</b>	93%
Number of searches of ASIC registers <sup>16</sup>	<b>243.7m</b>	142.6m

<sup>16</sup> We improved the accuracy of the methodology used to report on the number of public searches in 2019–20 and we now include a wider range of register searches.

## Performance overview

ASIC received almost three million lodgements in the 2019–20 financial year, with over 90% processed online without manual intervention. The most common lodgement was ‘change to company details’ (Form 484), with 968,000 received.

We also answered 631,000 inquiries through our Customer Contact Centre.

### Business registration

This year, ASIC facilitated the registration of 610,000 new businesses, comprising 222,000 companies and 388,000 business names.

Throughout 2019–20, ASIC’s registry promoted the use of the Australian Government Business Registration Service, launched in June 2018 and available at [www.business.gov.au](http://www.business.gov.au). In total, 99.9% of applications to register a company or business name were made online.

This service makes it easier to start a business by providing a single online channel for registration of companies, business names, Australian Business Numbers and other tax registrations.

### Register integrity

To keep our registers accurate and up to date, ASIC issues millions of notices to regulated populations each year. In 2019–20, we issued 2.6 million company annual statements and 749,000 business name renewal notices.

Through a range of compliance programs, ASIC deregistered 58,000 companies for non-payment of review fees and 302,000 business names for expired registration or because the entity ceased to exist.

### Increased use of online channels

Over 93% of the almost three million lodgements received by ASIC were submitted online, while the volume of lodgements submitted by mail decreased by 7%.

Calls to ASIC’s Customer Contact Centre decreased by 9%, while inquiries submitted through our website increased by 3%.

### Accessing registry information

Our registers experienced record levels of access in 2019–20, with over 243.7 million searches of public information. We improved the accuracy of the methodology used to report the number of public searches this year and now include a wider range of register searches.

There are 12 registry datasets available at [www.data.gov.au](http://www.data.gov.au). These datasets have been viewed over 74,000 times this year, an increase of 1%.

## Analysis of key outcomes

Key outcomes achieved by ASIC's registry in 2019–20 are set out below.

### Modernising business registers

Over the course of the year, ASIC continued to work with Treasury and the Australian Taxation Office (ATO) to develop proposals for the modernisation of Australian business registers, including 31 in-scope ASIC registers and the Australian Business Register.

In December 2019, the Government announced its commitment to progress the registry modernisation program of work. Registry modernisation will make

it easier and faster for businesses to interact with the Government, creating a single, accessible and trusted source of business data. It will introduce a Director Identification Number regime and transfer existing business registers to a modernised platform operated by the ATO.

The Government commitment included funding to stabilise the registry's current technology to ensure continuity for businesses until modernisation occurs.

In June 2020, the legislative package to enable the modernisation of business registers passed both Houses of Parliament.

### Journalist search fee exemption

On 30 July 2018, the Government announced it would extend the fee exemption available for certain registry searches, specified in the Corporations (Fees) Regulations 2001, to all journalists for all searches from 1 July 2019.

The exemption from these fees facilitates free access to important information about companies and financial services providers.

Journalists qualify for the exemption where they are seeking access to the information as part of their professional work. Media agencies and individual journalists receive a concession when conducting a search through a commercial ASIC information broker or when requesting a search directly from ASIC.

On 1 July 2019, ASIC established a dedicated 'journalist search portal' where approved journalists can obtain some ASIC registry information for free. In December 2019, the service was expanded to cater for current and historical company information, as well as copies of documents that companies have lodged with ASIC.

As at June 2020, there are over 200 journalists registered to use the service. Details for registration are available from the ASIC website.

## Financial Advisers Register

In 2019–20, ASIC supported financial advice sector reforms by enhancing the Financial Advisers Register to enable licensees to comply with their legislative obligations. As part of the reforms, advisers must:

- › attain educational qualifications that are approved by the Financial Advisers Standards and Ethics Authority (FASEA)
- › pass an exam set by FASEA
- › engage in continuing professional development each year and their AFS licensees must advise ASIC if the adviser fails to meet the requirement.

Advisers new to the industry are 'provisional financial advisers' and must complete a year of work and training before they can become a financial adviser.

These changes aim to improve the professionalism of Australia's financial advice industry and help consumers make informed decisions in choosing their adviser.

In November 2019, we updated the Financial Advisers Register to incorporate the enhanced requirements. All financial adviser information is available free of charge on this register at [www.moneysmart.gov.au](http://www.moneysmart.gov.au).

## International collaboration

Executive Director Registry, Rosanne Bell, continued as President of the Corporate Registers Forum (CRF). The CRF is an association of corporate registries from more than 60 jurisdictions. Its aim is to give members the opportunity to review the latest developments in corporate business registers internationally and exchange experiences and information on the present and future operation of corporate business registration systems.

ASIC's involvement with the CRF is important in allowing us to share ideas and best practices and to discuss emerging registry issues.

## Registered Agent conduct

An ASIC Registered Agent may be authorised to act on behalf of companies transacting with ASIC registers. This year, approximately 24,000 Registered Agents submitted over 58% of the total 2.2 million lodgements to ASIC's companies registers.

Registered Agents must comply with ASIC's Terms and Conditions, introduced in 2018. The Terms and Conditions describe rights and responsibilities, including:

- › eligibility criteria to be a Registered Agent
- › grounds on which ASIC may cancel Registered Agent status
- › requirements for lodging documents and lodging online
- › expectations of Registered Agents lodging on behalf of a company.



This year, our compliance programs targeted Registered Agents not complying with ASIC's Terms and Conditions, in particular failing to retrieve company annual statements, and Registered Agents operating deregistered companies.

We also considered 61 reports of Registered Agent misconduct this financial year. Of these reports, we cancelled 15 agent registrations and issued warnings to 29.

### **Digital service provider terms and conditions**

A digital service provider is a person or organisation who allows data to be sent to and from ASIC to submit transactions and request information searches of the ASIC registers.

In December 2019, we published Digital Service Provider Terms and Conditions on the ASIC website, defining eligibility criteria and the obligations to be fulfilled by ASIC digital service providers.

These measures strengthen ASIC's registry services delivery model by defining the minimum standards and expectations required of our business partners. By better communicating the requirements to be a registry business partner, strengthening our compliance work, and acting on conduct that generates complaints, we can better inform new and current business partners about their obligations and further promote the integrity of our registers.

### **Disaster recovery exercise – ASIC registry online services**

In December 2019, as part of our work to stabilise the technology underpinning ASIC's registry, we performed a complete disaster recovery exercise covering all registry systems. We simulated failure of our primary data centre in Homebush by shutting down all registry systems, including network links.

The exercise allowed us to practise planned business continuity measures, validate overall system resilience, and identify areas for improvement. It confirmed ASIC's preparedness for any potential incidents that may impact registry systems in the future.

### **Registry compliance programs**

ASIC conducts a number of compliance programs to enhance and maintain the integrity of our registers, with specific focus on the companies register.

This year, we combined data from several ASIC teams to identify 1,600 additional companies that should be lodging financial reports, more than double the number of entities investigated compared to previous years.

Key statistics from our compliance programs include:

- › **53,265** companies deregistered due to non-payment of fees
- › **2,245** large proprietary companies and unlisted public companies notified to lodge financial reports
- › **461** companies referred for investigation for failure to lodge financial statements
- › **283,614** business names cancelled due to expired registrations.

## **Natural disaster relief**

ASIC is committed to supporting people impacted by natural disasters. This year, we supported victims of the bushfires that affected many communities and businesses across Australia. We acknowledge that circumstances such as natural disasters may make it difficult for businesses to pay fees or meet their lodgement obligations.

Customers experiencing difficulties are encouraged to contact us to discuss payment options, apply for a payment plan, or apply for a fee waiver.

## **Impact of the COVID-19 pandemic**

The COVID-19 pandemic presented significant challenges for businesses across Australia. During the pandemic, all ASIC registry services continued without disruption. Our Customer Contact Centre remained open for customer inquiries, while online services continued to facilitate lodgement of documents and searches of registers.

To support Government priorities, space in our Traralgon office was provided to Services Australia to accommodate staff providing vital services to the public.

## 2.5 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. The table below sets out our performance against the key measures outlined in the Service Charter for the 2019–20 financial year.

**Table 2.5.1 ASIC Service Charter performance, 2019–20**

Service	Measure	Target	Result
<b>When you contact us</b>			
General telephone queries	We aim to answer telephone queries on the spot	80%	89.6%
General email queries	We aim to reply to email queries within three business days	90%	99.8%
<b>When you access our registers</b>			
Searching company, business name or other data online	We aim to ensure that our online search service is available between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.7%
Lodging company, business name or other data online	We aim to ensure that you can lodge registration forms and other information online between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.9%
<b>When you do business with us</b>			
Registering a company or business name online	We aim to register the company or business name within one business day of receiving a complete application	90%	99.1%
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application	90%	96.7%
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within 7 business days	90%	100%

Service	Measure	Target	Result
Updating company, business name or other ASIC register information online	For applications lodged online – enter critical information and status changes to company or business name registers within one business day	90%	99.9%
Updating company, business name or other ASIC register information via paper application	For paper applications lodged by mail – enter critical information and status changes to company or business name registers within five business days	90%	95.6%
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	88%
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances	100%	100%
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 76% Varied: 76%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: 89% Varied: 88%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 93% Varied: 96%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 94% Varied: 97%
Applying for relief	We aim to give an in-principle decision within 28 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues	70%	78%

Service	Measure	Target	Result
	We aim to give an in-principle decision within 90 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues	90%	91%
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information	70%	79%

#### When you have complaints about us

About ASIC officers, services or actions	We aim to acknowledge receipt of complaints within three working days of receipt. We aim to resolve a complaint within 28 days	70%	Resolved within 28 days: 95%
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## 2.6 Unclaimed money

ASIC reunites people with their unclaimed money, as we are responsible for the administration of unclaimed money from banking and deposit-taking institutions and life insurance institutions.

We fulfil this responsibility by maintaining a register of unclaimed money from banks, credit unions, building societies, life insurance companies and friendly societies, as well as shares that have not been collected from companies. The public can search our register and make claims. We process claims within 28 days of receiving all necessary claim documentation.

In 2019–20, ASIC received \$202.8 million in unclaimed money. This was more than the \$76.9 million we received in 2018–19.

We paid out a total of \$58.9 million in claims in 2019–20, compared with \$56.6 million the previous year.

We paid claimants interest (2019–20: \$2.8 million of the \$58.9 million) on unclaimed money from periods from 1 July 2013 onwards at a rate of 2.5% for 2013–14, 2.93% for 2014–15, 1.33% for 2015–16, 1.31% for 2016–17, 2.13% for 2017–18, 1.9% for 2018–19 and 1.33% for 2019–20.

**Table 2.6.1 Amount paid to owners of unclaimed money**

Claims by type	2019–20 (\$)			2018–19 (\$)¹⁷
	Principal	Interest	Total	
Company	25,071,137	1,131,758	<b>26,202,895</b>	34,049,733
Banking	24,047,858	1,437,810	<b>25,485,668</b>	16,536,678
Life insurance	5,756,395	222,559	<b>5,978,954</b>	4,080,573
Deregistered company trust money	1,265,365	N/A	<b>1,265,365</b>	1,927,504
<b>Total</b>	<b>56,140,755</b>	<b>2,792,127</b>	<b>58,932,882</b>	<b>56,594,488</b>

¹⁷ Includes principal and interest.

# 3

## ASIC's achievements by sector

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To help industry participants understand the regulatory effort ASIC expended in the sectors we regulate, this chapter highlights the activities and outcomes achieved in each sector during this financial year.

## Industry funding

ASIC industry funding means that those who create the need for regulation bear the costs of that regulation. Under the model, entities pay a share of the costs to regulate their subsector through industry levies, based on a range of business activity metrics, and cost recovery fees for service.

There are seven industry funding sectors (deposit-taking and credit; insurance; financial advice; investment management, superannuation and related services; market infrastructure and intermediaries; corporate; and large financial institutions) and 52 subsectors.

On 12 June 2020, ASIC published indicative industry levies for 2019–20 in our Cost Recovery Implementation Statement (CRIS), available on our website. As many businesses were focused on dealing with the impact of the COVID-19 pandemic when the CRIS was published, we extended the feedback period to allow entities additional time to provide comments.



## 3.1 Deposit-taking and credit

The deposit-taking and credit sector comprises **credit licensees** (credit providers and credit intermediaries), **deposit product providers, payment product providers**, and **margin lenders**.

We use the full suite of our regulatory tools to promote fairness and professionalism in this sector, in order to bring about sound consumer outcomes. This includes the use of our new powers, such as our product intervention power, to address undesirable practices and products.

ASIC's work in this sector during 2019–20 focused on responsible lending and ensuring that consumers are sold products that are appropriate for their needs, as well as responding to the impact on businesses and consumers of the COVID-19 pandemic.

### Responsible lending

In December 2019, after extensive consultation, ASIC released updated Regulatory Guide 209 *Credit licensing: Responsible lending conduct* (RG 209). Our consultation included public hearings in Sydney and Melbourne and roundtables with representatives of consumer groups, non-bank and authorised deposit-taking institution lenders, brokers, small amount credit contract providers, and consumer lessors.

The updated guidance provides greater clarity and support to lenders and brokers in meeting their statutory obligations, as well as the steps lenders and brokers can take to minimise the risk of non-compliance. Importantly, we have

maintained principles-based guidance that reinforces discretion and flexibility for lenders.

As well as clarifying the scope of the responsible lending obligations, the guidance sets out the areas that are not subject to those obligations – such as small business lending, irrespective of the nature of the security used for the loan. The update also reflects technological developments, including open banking and digital data capture services.

Key elements of the updated guidance include:

- › a stronger focus on the legislative purpose of the obligations – to reduce the occurrence of consumers taking on unsuitable levels of credit and ensuring that licensees obtain sufficient reliable and up-to-date information about the consumer's financial situation, requirements and objectives to enable them to assess whether a particular loan is unsuitable for the particular consumer
- › more guidance to illustrate where a licensee might undertake more, or less, detailed inquiries and verification steps based on different consumer circumstances and the type of credit being sought. The guidance also includes new examples about a range of different credit products and different kinds of consumer circumstances.

Following the decision of the Federal Court in *ASIC v Westpac*, ASIC will review the guidance in RG 209 to ensure that it reflects the Federal Court's decision.

## **ASIC's first product intervention order addresses significant harm in short-term credit**

On 12 September 2019, ASIC used its new product intervention power to target a particular class of short-term credit product after an ASIC delegate found that these products result in significant consumer detriment.

Under this lending model, a credit provider issued short-term credit to consumers where the fees were capped at 5% of the loan amount. The credit provider's associate would then charge significant fees to consumers, under a separate contract, for the application, management and ongoing administration of the loan.

Short-term credit of up to \$1,000 was being provided by credit providers and their associates at high cost to vulnerable consumers. The fees under both contracts, and the addition of default fees incurred by many borrowers, could (and, in some cases, did) result in a total cost of up to 990% of the amount borrowed.

Following public consultation, ASIC was satisfied that this class of products resulted in significant consumer detriment. We considered submissions received, data from industry that demonstrated the size and scale of the short-term credit industry, and ASIC complaints data, including over 200 reports of misconduct.

The short-term credit product intervention order prohibits short-term credit providers and their associates from charging fees in excess of the fees prescribed by section 6(1) of the National Credit Code.

The order is valid for 18 months and ASIC can extend it or make it permanent by obtaining the Minister's written consent.

Cigno Pty Ltd (Cigno), a company affected by the order, sought judicial review of the order. Its application was dismissed by the Federal Court in April 2020.

On 13 May 2020, Cigno lodged an appeal of the decision to the full Federal Court. The product intervention order will remain in force unless a court orders otherwise.

ASIC is continuing to monitor the provision of short-term credit to consumers.

## New best interests duty for mortgage brokers

In June 2020, ASIC released guidance about the new best interests duty for mortgage brokers, Regulatory Guide 273 *Mortgage brokers: Best interests duty*.

Our guidance followed the passage of legislation creating a duty for mortgage brokers to act in the best interests of their consumer and requiring them to prioritise each consumer's interests when providing credit assistance.

We had consulted on a draft version of this guidance in February 2020, through Consultation Paper 327 *Implementing the Royal Commission recommendations: Mortgage brokers and the best interests duty*.

The guidance is intended to help industry make changes and improve practices before the new obligations commence. Given the impact of the COVID-19 pandemic, we have provided relief so that industry does not need to comply with the obligations and associated remuneration reforms until January 2021.

ASIC's guidance sets out our interpretation of the best interests obligations, expectations about how industry should meet the obligations, and our general approach to administering the reforms.

We expect the obligations to help improve the recommendations and communication provided to consumers throughout the credit assistance process and lead to a higher quality of credit assistance being provided.

ASIC's guidance follows research published in August 2019 (Report 628 *Looking for a mortgage: Consumer experiences and expectations in getting a home loan*), which found that consumers who visited a mortgage broker expected the broker to find them the 'best' home loan, but also demonstrated that brokers were inconsistent in the ways they presented home loan options to consumers and sometimes offered little, if any, explanation of the options considered.

## Approval of Banking Code

In December 2019, following extensive consultation, ASIC approved an updated version of the Australian Banking Association (ABA) Banking Code of Practice, which commenced on 1 March 2020.

The updated Banking Code is intended to, among other things, implement the Royal Commission's recommendations relating to the accessibility of banking products and services and easing the burden on agricultural borrowers affected by drought and natural disaster.

The updates include changes to:

- › introduce the concept of 'basic accounts' that have minimum features, including no account-keeping fees, no minimum deposits, free direct debit facilities, and access to a debit card
- › provide eligible low-income customers with access to basic accounts and other low and no-fee accounts, each of which must not feature informal overdrafts, dishonour fees or overdrawn fees

- › clarify the restrictions on non-monetary defaults on small business loans
- › extend protections to guarantors of small business loans – banks will now be required to first pursue the borrower, before the guarantor, in the event of default (previously, the Code limited these protections to guarantors of consumer loans)
- › prohibit default interest on small business loans secured by agricultural and commercial property in the event of drought or natural disaster.

ASIC approved the March 2020 Code on the understanding that the ABA will revisit the Code's definition of 'banking services' and include an amended definition from 1 March 2021. The amended definition will address concerns raised by stakeholders and ASIC about the consequences of the current definition (which refers to the definitions of 'retail client' and 'wholesale client' in Chapter 7 of the Corporations Act) for small business coverage under the Code.

On 25 June 2020, ASIC approved a variation of the March 2020 Code, proposed by the ABA due to the impact of the COVID-19 pandemic.

The changes acknowledge that in certain circumstances banks may not always be able to meet the timelines for customer communication outlined in some provisions of the March 2020 Code. They provide that banks' obligations when lending to small business customers – to engage in a fair, reasonable and ethical manner, and to exercise the care and skill of a diligent and prudent banker – will be informed by the circumstances and effects of the COVID-19 pandemic generally.

## Buy now pay later arrangements

The buy now pay later sector is an area of ongoing focus for ASIC.

We continue to monitor buy now pay later products and the response by the sector to the COVID-19 pandemic. We will also engage with consumer representatives and closely monitor the use of small amount and alternative credit products, especially by vulnerable consumers.

## 3.2 Insurance

The insurance sector comprises life and general insurance and includes **insurance product providers** (including friendly societies), **insurance product distributors**, and **risk management product providers**.

This year, ASIC's work in insurance focused on the design and sale of inappropriate products, particularly to vulnerable consumers; our new regulatory powers to act on issues highlighted by the Royal Commission; and responding to the impact on businesses and consumers of the COVID-19 pandemic.

### Consumer credit insurance

This year, our work to address the inappropriate sale of consumer credit insurance (CCI) by lenders focused on ensuring that consumers who have been harmed are remediated, CCI products offer better value to consumers, and sales practices comply with our requirements.

In 2019, we reported on our review of CCI sold by 11 major banks and lenders, which found poor value products and harmful sales practices: *Report 622 Consumer credit insurance: Poor value products and harmful sales practices* (REP 622).

Since we finalised our review, all lenders included in the review are no longer selling CCI with credit cards, personal loans or home loans.

We have also secured significant remediation, totalling over \$160 million for more than 434,000 consumers, for the period October 2011 to April 2020. This remediation related to conduct where:

- › lenders sold CCI policies to consumers who were ineligible to claim or unlikely to benefit from or need cover
- › lenders used pressure selling or other unfair sales tactics, such as making false representations, in selling CCI to consumers
- › consumers were incorrectly charged for CCI or their claims were incorrectly declined
- › lenders did not have adequate processes to help consumers in hardship, or trustees of deceased estates, who had a CCI policy to lodge a claim
- › consumers received very little or no value from the product.

ASIC will continue to collect and publish claims ratios to monitor how CCI products provide value to customers who hold cover and pay premiums. We will ensure that lenders meet the expectations we set out in REP 622.

## Ban on unsolicited sales of direct life insurance and CCI

On 13 January 2020, ASIC used its modification powers to implement a ban on unsolicited 'cold call' telephone sales of direct life insurance and CCI.

The ban addressed poor sales practices that led to unfair consumer outcomes – for example, consumers being sold policies they are ineligible to claim on, high lapse rates, and poor consumer understanding of product features and coverage.

Our legislative instrument *ASIC Corporations (Hawking – Life Risk Insurance and Consumer Credit Insurance) Instrument 2019/839* prohibits the offering of life insurance products and CCI products in the course of, or because of, an unsolicited telephone call, unless the person has been given personal advice.

The ban is consistent with recommendations made by the Royal Commission and provides protections to consumers that complement broader legislative reform by the Government. Firms are no longer able to call consumers out of the blue and use sophisticated sales tactics to pressure people into buying life insurance and CCI products.

The ban followed our earlier review of the sale of direct life insurance, summarised in Report 587 *The sale of direct life insurance* (released August 2018). The review found links between outbound telephone sales, sales conduct issues and poor consumer outcomes. Similarly, Report 622 *Consumer credit insurance: Poor value products and harmful sales practices* (released 11 July 2019) also found that the design and sale of CCI had consistently failed consumers, with particular concerns about unsolicited telephone sales.

## Total and permanent disability insurance

In October 2019, we released the results of our review of total and permanent disability (TPD) insurance: Report 633 *Holes in the safety net: A review of TPD insurance claims*. The report builds on ASIC's earlier review of life insurance, set out in Report 498 *Life insurance claims: An industry review*. Earlier in the year, on 4 July 2019, we had published Report 621 *Roadblocks and roundabouts: A review of car insurance claim investigations* on the findings of our work on insurance claim investigations.

For the TPD review, we obtained data on 35,000 TPD claims finalised in 2016 and 2017 and reviewed over 2,400 documents from seven insurers.

We also commissioned an independent market research firm to conduct qualitative research with consumers who had made a TPD claim with one of the insurers in our review, and undertook statistical modelling of claims data to identify factors such as TPD definitions that were significant in determining whether TPD claims were declined or admitted.

Our TPD review found:

- › unfair and restrictive TPD definitions resulting in poor consumer outcomes – for example, the 'activities of daily living' test that resulted in three in five finalised claims assessed under the test being declined
- › unnecessary challenging and onerous claims handling processes contributing to withdrawn claims
- › insurers lacking key claims data to help them effectively manage the risk of consumer harm
- › two insurers declining over a quarter of their finalised claims
- › those two insurers declining more claims than our statistical modelling predicted, with the declined claim rate for one of the two insurers being almost double that predicted by our modelling.

ASIC expects life insurers to improve product design, claims handling practices and data resourcing to ensure that the risk of consumer harm is minimised and products are designed and sold in a way that provides real value to consumers.

We are undertaking a follow-up questionnaire and closely monitoring how insurers respond. We will take further action, including enforcement action where appropriate, against insurers and superannuation trustees who fail to properly address our concerns.

## **ASIC's response to natural disasters**

ASIC established a dedicated working group to triage issues arising from recent natural disasters and events, such as the bushfire crisis that significantly affected many Australian communities in the summer of 2019–20, and to coordinate our response to those issues.

The working group monitored emerging issues based on information from the banking and insurance sectors, consumer groups and the public.

ASIC worked cooperatively with other regulators to coordinate our responses to consumer and regulatory issues.

We reinforced ASIC's expectations about fair and effective insurance claims handling for people affected by the bushfires.

We warned against unscrupulous insurance claims management 'service providers' – unlicensed for-profit businesses that sign up policy holders and, for a fee, undertake the administrative work on an insurance claim. To the extent our jurisdiction allows, we will take regulatory action to provide interim consumer protections ahead of broader legislative reform on claims handling to be considered by Parliament.

We also provided relief for bushfire-affected companies, including incorporated small businesses, by reviewing ASIC fees incurred (on application), considering alternative payment options and, in some circumstances, potentially waiving fees.

We regularly updated our natural disaster information for consumers, via our media releases and our Moneysmart website.



## 3.3 Financial advice

The financial advice sector includes **AFS licensees and their representatives** who provide personal advice to retail clients on financial products, general advice, and personal advice to wholesale clients.

In 2019–20, ASIC focused on improving the quality of financial advice using our full range of regulatory tools, including enforcement action, banning advisers engaging in misconduct, remediating consumers, and oversight of licensee compliance.

### Charging clients without providing advice

ASIC is monitoring remediation programs by six of Australia's largest banking and financial services institutions in relation to loss or detriment suffered by consumers due to non-compliant advice or FFNS conduct.

AMP, ANZ, CBA, Macquarie, NAB and Westpac established review and remediation programs to compensate affected customers. Compensation paid or offered by the six listed financial services institutions to customers who suffered loss or detriment totalled \$1.05 billion as at 30 June 2020.

FFNS misconduct was examined in some detail by the Royal Commission and is subject to ongoing ASIC regulatory responses, including investigations and enforcement action.

### Compliance with financial advice fee disclosure obligations

In November 2019, we reported on our compliance assessment of fee disclosure statements (FDSs) and renewal notices (RNs) issued by 30 randomly sampled AFS licensees and their representatives: *Report 636 Compliance with fee disclosure statement and renewal notice obligations* (REP 636).

We analysed 1,496 FDSs and 373 RNs, as well as information about licensees' disclosure policies and procedures, and commissioned a compliance consultant to review 176 FDSs in detail to establish whether their contents complied with legal requirements.

We found that consumers receiving financial advice could be at risk of receiving wrong information about advice fees or, in some cases, being charged fees after ongoing fee arrangements have terminated.

Our review revealed widespread non-compliance across the sample of AFS licensees and their representatives, suggesting that failure to comply with FDS and RN obligations may be an industry-wide problem. REP 636 therefore included practical tips on how industry can comply with these obligations.

## Advice in superannuation

In December 2019, we released the results of our review of the ways in which superannuation funds provide advice to members and the quality of personal advice received by members of the funds: Report 639 *Financial advice by superannuation funds* (REP 639).

We surveyed 25 superannuation funds and examined personal advice provided to members of 21 of those funds. Overall, we found that 15% of the files indicated that

a member was at risk of suffering some financial or non-financial detriment as a result of following the advice provided. In these cases, we contacted the licensee, making clear our expectation that they review the advice and, where required, remediate affected members.

To help superannuation trustees continue to improve the advice services they offer fund members, we included practical tips in REP 639 for trustees, advice licensees and advice providers.

### Adviser bannings

ASIC takes administrative action, such as banning individual advisers, to protect investors and consumers and to deter misconduct. This year, ASIC's Financial Advisers team banned 22 advisers from providing financial services. Bans imposed included the following.

**Peter Goudie:** In July 2019, ASIC banned Mr Goudie from providing financial services for four years. ASIC found that Mr Goudie failed to comply with financial services laws, including the requirement to comply with the best interests duty and to prioritise his clients' interests. When providing personal advice, Mr Goudie did not adequately identify his clients' objectives, financial situation and needs, or investigate whether the products he was recommending would meet their needs. Mr Goudie also failed to give a number of his clients a Statement of Advice. In all circumstances where Mr Goudie's advice was not in the best interests of his clients, it was found that he gave priority to generating fees and commissions for himself.

**Sean Philip Lewis:** In April 2020, ASIC banned Mr Lewis from providing financial services for five years. ASIC found that Mr Lewis failed to comply with financial services law, including by failing to provide advice that was in the best interests of his clients and failing to provide advice appropriate for his clients' objectives. Mr Lewis advised most of his clients to use a limited recourse borrowing arrangement to fund the purchase of real property through an SMSF but did not professionally and independently assess whether using an SMSF and borrowed funds to invest in property was an appropriate strategy for these clients.

## Non-lodging advice licensees

AFS licensees must comply with their financial reporting requirements. Financial statements and audit reports provide important information to ASIC and the market. Timely lodgement of financial statements and audit reports with ASIC demonstrates an AFS licensee's capacity to comply with financial services law.

In 2019–20, we followed up with 277 advice licensees who had failed to lodge their annual financial statements and audit reports.

Of these, we suspended one AFS licence and cancelled seven AFS licences, including:

- › cancelling the AFS licence of RVM Capital Pty Ltd on 21 January 2020 for failing to lodge its annual financial statements and auditors reports for three consecutive years
- › cancelling the AFS licence of Personal Risk Management Pty Ltd on 21 May 2020 for failing to lodge its annual financial statement and auditors reports for three consecutive years.

Twenty-four licensees voluntarily cancelled their licence as a result of our monitoring.

## 3.4 Investment management, superannuation and related services

The investment management, superannuation and related services sector includes **superannuation trustees, responsible entities (REs), wholesale trustees, operators of notified foreign passport funds, custodians, investor-directed portfolio service operators, managed discretionary account providers, traditional trustee company service providers, and crowd-sourced funding intermediaries.**

In 2019–20, our work in this sector focused on implementing Royal Commission and Productivity Commission recommendations, strengthening ASIC's role as a conduct regulator, trustee misconduct, insurance in superannuation, enhancing our communication to trustees and their advisers, and responding to the impact on businesses and consumers of the COVID-19 pandemic.

### Investment management

#### Responsible entities' obligations in the COVID-19 pandemic environment

In March 2020, ASIC wrote to several REs of managed investment schemes to remind them of their fundamental duties and legal obligations to members in light of the market volatility, disruption and other challenges associated with the COVID-19 pandemic. The letter was published on ASIC's website and reminded REs to:

- › actively assess their scheme's liquidity status
- › actively review the terms on which redemptions are made available and whether this remained consistent with the liquidity of the underlying scheme assets
- › monitor the valuation of scheme property and its flow through to unit prices on which members transact
- › meet disclosure obligations and communicate with scheme members in a timely manner.

We also noted the potential for REs to apply to ASIC for hardship relief, and our ability to provide REs with rolling withdrawal relief in appropriate cases.

We asked REs to help us monitor the situation by notifying us immediately if any registered scheme became non-liquid. We also met regularly with industry associations and members to discuss their management of scheme liquidity and compliance with their duties during the COVID-19 pandemic.

#### True-to-label managed funds

The appropriate labelling of managed funds is important to ensure a fair market and help consumers understand the products being offered. ASIC regularly conducts thematic campaigns and surveillances in the funds management sector.

This year, we conducted a risk-based targeted surveillance of current labelling practices within managed funds predominantly in the property, fixed-income, mortgages and cash sectors.

We found that, generally, product labelling and the characteristics of the underlying assets of the managed funds were consistent. However, issues were observed in funds that used the label 'cash' (and related terms, such as 'cash enhanced' or 'cash plus') in their fund name and in promotional materials.

Our concerns included:

- › for a number of these 'cash' funds, most assets were things other than cash or cash-equivalent assets
- › inappropriate comparisons were being drawn between some managed funds and bank term deposits
- › issues with the withdrawal terms that some funds offered and their underlying assets – for example, some funds offering daily or similar withdrawal terms where the underlying assets were largely illiquid.

We dealt directly with about 20 REs in relation to labelling, inappropriate comparisons and withdrawal terms. Many have amended their product disclosures as a result of ASIC's inquiries. We are considering regulatory action in relation to a small number of REs.

## Litigation funding reforms

On 22 May 2020, the Government announced that litigation funders would be regulated under the Corporations Act. From 22 August 2020, operators of litigation funding schemes will generally be required to hold an AFS licence and comply with the managed investments scheme regime. ASIC worked with Treasury and engaged with industry on various implementation and transitional issues relating to the application of the new requirements to litigation funders.

On 12 June 2020, ASIC made a public submission to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into litigation funding and the regulation of the class action industry, which is due to report by 7 December 2020. We also appeared at a hearing on 29 July 2020.

## Superannuation

### Superannuation trustees

ASIC is primarily responsible for ensuring that superannuation trustees meet their obligations in their dealings with consumers, including disclosure and advice to members and ensuring that members have access to complaints processes.

The Royal Commission recommended that ASIC become the primary conduct regulator for superannuation. In early 2020, the Government released for consultation proposed legislation about ASIC's role as conduct regulator in superannuation, addressing several Royal Commission recommendations. The proposed legislation also responded

to the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness*, which recommended clarifying the regulators' roles, powers and areas of focus.

ASIC has focused on conduct that contributes to potential member harm, as well as on promoting better member outcomes in the implementation of reforms such as 'Protecting Your

Superannuation Package'. We seek to drive better behaviour by trustees to ensure better outcomes for consumers.

ASIC and APRA are committed to working together effectively to create better outcomes for superannuation members, consistent with the principles in the revised APRA–ASIC MOU. On 14 February 2020, ASIC and APRA issued a joint letter to superannuation trustees about how regulatory oversight will operate following the legislative reforms to ASIC's role.

### **Insurance in Superannuation Voluntary Code of Practice**

The Insurance in Superannuation Voluntary Code of Practice (IS Code) sets standards aimed at improving industry practices in benefit design, claims handling and communications to members. The IS Code is being adopted in whole or in part by 70% of superannuation trustees. Full compliance is not necessary until July 2021.

Along with APRA, ASIC engaged with industry – trustees, administrators and the Code owners – to understand how effectively the implementation and coverage of the IS Code is improving industry practice. We undertook over 100 website disclosure reviews, a desk-based 'mystery shopping exercise' to 100 superannuation hotlines, a survey of trustees about claim timeframes, and structured meetings with 18 trustees.

We observed some improvements in practice being introduced as a result of adoption of the IS Code by a significant number of trustees. However, further work needs to be done to achieve the high industry standards that consumers expect.

We identified several inconsistencies in implementation, some relating to fundamental aspects of the IS Code. In our view, the IS Code could go further in detailing how trustees should proactively identify and engage with vulnerable consumers, and in embedding a consumer-centric approach to vulnerability.

Our findings were outlined in Report 646 *Insurance in Superannuation: Industry implementation of the Voluntary Code of Practice*, published on 13 December 2019.

## Consolidation of superannuation accounts

Working with the ATO and the Australian Competition and Consumer Commission (ACCC), ASIC identified financial advisers, trustees, fund promoters and unlicensed providers running marketing campaigns based around the provision of ‘free’ lost superannuation search and consolidation services. In many cases, these ‘free’ services were accompanied by the charging of various significant advice fees. Although consolidation of superannuation accounts can benefit consumers, if not done appropriately it can lead to the loss of valuable insurance and the payment of higher fees.

The primary tool used by those offering ‘free’ lost superannuation and consolidation services was the ATO’s SuperMatch2 service, which allows trustees and entities authorised by the trustee to obtain a list of active superannuation accounts belonging to their members or clients.

Concerns highlighted by this review included:

- › advisers inappropriately encouraging members to apply for early release of superannuation and targeting funds that appeared to be more lenient in granting the release of funds.
- We are investigating this conduct for suspected contraventions of the law and continue to work with the ATO in relation to potential misuse of the SuperMatch2 service. The ATO has temporarily removed all access to SuperMatch2 and is working with industry and other government agencies to strengthen controls on access to SuperMatch2, including consideration of the issues identified by ASIC.
- ### Protecting Your Superannuation Package review
- The *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019* and accompanying Regulations (PYSP measures) were introduced in order to reduce erosion of Australians’ superannuation savings by inappropriate fees or insurance arrangements.
- To assess superannuation trustees’ initial implementation of these reforms, we undertook a detailed review of approximately 1,100 documents distributed by a sample of 12 trustees. We focused on trustees more likely to be affected by the reforms – for example, due to a relatively high proportion of inactive accounts. We also examined disclosures about the PYSP measures from a number of other trustees and third parties.
- › trustees’ poor oversight of how third parties use their SuperMatch2 access
  - › trustees’ inadequate oversight of payments to advisers, including payments for general advice
  - › lost superannuation search providers setting up fake adviser profiles with a trustee in order to gain access to the trustee’s service
  - › the use of high-pressure sales tactics or forged signatures

We reviewed how well the documents that were mandated under the PYSP measures complied with legal requirements, and how well other communications and marketing materials (including call centre scripts and SMS campaigns) helped members understand and respond to the reforms.

While some aspects of communication were addressed well, there were several areas of concern that had the potential to cause consumer harm. We intervened to improve communications where we identified problems and provided all 12 trustees in the sample with feedback about their communications approach.

Report 655 *Review of member communications: Protecting Your Superannuation Package (PYSP) reform*, which summarised our review findings, highlighted to trustees the importance of:

- › providing clear and balanced information about the importance and purpose of PYSP measures
- › providing appropriate options and avoiding techniques that influence members to take a specific course of action
- › improving member data, so that information can be delivered that is relevant to particular members.

Our report set clear expectations of trustees when developing further PYSP communications and provided general guidance that trustees should consider when communicating with members in the future.



## 3.5 Market infrastructure

The market infrastructure sector includes **Australian market licensees**, various types of **market operators**, **benchmark administrators**, **clearing and settlement facility operators**, **Australian derivative trade repository operators**, **exempt market operators**, and **credit rating agencies**.

ASIC's work in this sector during 2019–20 continued to focus on providers' compliance with their obligations under the financial services laws to help ensure good consumer and investor outcomes and maintain trust and integrity in Australia's financial markets. We also focused on responding to the impact on businesses and consumers of the COVID-19 pandemic.

### Ensuring market resilience

The Australian equity markets experienced significant volatility and record numbers of executed trades during the COVID-19 pandemic period. This placed unprecedented strain on the trade processing capacity of Australia's financial market infrastructure and the middle and back offices of market participants. There was a serious risk that the number of trades executed on the market could exceed the number that could be reliably processed by the market intermediaries and the clearing and settlement system on a single day.

In order to safeguard Australia's equity market resiliency, ASIC issued directions under the ASIC Market Integrity Rules (Securities Markets) on 15 March 2020,

requiring nine large equity market participants, representing roughly 75% of total trading activity, to limit the number of trades they execute each day.

To comply with the directions, those participants implemented various changes designed to reduce their number of executed trades and increase the average size of submitted orders.

Once we were satisfied that the measures taken by participants were effective, and overall trading activity had stabilised, we revoked the directions on 14 May 2020 and issued an expectations letter to all equity market participants, setting out a principles-based approach to maintaining market resilience.

These actions were supported and enhanced by ongoing dialogue with market operators, clearing and settlement facilities, and market participants, as well as ASIC's active surveillance of the market, which included monitoring tools developed specifically to help manage COVID-19 pandemic-related risks.

## Retail investor trading during the COVID-19 pandemic

Due to elevated market volatility associated with the COVID-19 pandemic, ASIC observed a substantial increase in retail activity in markets, as well as greater exposure to risk.

In May 2020, we released our analysis of retail investor trading during the period, to raise awareness of the risks observed.

ASIC noted significant increases in new and previously dormant accounts of retail brokers entering the market. Trading frequency also increased rapidly, as did the number of different securities traded per day, while the duration of holding securities significantly decreased – indicating an increase in short-term and ‘day-trading’ activity.

Our analysis suggested that few investors pursuing quick windfalls were successful at timing the market, with most likely to incur heavy losses. The higher probability and impact of unpredictable news and events in offshore markets overnight magnified the danger.

ASIC also highlighted concerns around the significant increase in retail investors’ trading in complex, often high-risk investment products, which further contributed to our estimate of retail trading losses. These include highly geared exchange-traded products and CFDs.

As well as releasing our analysis and issuing warnings in the media, we published investor education resources on our Moneysmart website and other channels to highlight market structure, market dynamics and common behavioural biases that retail investors should be aware of during periods of financial market stress.

## Licensing of market operators

We strengthened our supervision of wholesale market operators by completing the licensing of previously exempt operators of trading platforms, resulting in heightened supervision and reporting requirements.

We continue our in-depth assessments of governance, supervision and cyber resilience arrangements of professional trading platforms, with the **report on Bloomberg Tradebook Australia Pty Ltd** published in October 2019.

## LIBOR transition

We continued to monitor the transition from LIBOR (London Inter-bank Offered Rate) to alternative reference rates.

We released feedback on responses to ‘Dear CEO’ letters we issued, highlighting the need for financial institutions to plan for LIBOR transition, the issues to consider in transition, and the importance of addressing issues early. We also wrote to a number of entities to increase awareness among smaller financial institutions, fund managers and corporations.

## Clearing and settlement

### **CHESS replacement**

ASX is undertaking a multi-year transformation program to replace its clearing and settlement system (CHESS) with a system based on distributed ledger technology.

Together with other Council of Financial Regulators (CFR) agencies and the ACCC, we are supervising ASX's governance of the project, stakeholder engagement, and management of key risks, including system development and testing, participant readiness, and pricing and data access.

The replacement system must at least deliver the same resilience, performance, recoverability, availability and security as CHESS does, while also delivering the benefits of contemporary technology.

We are engaging with participants and their technology vendors, market operators, issuers and share registries in relation to the change program.

## 3.6 Market intermediaries

The market intermediaries sector includes **market participants, securities dealers, corporate advisers, over-the-counter (OTC) traders, retail OTC derivatives issuers, and wholesale electricity dealers.**

ASIC's work in this sector during 2019–20 included focusing on market integrity and retail investor trading in the COVID-19 pandemic environment, as well as monitoring of fixed income, currencies and commodities (FICC) markets.

ASIC deferred its onsite supervision programs for market intermediaries, instead publishing guidance on business continuity and supervision arrangements to help intermediaries comply with their regulatory obligations in the pandemic environment.

### Market integrity during the COVID-19 pandemic

ASIC closely monitored securities, futures, interest rates, commodities and FX markets during the COVID-19 pandemic period to identify market misconduct, price dislocation and emerging market vulnerabilities.

We focused particularly on promoting informed markets and quickly identifying and responding to misinformation, market manipulation and inappropriate short selling.

With the significant increase in trading volumes and volatility, alerts from ASIC's trade surveillance system peaked at over 1,000 alerts on several days (around seven times the norm).

In a bid to detect potential market disruption caused by market intermediaries being unable to provide effective trade execution and facilitation of capital raising activities, ASIC engaged with intermediaries to understand and assess their operational resilience, business continuity and supervision arrangements, including whether outsourced and offshore services continued to operate effectively.

To help market intermediaries meet their regulatory obligations, ASIC published guidance and reminders of regulatory obligations in our Market Integrity Update newsletters. We also provided guidance on business continuity and back-up arrangements and the supervision of staff in a remote working environment.

## Fixed income, currencies and commodities onsite reviews

FICC markets are global and directly link to the real economy. While they are wholesale markets, FICC transactions may fund or manage risk for businesses and superannuation funds. ASIC's FICC strategy addresses threats to these markets that may cause harm to the real economy and consumers.

We have intensified our focus on FICC markets through proactive onsite surveillance.

Each review of FICC market participants was conducted over several days, involving a series of meetings with key staff, onsite inspections, and demonstration of key systems and controls. We required production of detailed information to test business practices and employee behaviours, and controls implemented by licensees to effectively manage conduct risk.

Two thematic reviews targeted:

- › fixed income sales and trading practices, including governance and supervision, risk management, and compliance controls that supported these businesses at nine intermediaries
- › conflicts of interest arrangements employed by four wholesale financial markets businesses.

## Foreign exchange markets

Our work in wholesale foreign exchange (FX) markets, including onsite reviews during 2018 and 2019, was summarised in Report 652 *Wholesale FX practices in Australia*, published in December 2019. It highlighted our observations about better practices, as well as some poor practices by participants operating in the market.

We will continue to test these practices and arrangements to drive better behaviours and industry standards. Where we identify compliance failures or misconduct, we will take regulatory action.

## Allocation practices in debt capital market transactions

Building on our findings in Report 605 *Allocations in equity raising transactions*, we undertook a review of market practice for allocations in debt capital market (DCM) transactions and are co-leading work with international peers through the International Organization of Securities Commissions (IOSCO).

A properly functioning DCM market is vital for the real economy, as demonstrated by governments' and corporates' ability to issue bonds and raise capital during the COVID-19 pandemic crisis.

Poor conduct in DCM markets can reduce the trust and confidence of issuers and investors, resulting in reduced participation and higher funding costs. The proper management of risks associated with allocations of debt securities, including management of conflicts of interest and ensuring that information provided to issuers and investors is accurate and not misleading, is essential.

ASIC consulted with a range of stakeholders and industry participants on DCM market practices and reviewed selected corporate, government and semi-government bond issues.

We extended our review to include post-COVID-19 pandemic transactions to see if market practices changed during this volatile period.

We identified various areas for improvement, including:

- › management of conflicts of interest
- › messaging to investors during transactions, including defining and disclosing joint lead manager interest
- › excluding inflated bids from being recorded in bookbuild demand
- › providing meaningful post-deal statistics to investors, particularly around allocation decisions
- › supervision and compliance arrangements.

## Cyber resilience

We continue to focus on the cyber resilience capabilities of firms operating in Australia's financial markets. Our Report 651 *Cyber resilience of firms in Australia's financial markets: 2018–19*, released on 18 December 2019, identifies new and

emerging trends, as well as challenges that have emerged over the past two years. We will continue to monitor and assess improvement over time.

## 3.7 Corporate

The corporate sector includes **auditors and liquidators**, who are subject to separate fees and levies. The corporate subsectors include **corporations** (listed corporations, unlisted public companies, large proprietary companies and small proprietary companies), **auditors of disclosing entities, registered company auditors**, and **registered liquidators**.

In 2019–20, our work in this sector focused on the healthy operation of capital markets by promoting best practice corporate culture and conduct and ensuring that investors are treated fairly in corporate transactions. This included targeting corporate governance practices and the integrity of financial reporting. We also focused on responding to the impact on businesses and consumers of the COVID-19 pandemic.

### Capital raising initiatives in the COVID-19 pandemic environment

On 31 March 2020, ASIC announced it would help listed companies raise capital quickly by giving temporary relief to enable certain ‘low doc’ offers (including rights offers, placements and share purchase plans) to be made to investors, even if they did not meet all the usual requirements. We did this to assist companies that needed to raise funds urgently because of the impact of the COVID-19 pandemic.

Without this relief, some listed companies would have been prevented from using ‘low doc’ offers because they were suspended from trading for longer than the Corporations Act permitted, while they assessed the impact of the COVID-19 pandemic on their business and prepared for a capital raising.

ASX also granted a temporary waiver to allow companies to raise an increased amount of capital without shareholder approval. After consultation with a wide range of capital market participants and shareholder associations, we secured changes to these rules to provide enhanced disclosure for placement allocations and share purchase plans. These changes reflected our expectation that directors make fair and transparent fundraising decisions in the best interests of the company.

## Mining and exploration initial public offerings

In December 2019, we reviewed the initial public offering (IPO) process for small-cap and micro-cap mining and exploration listings. Our observations from that review were published in Report 641 *An inside look at mining and exploration initial public offers*.

We found that advisers often have significant influence in these listings and in relation to the governance of the company itself. There was often poor management of conflicts of interest resulting from multiple roles played by some advisers. In some cases, we also identified preferential treatment of investors who had a pre-existing relationship with the adviser.

Our report included guidance and best practice recommendations for lead managers and directors to address the concerns we identified. These recommendations were complemented by a range of ASX Listing Rule changes.

We continue to monitor conduct in relation to IPOs of securities in mining and exploration companies and we intervene when necessary.

## Improving audit quality

Auditors play a vital role in underpinning investor trust and confidence in the quality of financial reports, which provide important information for investors and others who make decisions based on those reports.

ASIC is taking a broader, more intensive supervisory and enforcement approach to our work program on audit, which includes:

- › reviewing how conflicts of interest are managed in the six largest audit firms, as well as firm culture, governance and accountability mechanisms in relation to audit quality, and firm talent for quality audits
- › analysing the processes that underpin audit quality and the effectiveness of director oversight of financial reporting

– in particular, the use of root cause analysis in audit firms, as identifying the root causes of an adverse finding enables corrective action to be taken

- › increasing transparency by publishing the level of adverse findings for large audit firms, as well as broader measures and indicators of audit quality
- › implementing our ‘Why not litigate?’ approach in relation to auditor conduct matters.

This year, we continued our review of the financial statements of listed and other public interest entities and the audit files of a number of these entities.

Our inspection findings showed that more needs to be done to improve audit quality: see Report 648 *Audit inspection report for 2018–19* and our supplementary report containing a broader group of audit quality measures and indicators:



Report 649 *Audit quality measures, indicators and other information: 2018–19*. These were jointly released on 12 December 2019.

In October 2019, we made a submission to the Parliamentary Joint Committee Inquiry on the regulation of auditing in Australia and appeared at four hearings. The Inquiry is due to report by 2 December 2020.

## COVID-19 pandemic initiatives – financial reporting and audit

Financial reporting and audit processes of many companies were affected by the COVID-19 pandemic. ASIC helped companies, directors and auditors meet their reporting and audit obligations by:

- › maintaining regular contact with audit firms, accounting bodies, the Australian Institute of Company Directors, standard setters and other regulators internationally to monitor developments
- › outlining reporting and audit focus areas, including asset values, liabilities, solvency and going concern, as well as disclosures on uncertainties, key assumptions, underlying drivers of results, strategies, risks and future prospects
- › providing an additional month for listed and unlisted entities to lodge audited financial reports for balance dates to 7 July 2020
- › adopting a ‘no action’ position where annual general meetings of public companies for year ends up to 7 July 2020 are held seven months, rather than five months, after year end

- › providing information on our website to address common questions about the reporting and audit obligations of companies, directors and auditors, given the impact of the pandemic
- › refocusing our financial reporting surveillances and audit inspections to promote informing markets about the impact of the pandemic on entities through audited financial reports
- › some changes to our regulatory activities to ease the burden on companies, directors and auditors who may be under pressure due to remote work and other impacts of the pandemic.

## Changing liquidator behaviour

In 2019–20, ASIC focused on improving the behaviour of registered liquidators in relation to independence, remuneration and investigation of illegal phoenix activity.

**Independence:** Registered liquidators must provide to creditors, and lodge with ASIC, a Declaration of Relevant Relationships and Declaration of Indemnities (DIRRI), a key document considered by stakeholders to assess liquidator independence.

We identified 39 registered liquidators who were not lodging their DIRRIs. Some had previously been contacted by ASIC regarding non-lodgement, but most were first-time non-lodgers. We requested that all outstanding DIRRIs be lodged and issued five formal directions to the liquidators with whom we had previously corresponded. Liquidators reviewed their internal procedures to prevent this in future.

**Remuneration:** We worked with registered liquidators in relation to how changes to the law introduced in 2017 applied to seeking approval of remuneration passed on papers – that is, without convening a meeting of creditors. A misunderstanding about how the law applied meant that some resolutions were invalid. ASIC worked with the liquidators affected to rectify the invalid resolutions, ensuring that they obtained valid resolutions and reviewed their processes and procedures to ensure future compliance with the Corporations Act.

**Investigation of illegal phoenix activity:** Following the changes to the law in 2017, where ASIC suspects possible illegal phoenix activity, it can appoint a reviewing liquidator to inquire, investigate and report findings to us objectively and independently. The appointment of a

reviewing liquidator does not mean that the liquidator subject to review has done anything wrong.

To date, we have appointed 10 reviewing liquidators to 22 external administrations. We have observed positive changes in the behaviour of the liquidators under review, including:

- › improved file management processes
- › focused investigations, including performing historical company searches
- › seeking ASIC assistance via the External Administration Assistance program and/or the Assetless Administration Fund
- › improved timeliness of reporting and finalisation of external administrations
- › better record keeping, particularly of decisions made in the course of their work.

## Assetless Administration Fund reforms – transition to Grant Connect

The Assetless Administration Fund (AA Fund) is a Commonwealth grant scheme administered by ASIC. Funds allocated for 2019–20 were \$7.083 million. Where a registered liquidator suspects illegal phoenix activity and other serious misconduct, but there are no assets to fund investigations and reporting, the AA Fund supports registered liquidators to investigate and report misconduct to ASIC. In some cases, it also funds legal action to recover assets.

ASIC conducted a series of workshops with registered liquidators to raise awareness of the type of funding they can apply for, including for asset recoveries, and the eligibility criteria for that funding. We obtained valuable feedback to help improve how we administer the AA Fund.

Changes implemented include preparing for the transition of grants to the Grant Connect website and platform, as well as new grant guidelines that simplify the definition of ‘assetless’, outline the potential staged approach and the types of tasks that may be funded under the Asset Recovery stream, and clarify the assessment criteria for funding under that stream.

This year, ASIC also migrated applications for the AA Fund onto ASIC’s new Regulatory Portal, which pre-fills some data, improves collection of information to assist with the assessment of applications, and improves tracking of the status of applications and transactions.

## **Amanda Young – cancellation of registration as a liquidator**

On 2 September 2019, following an ASIC investigation into alleged misappropriation of funds, we issued Amanda Young with a notice to show cause why she should remain registered as a liquidator.

Ms Young had agreed to voluntarily suspend her registration on 18 December 2018 pending our investigation into allegations she had misappropriated funds totalling approximately \$238,000 from four liquidations.

Ms Young failed to respond to our notice and we referred her to a disciplinary Committee convened on 1 November 2019. On 3 June 2020, the Committee concluded that Ms Young had misappropriated the funds, had improperly used her position, had falsified books, and was not a fit and proper person to be registered as a liquidator.

The Committee concluded that Ms Young's registration as a liquidator should be cancelled. The Committee's decision noted that Ms Young 'took deliberate steps to conceal her actions, including falsifying official documents and misleading and deceiving her colleagues'. The Committee recognised that a suspension would be inappropriate and contrary to the public interest, due to the repeated misconduct, Ms Young's failure to express contrition or remorse, and the importance of protecting the public and deterring others from similar conduct.

Registered liquidators hold other people's money when carrying out their duties. Maintaining trust is critical for the integrity of the financial system and confidence in the corporate insolvency regime.

## Helping protect small business

Where necessary, we take action against companies, directors and other officeholders who fail in their duties. By doing so, ASIC works to create a level playing field. This year, ASIC recorded 322 small business-related outcomes.

**Table 3.7.1 Small business enforcement outcomes by misconduct and remedy type**

Misconduct type	Criminal	Administrative	Total (misconduct)
Action against persons or companies	261	61	322

As at 1 July 2020, ASIC had 168 small business-related criminal cases underway against persons or companies.

ASIC also works to combat illegal phoenix activity. This year, of the 61 administrative actions in Table 3.7.1, 10 involved disqualification of directors where there were clear indicia of illegal phoenix activity.

As part of our focus on this type of misconduct, we also undertook surveillances of 41 high-risk phoenix subjects, assisted liquidators to obtain books and records, and ensured that directors comply with their obligations through our External Administration Assistance program.

Further details of prosecutions are set out in Chapter 2.

## 3.8 Large financial institutions

### Supervision of large financial institutions

As set out in Chapter 2, we have enhanced key aspects of our supervisory approach as part of our response to widespread conduct failures in the Australian financial services industry.

ASIC's Supervision Group seeks to influence behavioural change in our most significant financial services institutions to prevent harm resulting from poor corporate systems and conduct.

Key results of our supervision of large financial institutions are set out in Chapter 2.



# 4

## ASIC for all Australians

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## A key part of our mission is to help Australians be in control of their financial lives.

We provide Australians with opportunities to improve their financial knowledge and build confidence around financial decision making. We do this through a variety of channels, including a platform for consumer information and working with regional communities and our Indigenous population to ensure that the financial system serves the needs of all Australians.

### 4.1 ASIC's Moneysmart

Moneysmart helps Australians take control of their financial lives with free calculators, tips and guidance.

#### New Moneysmart website

ASIC launched an updated Moneysmart website in February 2020 after extensive consumer consultation by our Financial Capability team.

The design of the new website and our approach to measurement and evaluation were informed by input we gathered from over a thousand Australians.

The new Moneysmart aims to improve the consumer experience when making a range of financial decisions with content and tools designed to meet specific user needs.

#### Responding to natural disasters

ASIC uses Moneysmart as a key channel to help support consumers with resources and information about what to do after natural disasters, including bushfires, storms and floods.

Moneysmart provides a one-stop shop for curated and targeted information from a range of Government agencies and peak bodies.

New content was produced this year to help Australians who had been impacted by natural disasters, such as the 2019–20 bushfires, to make informed financial decisions. These resources included a series of videos, viewed more than 1.5 million times, delivered to people in affected areas through targeted communications on social media.

## Helping Australians make financial decisions during the COVID-19 pandemic

In March 2020, ASIC established a coronavirus information hub on Moneysmart.

The hub helped Australians to understand available support and Government financial assistance and to access

information on key topics such as financial hardship, superannuation, insurance and scams.

Through Moneysmart, ASIC provided a channel to a wide range of assistance available or offered to Australians, including information from Treasury, the ATO, the ACCC, financial counsellors and consumer groups. As at 30 June 2020, the hub had received 901,000 page views.

## 4.2 Regional action

Our Regional Commissioners and regional offices focus on addressing the diverse needs of our community and improving outcomes for consumers and businesses in each Australian state and territory.

Through the work of our Regional Commissioners and our broader regional liaison, we ensure that ASIC maintains an active presence in each state and territory. The Regional Commissioners report to the Commission regularly on activities, services and stakeholder liaison in their state or territory.

Our performance against our Service Charter this year shows that ASIC has provided high levels of service Australia-wide.

### Australian Capital Territory

This year, our team in the ACT continued to build strong and collaborative working relationships across Canberra at Commonwealth and state levels of the public service and with peak bodies.

In August 2019 and May 2020, the Across Government Financial Capability Working Group met in Canberra, with attendees including the Department of Social Services, Treasury, the Department of the Prime Minister and Cabinet (including the Office for Women), the ATO, the Australian Bureau of Statistics, the National Indigenous Australians Agency and others. Discussions covered approaches to data sharing across Government and the

support available for Australians during the COVID-19 pandemic, including the Moneysmart information hub.

In December 2019, Commissioner Cathie Armour and Regional Commissioner Laura Higgins hosted an event for 40 local financial capability stakeholders. Attendees previewed the new Moneysmart website and learnt about ASIC's use of behavioural insights to inform our work.

## New South Wales

We continued to support ASIC's engagement with consumer groups and financial counselling organisations this year.

In May 2020, our Small Business and Financial Capability teams participated in a virtual video-linked workshop with Beyond Blue to explore the relationship between mental health and financial wellbeing. We are progressing further opportunities for collaboration with Beyond Blue.

Our NSW Acting Regional Commissioner and Executive Director of Markets, Greg Yanco, warned retail investors, particularly inexperienced traders, about the need for caution when investing during periods of volatility and uncertainty. ASIC's observations on trading in securities and CFDs during the volatility caused by the COVID-19 pandemic were set out in **Retail investor trading during COVID-19 volatility**, published on 6 May 2020 to inform our work in managing the impact of the pandemic and raise awareness of recent trading activity and issues of concern.

## Northern Territory

ASIC supported Big Super Day Out events in Darwin, Kununurra, Broome and remote Arnhem Land communities across July and August 2019. The events found \$10 million worth of superannuation and connected it with its Aboriginal owners.

Our involvement with local Indigenous communities also included co-hosting NAIDOC Week in July 2019 and participating in National Indigenous Business Month in October 2019, which celebrated the contribution that Indigenous women make as directors and business leaders. In August 2019, we presented at the National Indigenous Law Conference in Darwin and at professional development workshops for lawyers and financial counsellors hosted by the Law Society Northern Territory and Somerville Community Services.

In July and November 2019, we hosted Meet the Regulators events – along with the Office of the Registrar of Indigenous Corporations, the ACCC and the Australian Charities and Not-for-profits Commission – for CPA Australia members in Darwin and Alice Springs.

In November 2019, we presented at a College of Business and Law seminar at Charles Darwin University and, in June 2020, we presented at a graduation ceremony for students completing a Certificate 3 in Micro-Business from a registered training organisation.



## Queensland

In August and September 2019, we presented across Queensland with the ATO and the Queensland Building and Construction Commission on insolvency and illegal phoenix activity in financial services. In October 2019, we co-hosted an event at Small Business Professionals Week in Townsville with the ATO and Chartered Accountants Australia and New Zealand.

In February 2020, our Indigenous Outreach team members travelled to Palm Island as part of efforts coordinated by the Indigenous Consumer Assistance Network to support recipients of compensation payments from the Queensland Government. Indigenous outreach staff also travelled to Cairns and Thursday Island in March 2020 to consult with community-based organisations as part of developing a National Indigenous Financial Capability Strategy.

In March 2020, we participated in a panel discussion at the Financial Counsellors Association Queensland Conference in Cairns.

## South Australia

In July 2019, we chaired a presentation to the Law Society of South Australia highlighting ASIC's new powers and penalties and our approach to enforcement. In August 2019, we attended the South Australia Migrant Small Business Expo in Adelaide, which brought together key service providers and government agencies to provide information to help start, grow and manage a small business.

In September 2019, we hosted a Moneysmart stall at the Yorke Peninsula Field Days in Paskeville. In February 2020, we presented to the Law Society of South Australia on the whistleblower protection regime.

We continued to engage with regional Indigenous communities, including travelling to Meekatharra in March 2020 to work with Aboriginal community organisation Regional Alliance West to obtain statements from local financial services consumers.

In May 2020, Regional Commissioner Melissa Smith presented at the Law Society's continuing professional development event 'Corporate Law 2020 and Beyond', which focused on the uncertainty we face in the immediate future and how this will shape the landscape beyond 2020.

## Tasmania

In October 2019, we held our Regional Liaison Committee meeting in Hobart with Commissioner Sean Hughes attending. We discussed a range of current issues with our stakeholders across banking, superannuation, financial advice, corporate governance and small business.

## Victoria

This year, ASIC's regional work focused on providing guidance to consumers and small business. Regional Commissioner Warren Day was a regular guest on local radio, speaking about consumer issues, Moneysmart and ASIC's support for Australians affected by the 2019–20 bushfires, with a focus on insurance claims.

Liaison activities in relation to the whistleblower laws included a panel discussion with the Financial Crime Exchange group in July 2019, a presentation in November 2019, and the whistleblowing and wellbeing panel discussion at the Australasian Business Ethics Network Conference at RMIT University in December 2019.

Our Regional Commissioner also participated in numerous media interviews on radio and television discussing COVID-19 pandemic-related topics, including early release of superannuation and scams, as well as ASIC's warning about real estate agents advising tenants to withdraw their superannuation early to pay rent. In May 2020, he spoke at the Financial Wellbeing Network webinar about emerging consumer protection issues, ASIC's regulatory focus, and our work protecting consumers and assisting small businesses during the COVID-19 pandemic. Five hundred people attended the virtual event.

## Western Australia

In July 2019, we hosted an ASIC Update event at which the Commission and Regional Commissioner Natalie Dürr presented to local stakeholders about ASIC's regulatory focus for 2019–20.

In October 2019, the Regional Commissioner presented on 'Restoring Trust in Leadership' to Leadership WA, an association of private and public sector leaders from a wide range of industries.

Across the year, we held 10 liaison meetings with the corporate finance, insolvency, accounting, credit and market participants sectors. Since the COVID-19 pandemic restrictions were imposed, we have moved to virtual meetings with stakeholders.

Our enforcement work addressing harms to Western Australian investors and consumers of financial products continues to benefit from our strong working relationships with other Commonwealth and State law enforcement agencies in Western Australia.

## 4.3 Indigenous outreach

ASIC's Indigenous Outreach Program provides support to Aboriginal and Torres Strait Islander people to achieve better outcomes from financial services and products. We also work with consumer advocates and industry to address misconduct by financial services providers and to increase the financial knowledge of, and improve the services provided to, Indigenous Australians.

In late 2019, the Indigenous Outreach team began work on the National Indigenous Financial Capability Strategy.

Professor Robynne Quiggin, Associate Dean at the University of Technology Sydney, is leading the collaborative design process. Development of the strategy commenced with a roundtable in November 2019 hosted by Professor Quiggin and ASIC's Chair, at which we discussed Indigenous money stories, engagement practices, and design development with Indigenous community representatives.

We have also consulted one-on-one with financial counsellors and financial capability workers servicing Indigenous clientele to identify local-level challenges and opportunities relating to the financial wellbeing of Indigenous Australians.

In February 2020, we began a series of face-to-face consultations with a range of service providers across Australia, including Perth, Kununurra, Kalgoorlie, Port Hedland, Cairns and Thursday Island.

## 4.4 ASIC in the community

ASIC team members actively participate in our community program that connects our people to the causes and charities they care about.

The program provides opportunities for us to contribute to charity through workplace giving, volunteering and fundraising campaigns.

This year, our workplace giving supporters donated \$101,200, distributed to 44 different charity partners, through payroll.

Since July 2019, ASIC team members have also donated \$16,085 through one-off giving campaigns for NAIDOC Week, End of Year Giving, and a Bushfire Appeal.

In total, ASIC team members have donated \$117,285 to charity during the 2019–20 financial year.

Around 20% of our team members give to charity at work.

ASIC also offers one day's paid leave for all team members who volunteer in a range of skilled and unskilled activities, including:

- › Smith Family iTrack Youth mentoring (National – 32 mentors)
- › Pro Bono with Youth Law Australia (National – 54 lawyers)
- › Foodbank Victoria (Melbourne)
- › Exodus Loaves and Fishes (Sydney)
- › Meals on Wheels (Traralgon)

Each year, ASIC's new graduates also participate in a charity fundraising campaign.

In 2019, our graduate cohort raised \$11,420 for Opportunity International Australia. As we adjusted to the COVID-19 pandemic, face-to-face events ceased and our graduates pivoted to a virtual fundraising campaign, raising over \$3,000 for four local charities in each state.



# 5

## ASIC cooperation

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ASIC cooperates with peer regulators and agencies, industry and the public to support the work we do in the financial sector for the benefit of all Australians.

Our collaboration and engagement with APRA is set out in Chapter 1.

## 5.1 Regional and international engagement

ASIC engages closely with peer regulators and agencies overseas to develop international regulatory policy, enhance cooperation, and positively influence the operation and regulation of global financial markets.

We contribute to numerous international forums and multilateral or bilateral channels, including with domestic agencies, to ensure a coordinated and aligned approach.

We are committed to:

- › contributing to the global regulatory standard-setting agenda
- › promoting international cooperation and information sharing to act against misconduct
- › sharing regulatory best practice and capacity building
- › facilitating market innovation and economic development
- › responding to regulatory threats and harms.

In 2019–20, we actively advocated for:

- › global regulatory coordination and harmonisation in financial technology (fintech) and regulatory technology (regtech)
- › strengthened global information-sharing arrangements and enhanced cross-border supervisory and enforcement cooperation
- › deeper regional integration through initiatives such as the Asia Region Funds Passport and stronger regional supervisory cooperation, particularly on Trans-Tasman issues through closer collaboration with New Zealand regulators
- › greater focus on fairness and addressing misconduct, whether legal or not, particularly in the retail sector.

ASIC participates in a range of international forums:

- › ASIC is a member of the IOSCO Board and is represented on its policy committees and taskforces, including those examining issues around asset management, sustainable finance, crypto-assets, technology, market fragmentation, enforcement, and standards implementation. ASIC most recently took on a co-chairing role for the IOSCO Retail Market Conduct Task Force.
- › ASIC is chair of the Market Conduct Working Group of the International Association of Insurance Supervisors (IAIS)
- › ASIC serves on the board of the International Forum of Independent Audit Regulators (IFIAR) and contributes to the International Accounting Standards Board
- › ASIC vice-chairs the International Financial Consumer Protection Organisation (FinCoNet) and participates in G20/Organisation for Economic Co-operation and Development (OECD) Financial Consumer Protection Taskforce initiatives
- › ASIC participates in working groups established by the World Economic Forum on cyber risk and consumer data protection
- › ASIC contributes to the Asia-Pacific Economic Cooperation (APEC) Financial Regulators Training Initiative
- › ASIC is involved in international trade and policy investment discussions.

## Promoting regional cooperation

### Regional supervisory colleges

Supervisory colleges facilitate deeper dialogue and cooperation between regulators in the supervision of cross-border financial entities, enhance visibility of interdependencies, and promote better management of financial and non-financial risks.

ASIC and APRA will host the new Trans-Tasman Supervisory College, which, although deferred due to the COVID-19 pandemic, remains a priority.

ASIC continued to participate in existing supervisory colleges this year, including those it recently joined in the insurance sector.

### Trans-Tasman cooperation

ASIC and the Reserve Bank of New Zealand signed an MOU in December 2019 to enhance information exchange and cooperation.

In addition to developing the Trans-Tasman Supervisory College, we maintain close ties with New Zealand agencies via bilateral dialogue and forums such as the Trans-Tasman Banking Council and the Trans-Tasman Emerging Risk Committee.

## IOSCO Asia–Pacific Regional Committee

We focused on strengthening our ties with IOSCO’s Asia–Pacific Regional Committee (APRC) this year by participating in APRC meetings and co-chairing the APRC Working Group on Enhancing Supervisory Cooperation.

## International cooperation requests

This year, we made 497 international cooperation requests (up from 331 requests in 2018–19) and received 528 requests in relation to activities such as surveillance, supervision, enforcement, policy and licensing.

This included 140 requests for assistance in enforcement matters, of which 40 requests sought ASIC’s assistance to compel material from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

## COVID-19 pandemic

Our commitment to strong cooperation and collaboration with our overseas and domestic counterparts was highlighted this year as we focused on joint initiatives and sharing information on market developments, regulatory approaches and consumer protection measures as part of the global COVID-19 pandemic response.

Key initiatives included:

- › engagement with international standard-setting bodies, including IOSCO, the IAIS, the IFIAR, the OECD and the Financial Stability Board and counterpart overseas agencies in a coordinated approach to international issues related to consumer protection, market integrity and financial stability
- › working on financial stability issues through IOSCO’s Financial Stability Engagement Group
- › working with IOSCO’s Asia–Pacific Regional Committee to bring emerging concerns to the regional level, including common COVID-19 pandemic themes and cross-border spillover effects
- › co-leading the newly established IOSCO Retail Market Conduct Task Force examining measures to address misconduct, as well as retail investor and consumer protection issues
- › coordinating and sharing information with the Council of Financial Regulators and the Trans-Tasman Banking Council on international developments.

ASIC’s continued strategic participation in global regulatory developments informs and contributes to the way we address market vulnerabilities and consumer harms and how we support a domestic recovery in an interconnected global financial system.



## Capacity building

Our capacity building initiatives are an important part of ASIC's international regulatory strategy. They provide a unique perspective on how financial markets are changing in emerging economies and the regulatory challenges this poses, while allowing ASIC to share expertise with our peers.

In 2019, we delivered an APEC technical workshop in Brunei on the Asia Region Funds Passport to delegates from Brunei, Vietnam and the Philippines.

We also continue to provide extensive assistance to the Indonesian Financial Services Authority, Otoritas Jasa Keuangan (OJK), on emerging regulatory issues.

The objective is to strengthen OJK's capacity to develop and implement global standards and practices and build a culture of responsive and skill-based surveillance and risk-focused supervision.

Before some of our face-to-face work was postponed due to the COVID-19 pandemic, we had provided workshops on data strategy, participated in a seminar on Islamic capital markets, and hosted an OJK delegation focused on retail equity investment trusts and digital advice.

## Financial Sector Assessment Program

ASIC continues to contribute to the cross-agency CFR working group comprised of members from the Australian Treasury, APRA, the Reserve Bank of Australia (RBA) and ASIC to monitor progress against the 2018–19 Financial Sector Assessment Program review of Australia's financial sector, conducted by the International Monetary Fund.

## 5.2 Innovation Hub and regtech

ASIC's Innovation Hub helps innovative Australian businesses comply with regulatory requirements and provides a platform for international engagement on fintech and regtech ideas.

In 2019–20, the Innovation Hub team met with 103 innovative businesses, all of which received feedback and informal assistance to better understand how their business models could navigate Australia's regulatory framework. Since March 2015, ASIC has provided feedback and informal assistance to over 550 innovative businesses.

This year, ASIC granted eight new AFS licences or credit licences to fintech businesses. Fintech businesses that had received informal assistance from ASIC before submitting their licence application were approved materially faster than those that had not sought assistance.

### ASIC and regtech

ASIC received \$6 million in funding over 2018–19 and 2019–20 to promote Australia as a world leader in the development and adoption of regtech solutions for the financial services industry.

ASIC applied the funding to a series of regtech initiatives in 2019–20, including:

- › **Financial Promotions Demonstration and Symposium** (2 August 2019)  
Five selected demonstrators analysed financial promotional material (traditional and non-traditional media) to extract key features identifying potential risk and non-compliance characteristics.
- › **Financial Advice Files Demonstration and Symposium** (22 August 2019)  
Six selected demonstrators investigated how regtech solutions can be used to improve compliance in Australia's financial advice industry, providing better outcomes for consumers.

› **Voice Analytics and Voice-to-Text Trial and Symposium** (24 September 2019)

Three procured regtech entities presented on findings from the ASIC Voice Analytics and Voice-to-Text trial held from April to July 2019, assessing how voice analytics, applied to over 1,700 life insurance sales calls, could analyse and identify selling behaviour that fell short of community expectations.

The results and findings of the first year's initiatives were set out in Report 653 *ASIC's regtech initiatives 2018–2019*, published on 20 December 2019.

We are further analysing the potential of regtech to assist in responsible lending and developing trials of supervisory technology (suptech) tools geared towards financial promotion monitoring and advanced text analysis of prospectuses.

## Domestic and international engagement on innovation

ASIC and its Innovation Hub continue to collaborate with other regulators, government agencies and industry associations.

This year, the Innovation Hub team hosted quarterly Digital Finance Advisory Panel meetings and Regtech Liaison Forum events, bringing together industry leaders and regulatory representatives to discuss fintech- and regtech-related developments, issues and opportunities.

ASIC is one of 11 coordination group members of the Global Financial Innovation Network (GFIN), which consists of 50 national financial sector regulators and supervisors, as well as seven observers, across 21 jurisdictions.

The GFIN is committed to supporting financial innovation in the interests of consumers by creating a framework for cooperation between regulators to share experiences and approaches to innovation.

ASIC was a key participant in the GFIN's cross-border testing pilot, an initiative looking to allow firms to simultaneously trial and scale new technologies in multiple jurisdictions. Learnings from the pilot were published by the GFIN in January 2020.

ASIC is also a member of the steering committee for the IOSCO Fintech Network, established in mid-2018, which focuses on information sharing across regulators. ASIC is a member of each of the network's four workstreams on distributed ledger technology, artificial intelligence and ethics, regtech, and approaches to innovation.

## 5.3 Small business engagement and compliance

ASIC's Small Business Engagement and Compliance team focuses on and coordinates ASIC's initiatives to assist, engage and help protect small businesses to ensure a strong and healthy economy for all Australians.

### Engaging with culturally and linguistically diverse small business communities

ASIC recognises that many small business owners in Australia speak languages other than English. This year, we undertook a pilot project in Victoria for culturally and linguistically diverse (CALD) small businesses to address the harm that may arise when small business owners do not understand or fulfil compliance obligations due to language or other barriers.

Focusing on small businesses in the Arabic, Chinese and Vietnamese communities, we worked with the Victorian Multicultural Commission and the Ethnic Communities' Council of Victoria to engage with CALD small businesses. We published ***Small business resources in other languages*** on our website and translated our ***Running a small business in Australia: What you need to know*** booklet into Arabic and Vietnamese, alongside the existing Chinese version. Together with the ATO and the Victorian Small Business Commission, we delivered small business workshops in community languages.

This initiative demonstrated how ASIC, other government agencies, and stakeholder groups effectively work with CALD business owners to understand the barriers to accessing information and how to overcome those barriers. We have seen increased engagement with our *Running a small business in Australia: What you need to know* content and more people using the Translating and Interpreting Service to communicate with us.

## 5.4 Office of the Whistleblower

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.

From 1 July 2019, the whistleblower protections in the Corporations Act were expanded to provide greater protections for whistleblowers. From 1 January 2020, public companies, large proprietary companies, and corporate trustees of APRA-regulated superannuation entities must have a whistleblower policy.

This year, we dealt with 644 disclosures by whistleblowers, a significant increase compared to previous years. 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 (22%), markets (4%) and other issues (1%).

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 93% 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.

## Guidance on the whistleblower protection regime

Following commencement of the Government's reforms to the corporate sector whistleblower protection regime on 1 July 2019, ASIC's Office of the Whistleblower worked to promote the reforms and ensure compliance with the regime. We also engaged with stakeholders and delivered 12 presentations to the financial services, professional services, legal and resources sectors.

ASIC Regulatory Guide 270 *Whistleblower policies*, released on 13 November 2019, provides guidance on how companies can establish, implement and maintain a whistleblower policy. Our guidance was informed by responses to Consultation Paper 321 *Whistleblower policies* (CP 321), released on 7 August 2019. We received 40 submissions to CP 321. Respondents recognised the importance of a robust whistleblower protection regime to encourage disclosure of wrongdoing and improve corporate culture and governance. Report 635 *Response to submissions on CP 321 Whistleblower policies* highlights feedback from submissions.

ASIC's website contains updated information about the whistleblower protections, including Information Sheet 238 *Whistleblower rights and protections*, Information Sheet 239 *How ASIC handles whistleblower reports*, Information Sheet 246 *Company auditor obligations under the whistleblower protection provisions*, and Information Sheet 247 *Company officer obligations under the whistleblower protection provisions*.

## Monitoring compliance with whistleblower policy

ASIC is monitoring compliance with the requirement for public companies, large proprietary companies, and corporate trustees of APRA-regulated superannuation entities to have a whistleblower policy, which commenced on 1 January 2020.

We have contacted relevant companies to advise them of their obligations and request a copy of their whistleblower policy. We have communicated any concerns in respect of policies and sought amendments to ensure that they comply with legal requirements and reflect ASIC guidance where relevant.

## 5.5 Inter-agency collaboration on financial crime

ASIC collaborates with other Australian enforcement and regulatory agencies on serious and organised crime, including through the Serious Financial Crime Taskforce (SFCT), the Fintel Alliance and the Phoenix Taskforce.

This year, ASIC's Criminal Intelligence Unit released 159 intelligence products to partner agencies and received 272 intelligence reports.

We also provided to partner agencies our analysis of the potential exploitation avenues by serious and organised crime that may impact the Government's COVID-19 pandemic economic response package.

### Serious Financial Crime Taskforce

The SFCT is a multi-agency initiative targeting offences related to serious fraud, cybercrime and defrauding the Commonwealth. In 2019–20, we continued our contributions to the priorities of the SFCT relating to international tax evasion, illegal phoenix activity, cyber crime affecting Australian taxation and superannuation, and a new priority of serious financial crime affecting the ATO-administered measures of the Commonwealth Coronavirus Economic Response Package.

From 2020 to 2023, we will continue to apply our increased taskforce funding to support our role in enforcement activities and criminal intelligence analysis.

### Fintel Alliance

The Fintel Alliance is a public–private partnership between federal and state government intelligence and law enforcement agencies, private sector businesses, and the Australian Transaction Reports and Analysis Centre (AUSTRAC). During the year, ASIC accepted the invitation of AUSTRAC CEO Nicole Rose to become a member of the Fintel Alliance.

### Phoenix Taskforce

In 2019–20, ASIC continued its collaboration with the federal, state and territory agencies in the ATO-led Phoenix Taskforce, which takes a whole-of-government approach to combating illegal phoenix activity, including undertaking joint operations.

Our work this year included presentations, panel discussions, and liaison with peer regulators, insolvency practitioners, professional bodies, small business and industry groups. Our ongoing work is focused on implementing recent law reforms, including developing regulatory guidance and sharing information between agencies to support further action. For more information about our work to combat illegal phoenix activity, see Chapter 3.

## 5.6 Misconduct reporting

Our analysis of reports of misconduct received from the public and of breach notifications from industry is critical in informing our regulatory work.

### Misconduct reports from the public

ASIC encourages members of the public to report concerns about corporate and financial services to us. We use this information to direct our regulatory activities to identify and address harms to investors and consumers.

#### Disrupting scams

Investment and loan scams are common among the types of scams reported to ASIC, the police and the ACCC. Often the scammers create a fake investment company, impersonate a real credit provider, or use websites and documentation that look legitimate in order to lure victims. Initial contact can be unexpected, triggered by an unrelated online inquiry or by clicking on an advertisement on social media. The scams may promise high returns on investments, or cheap and easy loans. The perpetrators are often sophisticated criminal groups operating outside of Australia.

ASIC's work focuses on disrupting the activity, including warning the public and working with institutions to prevent further victims. Where possible, we alert Australian banks to specific accounts being used for scams, often triggering investigations by the bank.

ASIC publishes lists of 'Companies you should not deal with' and 'Fake regulators and exchanges' on Moneysmart to alert the public to these entities.

This year, we warned consumers not to deal with Loan Way, an unregistered entity without an Australian credit licence that was advertising fast, low-interest rate loans requiring limited documentation. After people had paid an 'application fee' of hundreds of dollars, Loan Way would stop responding and fail to provide the loan.



## Dealing with high-volume reports of misconduct about offshore conduct

In June and July 2019, ASIC received and dealt with over 2,500 reports of misconduct. This equated to three months of reports received in one month.

A large number of the reports were from overseas-based investors about an entity called My Group Fintech Co Pty Ltd. An entity with that name was registered in Australia, Saint Vincent and the Grenadines. We published information on our website – ‘ASIC responds to investor concerns about My Group Fintech Co Pty Ltd’ – outlining ASIC’s role and the options for people impacted. We made inquiries of the Australian company and considered information received from foreign regulators, but the conduct was wholly offshore where ASIC had no jurisdiction; nor had the company likely carried on business in Australia.

Recording, assessing and responding to reports of misconduct is a key part of our regulatory work, as the reports provide valuable information about the entities we regulate. In this case ASIC was able to efficiently record and respond to these reports by implementing a combination of technology and traditional assessment techniques.

## Breach reports from licensees and auditors

ASIC uses breach reports from licensees and auditors to identify and respond to misconduct.

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. Failure to report a significant breach is an offence and may result in penalties.

From 30 March 2020, AFS licensees must submit breach reports via the ASIC Regulatory Portal.

## Breach reporting – ASIC Regulatory Portal

From 30 March 2020, AFS licensees and auditors were able to lodge notifications of breaches of the law using ASIC's Regulatory Portal. The portal enables online lodgement in one place of breaches, updates and communication with ASIC.

We also introduced enhanced report content and increased digitisation, allowing for improved data capture and analysis.

We communicated with lodgers throughout the change in process, explaining the concept and the information needed in their future reports, and considered feedback from lodgers during a series of usability testing sessions. We updated relevant guidance (RG 34 and RG 78), kept lodgers informed via our website and email, and met with licensees and auditors to discuss issues before the portal was launched. We have a dedicated ASIC email address for lodger queries and feedback.

A transition period, in which lodgers could continue to use previous lodgement methods up to 30 May 2020, allowed time to adapt to the new portal.

The portal is now being used to lodge hundreds of digitised notifications to ASIC each month.

## Statutory reports from liquidators, administrators and receivers

We received 8,040 initial reports from external administrators this year. Of these, 7,163 reported suspected offences by company officers, with the remainder lodged because the return to unsecured creditors may be less than 50 cents in the dollar.

Of the 7,163 that reported misconduct, we requested supplementary reports from the external administrators in 1,070 cases. These supplementary reports typically set out the results of the external administrator's inquiries and the evidence to support the alleged offences.

We referred 23% of supplementary reports assessed in 2019–20 for compliance, investigation or surveillance action, compared to 24% in 2018–19.

## 5.7 Australian Financial Complaints Authority

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

AFCA commenced operations on 1 November 2018. It deals with financial services, credit and superannuation complaints made by consumers, small businesses and primary producers. AFCA replaced two ASIC-approved industry-based schemes, the Financial Ombudsman Service and the Credit and Investments Ombudsman, as well as the statutory Superannuation Complaints Tribunal. AFCA retains many key features of the previous schemes but has an expanded small business and monetary jurisdiction.

In 2019–20, AFCA's first full financial year of operations, it received 80,546 complaints, a 13.7% increase from 2018–19. It secured \$258.6 million in compensation to consumers and small businesses.<sup>1</sup>

Like other participants in the financial system, AFCA pivoted its operations to respond to the COVID-19 pandemic. It received 4,773 complaints relating to the pandemic, with the majority of these involving general insurance, particularly travel insurance.

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.

The Corporations Act gives ASIC a range of powers in relation to AFCA, including requiring that ASIC approve material changes to the scheme.

This year, ASIC approved material changes to the AFCA Rules to:

- › enable AFCA to name firms in published decisions
- › temporarily extend the timeframes for financial firms to respond to complaints that have already been through IDR in response to the COVID-19 pandemic
- › give effect to an additional condition on the AFCA scheme authorisation, introduced by the Government under its COVID-19 pandemic relief measures, which limits how AFCA deals with certain small business complaints.

<sup>1</sup> This includes matters previously received by AFCA's predecessor, the Financial Ombudsman Service, and resolved by AFCA since 1 November 2018.

In accordance with legislative requirements, AFCA reported 92 systemic issues to ASIC in 2019–20. AFCA also reported possible serious contraventions and shared information with ASIC under applicable statutory requirements and provisions of the AFCA scheme Rules.

Other issues affecting AFCA include the Government’s consultation on implementing the Royal Commission measure to establish a compensation scheme of last resort, and ASIC’s updated requirements about how financial firms deal with consumer and small business complaints under their IDR procedures, in Regulatory Guide 271 *Internal dispute resolution* (RG 271). Our updated standards and requirements will come into effect on 5 October 2021 and will drive fair and timely complaint outcomes for consumers and sharpen industry’s focus on systemic issues.

For more information about ASIC’s monitoring of remediation programs, see Chapter 2.



# 6

## ASIC's people

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## 6.1 Workforce planning

### Transition from Australian Public Service

On 1 July 2019, ASIC moved out of the Australian Public Service (APS). The *Treasury Laws Amendment (Enhancing ASIC's Capabilities) Act 2018* amended the ASIC Act to remove the requirement for ASIC to engage employees under the *Public Service Act 1999* (Public Service Act). Instead, it engaged employees under section 120 of the ASIC Act.

The changes were a result of the 2016 Government response to the 2015 ASIC Capability Review recommendation that ASIC no longer engage employees under the Public Service Act. The changes aligned ASIC with APRA and the RBA. They are intended to provide greater flexibility in the way ASIC employs its people, so that it has the right capabilities to deliver improved outcomes for all Australians.

### ASIC Code of Conduct

As the APS Code of Conduct and values no longer applied to ASIC employees, the amendments to the ASIC Act also required the Chair to determine the ASIC Code of Conduct and ASIC Values.

On 1 July 2019, ASIC published its new Code of Conduct, which sets out ASIC's expectations of its employees when performing ASIC's functions. ASIC's values of accountability, professionalism and teamwork remained the same. They underpin everything we do and play an essential role in meeting our strategic priorities.

ASIC's Code of Conduct and Values are set out on our website.

### Working at ASIC

This year, we focused on the experiences of our new team members, including seamless onboarding and induction processes.

Although low numbers of new starters commenced during the COVID-19 pandemic, results from our onboarding survey, launched this year, show that 89% are satisfied with their current role, 99% are satisfied with the support provided by their manager, and 100% can see themselves working at ASIC in 12 months' time.

Since March 2020, given the restrictions surrounding the COVID-19 pandemic, most of our people have worked remotely.

Despite the significant changes to work arrangements, pulse survey results showed a very positive response. On average, 65% of our people participated in the pulse surveys. In the last survey, conducted in June 2020, 94% felt that their work was meaningful and 90% felt well supported by their people leader.

Our people have embraced a new way of working and most will continue to work flexibly as we transition back to the office.

## Recruitment

We are committed to investing in our workforce and we continue to recruit people from a wide variety of disciplines, including law, finance, economics, statistics and analytics, business and accounting, mathematics, arts and social science, and information technology and computer science.

## Staff benefits

Professional development and other benefits provided to our people this year included:

- › up to 15.4% superannuation contribution
- › annual performance bonus paid to ASIC 4 and executive level employees
- › reward and recognition programs, including individual and team awards
- › payment of relevant professional association memberships

- › a study assistance program with employees supported in their studies across a range of disciplines, including IT and data analytics, leadership, applied finance and law
- › flexible working arrangements.

## Graduate program

ASIC has a well-established national 18-month graduate program, providing professional development in both business and interpersonal skills and rotation opportunities for graduates through different teams. Our multistaged graduate recruitment process enables us to identify and select a diverse range of candidates.

In 2019–20, we:

- › received over 2,500 graduate applications
- › expanded the program to employ 42 graduates
- › were ranked #1 in the Australian Government category by the Australian Association of Graduate Employers
- › were ranked #3 Top Graduate Employer by the Australian Association of Graduate Employers.

## Postgraduate program

In late 2019, ASIC launched its first postgraduate program and employed eight postgraduates.

Postgraduates progress through a multistaged recruitment process and, once onboard, receive professional development and rotation opportunities. The 24-month program recognises the previous experience postgraduates bring to ASIC, with longer rotations across different business units.

## Mentoring

We provide our people with opportunities to participate in a range of mentoring programs. In 2019–20, these included the following.

### **Women in Banking and Finance:**

Conducted externally, this program supports women preparing for senior leadership roles. This year, seven team members participated as mentees and one senior executive participated as a mentor.

### **Women in Law Enforcement**

**Strategy (WILES):** This is a formal 10 month program to address the underrepresentation of women in law enforcement agencies, particularly at senior levels. This year, seven team members participated in the program as mentees and five senior executives participated as mentors.

## Learning

Our learning activities are aligned to capabilities identified in our organisational learning framework and our professional and technical learning frameworks. These frameworks focus on building and maintaining capability in regulatory practice, enforcement, law, data analytics, accounting and auditing.

This year, we delivered 421 learning activities to our people, resulting in 34,640 completions.

We develop our teams' capabilities through both formal and on the job learning activities. We sponsor, guide, develop and deliver capability building activities through our Learning team, which works in partnership with our Professional and Technical Learning Networks, Communities of Practice and team Learning Champions.

During 2019–20, we conducted capability reviews across our organisational learning framework and our professional and technical learning frameworks to ensure that they continue to be relevant and future focused. We have also developed a foundational enforcement program to support new team members.

Our focus for 2020–21 will be to develop and implement a capability assessment program across ASIC, built on the foundation of the updated capability frameworks.



## Work health and safety

ASIC's early intervention approach to managing injuries and illnesses has had excellent results and we continue to see significant Comcare premium reductions.

We remain committed to training and supporting our Health and Safety Representatives, First Aid Officers and Harassment Contact Officers.

To further foster psychological safety, we have advanced programs to support people leaders to recognise and respond to signs of emotional distress.

For Mental Health Month in October 2019, well-known mental health advocate Wayne Schwass conducted a national wellbeing seminar, which was very well attended.

ASIC's flu vaccination program commenced on 1 May 2020 and, due to the COVID-19 pandemic, was offered as a voucher system only. Of these vouchers, 57.1% were downloaded and 24.7% had been redeemed as at 30 June 2020.

One notifiable incident reportable to Comcare was identified. No claim was made to Comcare for this incident and Comcare indicated that it marked the incident for no further action.

The COVID-19 pandemic resulted in considerable changes to the work environment and new guidelines were issued by Safe Work Australia. As most of our team members were working remotely, there was an increased focus on how to do so safely. To support the physical and psychological wellbeing of our people, we:

- › introduced a mandatory eLearning module
- › developed additional eLearning resources
- › provided regular information and articles on our intranet
- › offered a 'wellbeing check-in' support service from an external provider.

## 6.2 Diversity and inclusion at ASIC

ASIC is committed to workplace diversity and fostering an inclusive environment where all our people, our stakeholders and our communities are treated with fairness and respect.

Our commitment to diversity and inclusion is a key pillar of our culture and values and influences all aspects of the way we work.

This year, we:

- › launched a new **Diversity and Inclusion Strategy**
- › maintained a gender-balanced leadership team at the Senior Executive Service (SES) level, with women comprising 54% of senior executives
- › increased our Indigenous workforce to 1.44%, up from 1.35% last year
- › appointed sponsoring Commissioners for each diversity committee.

### Women in ASIC

ASIC supports women in leadership and senior positions. We continued to meet our voluntary target of 50% women in senior positions in 2019–20, including our goal for equal representation in Executive Level 1 (55%), Executive Level 2 (49%) and SES (54%) positions.

The Women in ASIC Committee delivers:

- › Keeping You Connected events for ASIC team members on extended leave, including parents. We invite those on extended leave to come into the office to reconnect with each other and keep updated on ASIC initiatives

- › quarterly Communities of Practice events to discuss topics related to women in leadership and workforce participation
- › ASIC's annual Women in Leadership award.

### Equitable gender briefing

The *Legal Services Directions 2017* require Commonwealth entities to use all reasonable endeavours to select female barristers with relevant seniority, expertise and experience in the relevant practice area. This aims to increase briefing rates so that senior female barristers account for at least 25% of all briefs, or 25% of the value of all brief fees paid to senior barristers, and junior female barristers account for at least 30% of all briefs, or 30% of the value of all brief fees paid to junior barristers.

In 2019–20, ASIC exceeded the 30% target for briefing junior female barristers, achieving 49% on the value of briefs and 48% on the number of briefs. However, ASIC fell slightly short of the 25% target for the number (24%) or value (22%) of briefs for senior female barristers. ASIC intends to take further proactive steps to ensure that senior women barristers are equitably briefed alongside their male counterparts.

## Rainbow Network

Our LGBTIQ+ Network continues to raise awareness about LGBTIQ+ issues in the workplace and provide support to ASIC team members.

ASIC continues to participate in the annual Australian Workplace Equality Index, which measures LGBTIQ+ workplace inclusion, and we collaborate with our peer regulators through the Rainbow Regulators Network.

This year, our Rainbow Network celebrated Wear it Purple Day, Fair Day, and International Day Against Homophobia, Biphobia, Interphobia and Transphobia.

## Reconciliation Action Plan

ASIC continues to meet the measurable targets contained in our Stretch Reconciliation Action Plan (RAP) 2017–20, with a focus on embedding this work within our organisation to ensure equitable outcomes and opportunities for Indigenous Australians.

This includes continuing to:

- › engage and foster relationships with Indigenous businesses through procurement
- › focus on recruitment, retention and development of our Indigenous workforce by employing a dedicated Indigenous and Inclusion Specialist
- › support Indigenous consumers' financial wellbeing through the work of the Indigenous Outreach Program.

ASIC's RAP Committees have also expanded the depth and breadth of the opportunities available for all

team members to gain a stronger understanding of Indigenous cultures, and to engage in the reconciliation journey through events and initiatives focused on participation and knowledge sharing.

These initiatives include:

- › workplace screenings of Indigenous documentaries, with opportunities to discuss learning with film producers
- › showcasing Indigenous culture and knowledge through performances of dance, language and song, including to acknowledge the 12th anniversary of the National Apology to the Stolen Generations
- › commissioning Noongar artist Peter Farmer to produce a bespoke artwork as a visual representation of ASIC's commitment to reconciliation, with reproductions installed in each ASIC office.

## Indigenous employment initiatives at ASIC

Aboriginal and Torres Strait Islander employment is a key objective of ASIC's RAP. Our employment initiatives include:

- › participation in the Indigenous Australian Government Development Program
- › participation in the Indigenous Apprenticeship Program
- › supporting team members to take part in the Jawun secondment program.

This year, we launched Career Conversations with the Indigenous Staff Network Group to support our Indigenous team members reach their full potential through structured development planning.

## Multicultural access and equity

ASIC's Multicultural Committee is developing a new Multicultural Action Plan, which will focus on the culturally and linguistically diverse communities that access ASIC's services and strengthen ASIC's capacity as a culturally competent organisation.

This year, the Multicultural Committee hosted an event at which Professor Munjed Al Muderis shared his remarkable story of being a young surgical resident working in Baghdad to becoming one of the world's leading osseointegration surgeons, transforming the lives of amputees.

## Accessibility

An accessible and inclusive workplace is a priority for ASIC.

ASIC's websites are designed to be read by screen readers, transcripts and captions are available for all video files, and a text equivalent is available for all images. The Digital Assistance team in ASIC's Contact Centre supports customers who require additional assistance with online transactions.

Our Accessibility Committee aims to provide a workplace and services that all Australians can access without exclusion.

This year, the committee launched a new **Accessibility Action Plan** that details how we will address barriers that may prevent people with disability from participating fully at ASIC.

The National Disability Strategy 2010–2020 is Australia's overarching framework for disability reform. It acts to ensure that the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities are incorporated into Australia's policies and programs that affect people with disability, their families and carers.

All levels of government will continue to be held accountable for the implementation of the strategy through biennial progress reporting to the Council of Australian Governments. Progress reports can be found at **[www.dss.gov.au](http://www.dss.gov.au)**.

Disability reporting is included in the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at **[www.apsc.gov.au](http://www.apsc.gov.au)**.



# 7

## Financial Statements

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# Independent Auditor's Report



## INDEPENDENT AUDITOR'S REPORT

### To the Treasurer

#### Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission (the Entity) for the year ended 30 June 2020:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2020 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2020 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a summary of significant accounting policies and other explanatory information.

#### Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Chair is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Chair is also responsible for such internal control as the Chair determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chair is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Chair is also responsible for disclosing, as applicable, matters related to

going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

### **Auditor's responsibilities for the audit of the financial statements**

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Lorena Skipper  
Executive Director  
Delegate of the Auditor-General

Canberra  
9 September 2020



## Statement by the Accountable Authority and Chief Financial Officer

In our opinion, the attached financial statements for the year ended 30 June 2020 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Australian Securities and Investments Commission will be able to pay its debts as and when they fall due.



J.R.F. Shipton  
Chair  
9 September 2020



E. L. Hodgson  
Chief Financial Officer  
9 September 2020

# Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2020

	Notes	2020 \$'000	2019 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	1.1A	275,356	227,035
Suppliers	1.1B	149,288	157,468
Depreciation and amortisation	3.2	63,481	46,122
Finance costs	1.1C	1,397	224
Impairment loss on financial instruments	7.2B	40	589
Write-down and impairment of other assets	1.1D	2	205
<b>Total expenses</b>		<b>489,564</b>	431,643
<b>LESS:</b>			
<b>Own-source revenue</b>			
Sale of goods and rendering of services		1,703	3,282
Operating sublease rent and property recoveries		1,454	2,460
Other revenue	1.2A	14,903	5,701
<b>Total own-source revenue</b>		<b>18,060</b>	11,443
<b>Gains</b>			
Reversal of write-downs and impairment	3.1B	57	510
<b>Total gains</b>		<b>57</b>	510
<b>Net Cost of Services</b>		<b>471,447</b>	419,690
<b>Total revenue from Government</b>	1.2B	<b>403,261</b>	374,313
<b>Surplus/(Deficit)</b>		<b>(68,186)</b>	(45,377)
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Items not subject to subsequent reclassification to net cost of services</b>			
Changes in asset revaluation reserve		–	5,363
<b>Total comprehensive income/(loss)</b>		<b>(68,186)</b>	(40,014)

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

# Statement of Financial Position

AS AT 30 JUNE 2020

	Notes	2020 \$'000	2019 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	3.1A	41,151	65,221
Trade and other receivables	3.1B	170,493	135,158
<b>Total financial assets</b>		<b>211,644</b>	200,379
<b>Non-financial assets</b>			
Buildings	3.2	236,404	28,802
Plant and equipment	3.2	19,511	20,661
Computer software	3.2	74,007	86,855
Prepayments		17,706	10,377
<b>Total non-financial assets</b>		<b>347,628</b>	146,695
<b>Total assets</b>		<b>559,272</b>	347,074
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	3.3A	30,798	49,621
Other payables	3.3B	37,217	40,113
<b>Total payables</b>		<b>68,015</b>	89,734
<b>Interest-bearing liabilities</b>			
Leases	3.4	242,810	–
<b>Total interest-bearing liabilities</b>		<b>242,810</b>	–
<b>Provisions</b>			
Employee provisions	6.1	83,248	76,017
Other provisions	3.5	12,739	18,280
<b>Total provisions</b>		<b>95,987</b>	94,297
<b>Total liabilities</b>		<b>406,812</b>	184,031
<b>Net assets</b>		<b>152,460</b>	163,043
<b>EQUITY</b>			
Contributed equity		474,633	436,058
Reserves		22,500	22,500
Accumulated deficit		(344,673)	(295,515)
<b>Total equity</b>		<b>152,460</b>	163,043

The above statement should be read in conjunction with the accompanying notes

# Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2020

	Notes	2020 \$'000	2019 \$'000
<b>CONTRIBUTED EQUITY</b>			
Opening balance		436,058	404,419
Transactions with owners			
Contributions by owners			
Equity injections – Appropriations		13,426	7,294
Departmental capital budget		25,149	24,345
<b>Total transactions with owners</b>		<b>38,575</b>	<b>31,639</b>
<b>Closing balance as at 30 June</b>		<b>474,633</b>	<b>436,058</b>
<b>RETAINED EARNINGS</b>			
Opening balance		(295,515)	(250,138)
Adjustment on initial application of AASB 16		19,028	–
<b>Adjusted opening balance</b>		<b>(276,487)</b>	<b>(250,138)</b>
Comprehensive income			
Surplus/(Deficit) for the period		(68,186)	(45,377)
<b>Total comprehensive loss</b>		<b>(68,186)</b>	<b>(45,377)</b>
<b>Closing balance as at 30 June</b>		<b>(344,673)</b>	<b>(295,515)</b>
<b>ASSET REVALUATION RESERVE</b>			
Opening balance		22,500	17,137
Comprehensive income			
Other comprehensive income		–	5,363
<b>Total comprehensive income</b>		<b>–</b>	<b>5,363</b>
<b>Closing balance as at 30 June</b>		<b>22,500</b>	<b>22,500</b>
<b>TOTAL EQUITY</b>			
Opening balance		163,043	171,418
Adjustment on initial application of AASB 16		19,028	–
<b>Adjusted opening balance</b>		<b>182,071</b>	<b>171,418</b>
Comprehensive income			
Other comprehensive income		–	5,363
Surplus/(Deficit) for the period		(68,186)	(45,377)
<b>Total comprehensive loss</b>		<b>(68,186)</b>	<b>(40,014)</b>
Transactions with owners			
Contributions by owners			
Equity injections – Appropriations		13,426	7,294
Departmental capital budget	5.1A	25,149	24,345
<b>Total transactions with owners</b>		<b>38,575</b>	<b>31,639</b>
<b>Closing balance as at 30 June</b>		<b>152,460</b>	<b>163,043</b>

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

# Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2020

	Notes	2020 \$'000	2019 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		426,545	370,324
Operating cash received		1,703	3,282
Net GST received		20,922	14,261
Cost recoveries		8,057	3,649
Other cash received		10,887	5,008
<b>Total cash received</b>		<b>468,114</b>	<b>396,523</b>
<b>Cash used</b>			
Employees		262,990	220,589
Suppliers		194,067	162,252
Interest payments on lease liabilities		1,209	–
Section 74 receipts transferred to OPA		20,667	12,032
<b>Total cash used</b>		<b>(478,933)</b>	<b>(394,873)</b>
<b>Net cash from/(used by) operating activities</b>		<b>(10,819)</b>	<b>1,651</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of leasehold improvements, plant and equipment and intangibles		34,756	38,160
<b>Net cash (used by) investing activities</b>		<b>(34,756)</b>	<b>(38,160)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity		35,967	39,027
<b>Total cash received</b>		<b>35,967</b>	<b>39,027</b>
<b>Cash used</b>			
Principal payments of lease liabilities		14,462	–
<b>Total cash used</b>		<b>(14,462)</b>	<b>–</b>
<b>Net cash from/(used by) financing activities</b>		<b>21,505</b>	<b>39,027</b>
<b>Net increase/(decrease) in cash held</b>		<b>(24,070)</b>	<b>2,518</b>
Cash and cash equivalents at the beginning of the reporting period		65,221	62,703
<b>Cash and cash equivalents at the end of the reporting period</b>	3.1A	<b>41,151</b>	<b>65,221</b>

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

# Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2020

	Notes	2020 \$'000	2019 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Grants	2.1A	<b>6,255</b>	12,953
Impairment loss allowance on financial instruments	2.1B	<b>69,110</b>	61,944
Claims for unclaimed monies	2.1C	<b>127,163</b>	53,521
Promotional costs for MoneySmart initiatives		<b>565</b>	570
<b>Total expenses</b>		<b>203,093</b>	128,988
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Fees		<b>814,536</b>	785,717
Supervisory cost recovery levies		<b>59,602</b>	50,157
<b>Total taxation revenue</b>		<b>874,138</b>	835,874
<b>Non-taxation revenue</b>			
Supervisory cost recovery levies		<b>263,288</b>	223,204
Fees and fines	2.2A	<b>221,036</b>	213,553
Unclaimed monies lodgements	2.2B	<b>201,896</b>	70,862
<b>Total non-taxation revenue</b>		<b>686,220</b>	507,619
<b>Total revenue</b>		<b>1,560,358</b>	1,343,493
<b>Net contribution by services</b>		<b>1,357,265</b>	1,214,505

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

# Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2020

	Notes	2020 \$'000	2019 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents		1,435	1,859
Supervisory cost recovery levies receivable	4.1A	330,543	278,759
Fees and fines receivable	4.1B	138,836	143,150
Trade and other receivables	4.1C	7,901	8,600
<b>Total assets administered on behalf of Government</b>		<b>478,715</b>	432,368
<b>LIABILITIES</b>			
<b>Payables and provisions</b>			
Suppliers and other payables	4.2A	40,333	31,707
Unclaimed monies provisions	4.2B	417,284	347,790
<b>Total liabilities administered on behalf of Government</b>		<b>457,617</b>	379,497
<b>Net assets/(liabilities)</b>		<b>21,098</b>	52,871

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

# Administered Reconciliation Schedule

AS AT 30 JUNE 2020

	2020 \$'000	2019 \$'000
<b>Opening assets less liabilities as at 1 July</b>	<b>56,550</b>	2,710
<b>Net contribution by services:</b>		
Administered income	<b>1,560,358</b>	1,343,493
Administered expenses	<b>(203,093)</b>	(128,988)
	<b>1,357,265</b>	1,214,505
<b>Transfers (to)/from the Australian Government</b>		
Appropriation transfers from Official Public Account:		
Special (unlimited) and ordinary appropriations		
Appropriation Act No. 1	<b>5,059</b>	15,004
Banking Act unclaimed monies	<b>25,450</b>	16,535
Life Insurance Act unclaimed monies	<b>5,979</b>	4,081
Section 77 PGPA Act	<b>29,630</b>	37,104
Total of appropriation transfers from Official Public Account	<b>66,118</b>	72,724
Administered transfers to Official Public Account	<b>(1,458,835)</b>	(1,233,389)
<b>Closing assets less liabilities as at 30 June</b>	<b>21,098</b>	56,550

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



# Administered Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2020

	2020 \$'000	2019 \$'000
<b>OPERATING ACTIVITIES</b>		
<b>Cash received</b>		
Corporations Act, National Consumer Credit Protection Act, Business Names Registration (Fees) Act and Superannuation Industry (Supervision) Act	1,252,283	1,158,389
Corporation Act unclaimed monies	58,410	50,665
Banking Act unclaimed monies	121,974	12,902
Life Insurance Act unclaimed monies	21,512	7,295
Net GST received	–	46
<b>Total cash received</b>	<b>1,454,179</b>	<b>1,229,297</b>
<b>Cash used</b>		
Refunds paid to:		
Company shareholders	26,203	34,050
Deposit-taking institution account holders	25,486	16,537
Life insurance policy holders	5,979	4,081
Promotion expenses for MoneySmart Initiatives	620	10,528
Grants	3,283	3,220
Net GST paid	315	–
<b>Total cash used</b>	<b>(61,886)</b>	<b>(68,415)</b>
<b>Net cash from operating activities</b>	<b>1,392,293</b>	<b>1,160,883</b>
<b>Cash from Official Public Account for:</b>		
Appropriations	66,118	72,724
<b>Less: Cash to Official Public Account for:</b>		
Corporations Act, National Consumer Credit Protection Act and Business Names Registration (Fees) Act fees and charges	1,256,939	1,162,527
Corporations Act unclaimed monies	58,410	50,665
Banking Act unclaimed monies	121,974	12,902
Life Insurance Act unclaimed monies	21,512	7,295
<b>Total cash to Official Public Account</b>	<b>(1,458,835)</b>	<b>(1,233,389)</b>
<b>Net (decrease) in cash held</b>	<b>(424)</b>	<b>218</b>
Cash and cash equivalents at the beginning of the reporting period	1,859	1,641
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>1,435</b>	<b>1,859</b>

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

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2020

## Overview

### Objectives of the Australian Securities and Investments Commission (ASIC)

ASIC is an independent Commonwealth Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001*, and other legislation, throughout Australia. ASIC is a not-for-profit entity and our objectives, outlined in s1(2) of the ASIC Act, include:

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

ASIC collects and administers revenue under the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009* and prescribed fees set by the *Corporations (Fees) Act 2001*, the *Corporations (Review Fees) Act 2003*, the *National Consumer Credit Protection Act 2009*, the *Business Names Registration (Fees) Regulations 2010* and the *Superannuation Industry (Supervision) Act 1993*. In addition, ASIC collects taxation revenue under the *ASIC Supervisory Cost Recovery Levy Act 2017*, and the *ASIC Supervisory Cost Recovery Levy Regulations 2017*. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items. Administered items are distinguished by shading in these financial statements.

ASIC is structured to deliver a single outcome, and the result is in the Statement of Comprehensive Income:

*Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.*

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

### **Basis of preparation**

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

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

- › Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR); and
- › Australian Accounting Standards – Reduced Disclosure Requirement issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

## New Accounting Standards

From 1 July 2019, AASB 15, AASB 16, AASB 1058 and AASB 2016-8 became effective. The following outlines interpretation, financial disclosure and change implications in the application of these new standards. All other accounting standards, amendments to standards and interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect and are not expected to have a future material effect on ASIC's financial statements.

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
AASB 15 <i>Revenue from Contracts with Customers</i> / AASB 2016-8 <i>Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities</i> and AASB 1058 <i>Income of Not-For-Profit Entities</i>	<p>AASB 15, AASB 2016-8 and AASB 1058 became effective 1 July 2019.</p> <p>AASB 15 establishes a comprehensive framework for determining whether, how much and when revenue is recognised. It replaces existing revenue recognition guidance, including AASB 118 <i>Revenue</i>, AASB 111 <i>Construction Contracts</i> and Interpretation 13 <i>Customer Loyalty Programmes</i>. The core principle of AASB 15 is that an entity recognises revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.</p> <p>AASB 1058 is relevant in circumstances where AASB 15 does not apply. AASB 1058 replaces most of the not-for-profit (NFP) provisions of AASB 1004 <i>Contributions</i> and applies to transactions where the consideration to acquire an asset is significantly less than fair value principally to enable the entity to further its objectives, and where volunteer services are received.</p> <p>The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.</p>
AASB 16 <i>Leases</i>	<p>AASB 16 became effective on 1 July 2019.</p> <p>This new standard has replaced AASB 117 <i>Leases</i>, Interpretation 4 <i>Determining whether an Arrangement contains a Lease</i>, Interpretation 115 <i>Operating Leases—Incentives</i> and Interpretation 127 <i>Evaluating the Substance of Transactions Involving the Legal Form of a Lease</i>.</p> <p>AASB 16 provides a single lessee accounting model, requiring the recognition of assets and liabilities for all leases, together with options to exclude leases where the lease term is 12 months or less, or where the underlying asset is of low value. AASB 16 substantially carries forward the lessor accounting in AASB 117, with the distinction between operating leases and finance leases being retained. The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.</p>

**Application of AASB 15 Revenue from Contracts with Customers / AASB 1058 Income of Not-For-Profit Entities / AASB 2016-8 Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities**

ASIC adopted AASB 15 and AASB 1058 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under the various applicable AASBs and related interpretations.

Under the new income recognition model ASIC shall first determine whether an enforceable agreement exists and whether the promises to transfer goods or services to the customer are 'sufficiently specific'. If an enforceable agreement exists and the promises are 'sufficiently specific' (to a transaction or part of a transaction), ASIC applies the general AASB 15 principles to determine the appropriate revenue recognition. If these criteria are not met, ASIC shall consider whether AASB 1058 applies.

In relation to AASB 15, ASIC elected to apply the new standard to all new and uncompleted contracts from the date of initial application. The Entity is required to aggregate the effect of all of the contract modifications that occur before the date of initial application.

In terms of AASB 1058, ASIC is required to recognise volunteer services at fair value if those services would have been purchased if not provided voluntarily, and the fair value of those services can be measured reliably.

The bulk of ASIC's revenue comes from appropriations, fees and fines, which are accounted for under AASB 1058. Revenue from contracts with customers is accounted for under AASB 15. However, the contracts are short term (generally, point of sale) and therefore the application of these standards has had no impact on ASIC's revenue recognition.

**Application of AASB 16 Leases**

ASIC adopted AASB 16 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under AASB 117 and related interpretations.

ASIC elected to apply the practical expedient to not reassess whether a contract is or contains a lease at the date of initial application. Contracts entered into before the transition date that were not identified as leases under AASB 117 were not reassessed. The definition of a lease under AASB 16 was applied only to contracts entered into or changed on or after 1 July 2019.

AASB 16 provides for certain optional practical expedients, including those related to the initial adoption of the standard. ASIC applied the following practical expedients when applying AASB 16 to leases previously classified as operating leases under AASB 117:

- › Apply a single discount rate to a portfolio of leases with reasonably similar characteristics;
- › Exclude initial direct costs from the measurement of Right of Use (ROU) assets at the date of initial application for leases where the ROU asset was determined as if AASB 16 had been applied since the commencement date;
- › Reliance on previous assessments on whether leases are onerous as opposed to preparing an impairment review under AASB 136 Impairment of assets as at the date of initial application; and
- › Applied the exemption not to recognise ROU assets and liabilities for leases with less than 12 months of lease term remaining as of the date of initial application.

As a lessee, ASIC previously classified leases as operating or finance leases based on its assessment of whether the lease transferred substantially all of the risks and rewards of ownership. Under AASB 16, ASIC recognises ROU assets and lease liabilities for most leases. However, ASIC has elected not to recognise ROU assets and lease liabilities for some leases of low value assets based on the value of the underlying asset when new or for short-term leases with a lease term of 12 months or less.

On adoption of AASB 16, ASIC recognised ROU assets and lease liabilities in relation to leases of office space, which had previously been classified as operating leases.

The lease liabilities were measured at the present value of the remaining lease payments, discounted using ASIC's incremental borrowing rate as at 1 July 2019. ASIC's incremental borrowing rate is the rate at which a similar borrowing could be obtained from an independent creditor under comparable terms and conditions. The weighted-average rate applied was 0.0882%.

The ROU assets were measured at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments and lease incentives.

### Impact on transition

On transition to AASB 16, ASIC recognised additional ROU assets and additional lease liabilities. The impact on transition is summarised below:

### Departmental

	1 July 2019
ROU assets – property, plant and equipment	\$80.420m
Lease liabilities	\$80.420m
Retained earnings	\$19.028m

The following table reconciles the Departmental minimum lease commitments disclosed in ASIC's 30 June 2019 annual financial statements to the amount of lease liabilities recognised on 1 July 2019:

	<b>1 July 2019 \$'000</b>
Minimum operating lease commitment at 30 June 2019	95,447
Less: short-term leases not recognised under AASB 16	(11,732)
Less: low value leases not recognised under AASB 16	–
Plus: effect of extension options reasonable certain to be exercised	–
<b>Undiscounted lease payments</b>	<b>83,715</b>
Less: effect of discounting using the incremental borrowing rate as at the date of initial application	(3,295)
<b>Lease liabilities recognised at 1 July 2019</b>	<b>80,420</b>

## Taxation

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

### Reporting of Administered activities

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

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

## Events after the reporting period

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

## Note 1. Departmental financial performance

This section analyses the financial performance of ASIC for the year ended 30 June 2020

### 1.1 Expenses

	2020 \$'000	2019 \$'000
<b>1.1A: Employee benefits</b>		
Wages and salaries	208,968	167,415
Superannuation		
Defined-benefit schemes	12,018	11,133
Defined-contribution schemes	25,403	21,101
Leave and other entitlements	28,047	28,253
Separation and redundancies <sup>1,2</sup>	920	(867)
<b>Total employee benefits</b>	<b>275,356</b>	<b>227,035</b>

- 1 Separation and redundancy costs are generally calculated on the basis of two weeks pay for every year of service for each employee with a minimum of four weeks and a maximum of 48 weeks.
- 2 The Separation and redundancies amount of (\$0.867m) is mainly attributable to a downward revision to provisions for employee restructuring (refer to Note 6.1A: Employee provisions – Restructuring provision and Note 3.4A: Other provisions – Provision for restructuring).

#### Accounting Policy

Accounting policies for employee related expenses are detailed in Note 6 People and relationships.



	2020 \$'000	2019 \$'000
<b>1.1B: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
Legal and forensic costs	46,352	32,382
Office computer and software expenses	29,372	27,896
Consultants and specialist services	26,083	28,843
Property-related outgoings	9,406	8,180
Information costs	5,337	9,189
Travel	4,318	6,260
Other goods and services	3,775	4,354
Bank fees	2,921	2,888
Learning and development	2,780	3,884
Postage and freight	2,693	2,405
Communications	2,346	2,661
Recruitment	2,079	1,569
Security	1,696	2,008
<b>Total goods and services supplied or rendered</b>	<b>139,158</b>	<b>132,519</b>
Goods supplied	1,556	2,142
Services rendered	137,602	130,377
<b>Total goods and services supplied or rendered</b>	<b>139,158</b>	<b>132,519</b>
<b>Other suppliers</b>		
Operating lease rentals <sup>1</sup>	–	22,736
Short-term leases	10,160	–
Workers compensation expense	(288)	2,024
Fringe benefits tax	258	189
<b>Total other suppliers</b>	<b>10,130</b>	<b>24,949</b>
<b>Total suppliers</b>	<b>149,288</b>	<b>157,468</b>

1 ASIC has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

The above lease disclosures should be read in conjunction with Notes 1.1B, 1.1C and 3.4.

## Accounting Policy

### Short-term leases and leases of low-value assets

ASIC has elected not to recognise the ROU assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). ASIC recognises the lease payments associated with these leases as an expense on a straight-line basis over the life of the lease terms.

	2020 \$'000	2019 \$'000
<b>1.1C: Finance costs</b>		
Unwinding of restoration provision	188	224
Interest on lease liability	1,209	–
<b>Total finance costs</b>	<b>1,397</b>	224
<b>1.1D: Write-down and impairment of other assets</b>		
Write-off of plant & equipment	2	205
<b>Total write-down and impairment of other assets</b>	<b>2</b>	205

## 1.2 Own-source revenue

### Accounting Policy

#### Rendering of services

Revenue from rendering of services is recognised when the resources have been purchased. Revenue is recognised when:

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

#### Operating lease revenue

Operating sublease revenue is recognised as revenue on commencement of the lease under the Memorandum of Understanding. The leases terms are on a 12 month rolling basis.

	2020 \$'000	2019 \$'000
<b>1.2A: Other revenue</b>		
Cost recoveries <sup>1</sup>	8,920	3,648
Other <sup>2</sup>	5,983	2,053
<b>Total other revenues</b>	<b>14,903</b>	<b>5,701</b>

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

2 Other revenue includes resources received free of charge (auditors' remuneration) of \$0.348m (2019: \$0.380m) and revenue from the ATO to fund ASIC's contribution to the New Deregulation Agenda initiative announced in the 2019–20 MYEFO budget update.

### Accounting Policy

#### Resources received free of charge

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

Resources received free of charge are recorded as either revenue or gains depending on their nature.

	2020 \$'000	2019 \$'000
<b>1.2B: Revenue from Government</b>		
Appropriations:		
Departmental appropriations	362,066	338,096
Departmental special appropriations <sup>3</sup>	41,195	36,217
<b>Total revenue from Government</b>	<b>403,261</b>	<b>374,313</b>

3 A special account is a limited special appropriation that notionally sets aside an amount that can be expended for a particular purpose. \$41.2m of ASIC's 2019–20 ordinary annual appropriation has been allocated to the Enforcement Special Account, which was established to fund the costs arising from the investigation and litigation of matters of significant public interest.

### Accounting Policy

#### Revenue from Government

Amounts appropriated for departmental appropriations for the period (adjusted for any formal additions and reductions) are recognised as revenue from Government when ASIC gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

## Note 2. Income and expenses administered on behalf of Government

This section analyses the activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 2.1 Administered – expenses

	2020 \$'000	2019 \$'000
<b>2.1A: Grants</b>		
Rendering of services		
Insolvency practitioners	6,255	2,953
Ecstra Foundation <sup>1</sup>	–	10,000
<b>Total grants</b>	<b>6,255</b>	<b>12,953</b>

1 In the 2018–19 Budget, the Federal Government provided a one-off grant in administered funding to be provided to the Ecstra Foundation to support initiatives which enhance female financial capability. The grant was paid in June 2019.

#### Accounting Policy

ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.

Grant liabilities are recognised to the extent that (i) the services required to be performed by the grantee have been performed or (ii) the grant eligibility criteria have been satisfied, but payments due have not been made. When the Government enters into an agreement to make these grants and services, but services have not been performed or criteria satisfied, this is considered a commitment.

	2020 \$'000	2019 \$'000
<b>2.1B: Impairment loss allowance on financial instruments</b>		
Impairment of receivables	63,920	58,374
Waiver of fees and charges owing	5,190	3,570
<b>Total impairment on financial instruments</b>	<b>69,110</b>	<b>61,944</b>
<b>2.1C: Claims for unclaimed monies</b>		
Claims – Bank and deposit taking institution account holders <sup>2</sup>	82,848	9,533
Claims – Life Insurance policy holders <sup>2</sup>	10,997	4,036
Claims – <i>Corporations Act 2001</i>	33,318	39,952
<b>Total other expenses</b>	<b>127,163</b>	<b>53,521</b>

2 The increase in claims expense related to the significant volume of lodgements received under the *Banking Act 1959* and the *Life Insurance Act 1995* in 2019–20. In 2015, the period of inactive bank accounts and matured life insurance policies changed from 3 years to 7 years. 2019–20 represents the first year of lodgements under the revised arrangements.

### Accounting Policy

Refer to Note 4.1 for the policy pertaining to the impairment of receivables and fee waivers.

In determining whether a fee should be waived in whole or part, ASIC considers the extent to which the company's officers or its representatives contributed to the circumstances of the matter, in accordance with Part 7 of the Finance Minister's Delegation under section 63 of the PGPA Act.

Administered expenses for refunds of unclaimed monies under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001* are recognised by estimating the value of claims likely to be repaid in respect of unclaimed money collected by ASIC as at balance date. The methodology used to determine the value of probable claims is determined by an independent actuary. Successful claims are paid out of the provision account.

## 2.2 Administered – income

### Accounting Policy

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

Administered revenue is generated from fees and fines under the following legislation:

- › *Corporations (Fees) Act 2001*
- › *Corporations (Review Fees) Act 2003*,
- › *National Consumer Credit Protection (Fees) Regulation 2010*,
- › *Business Names Registration (Fees) Regulation 2012* and
- › *Superannuation Industry (Supervision) Act 1993*.

Administered fee revenue is recognised on an accruals basis when:

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

Administered taxation revenue is recognised at its nominal amount due and an expense is recognised for impaired debts.

	2020 \$'000	2019 \$'000
<b>Non-taxation revenue</b>		
<b><u>2.2A: Fees and fines</u></b>		
Fines	149,265	134,579
Searches and information brokers fees <sup>1</sup>	59,725	64,475
Fee for service and insolvency practitioners <sup>1</sup>	12,046	14,499
<b>Total fees and fines</b>	<b>221,036</b>	<b>213,553</b>

<sup>1</sup> Comparatives have been updated to include additional disclosure.

<b><u>2.2B: Unclaimed monies lodgements</u></b>		
<i>Corporations Act 2001</i> unclaimed monies	58,410	50,665
<i>Banking Act 1959</i> unclaimed monies	121,974	12,902
<i>Life Insurance Act 1995</i> unclaimed monies	21,512	7,295
<b>Total unclaimed monies</b>	<b>201,896</b>	<b>70,862</b>

### Accounting Policy

ASIC undertakes the collection of certain levies on behalf of the Government. These comprise of:

- › the ASIC Supervisory Cost Recovery Levy Act 2017; and
- › the ASIC Supervisory Cost Recovery Levy Regulations 2017.

ASIC also receives non-taxation revenue from search fees, fines – including late fees, court fines, penalties and infringement notices – and from unclaimed monies received under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001*. This revenue is not available to ASIC and is transferred to the OPA.

Administered revenue arising from levies is recognised on an accrual basis.

The collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less, rather than more, likely.

## Note 3. Departmental financial position

This section analyses ASIC's assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in the People and Relationships section.

### 3.1 Financial assets

	2020 \$'000	2019 \$'000
<b>3.1A: Cash and cash equivalents</b>		
Cash in special accounts	39,599	62,954
Cash at bank	1,552	2,267
<b>Total cash and cash equivalents</b>	<b>41,151</b>	<b>65,221</b>

Cash in special accounts does not include amounts held in trust. (\$8.711m in 2020 and \$12.196m in 2019).

### 3.1B: Trade and other receivables

#### Goods and services receivables:

Goods and services	40,381	5,179
<b>Total goods and services receivables (gross)</b>	<b>40,381</b>	<b>5,179</b>
<b>Less impairment allowance</b>	<b>(585)</b>	<b>(602)</b>
<b>Total goods and services receivables (net)</b>	<b>39,796</b>	<b>4,577</b>

	2020 \$'000	2019 \$'000
<b>Appropriations receivables:</b>		
Appropriations receivable	126,031	126,040
<b>Total appropriations receivable</b>	<b>126,031</b>	<b>126,040</b>
<b>Other receivables:</b>		
GST receivable from the Australian Taxation Office	4,666	4,541
<b>Total other receivables</b>	<b>4,666</b>	<b>4,541</b>
<b>Total trade and other receivables (net)</b>	<b>170,493</b>	<b>135,158</b>
<b>Trade and other receivables are expected to be recovered:</b>		
No more than 12 months	170,493	135,158
Credit terms for goods and services were within 20 days (2019: 30 days)		
<b>Reconciliation of the movement in the impairment allowance account</b>		
As at 1 July	602	616
Amounts recovered and reversed	(57)	(510)
Increase recognised in net cost of services	40	496
<b>Total as at 30 June</b>	<b>585</b>	<b>602</b>

## Accounting Policy

### Receivables

Trade receivables and other receivables are classified as 'loans and receivables' and recorded at face value less any impairment. Trade receivables are recognised where ASIC becomes party to a contract and has a legal right to receive cash. Trade receivables are derecognised on payment.

Financial assets are assessed for impairment at the end of each reporting period. Allowances are made when collectability of the debt is no longer probable.



### 3.2 Non-financial assets

The carrying value of leasehold improvements, plant & equipment and computer software was reviewed at 30 June 2020. No indicators of impairment were found.

#### Reconciliation of the opening and closing balances of leasehold improvements, plant & equipment and intangibles<sup>1</sup>

	Buildings \$'000	Plant & equipment \$'000	Computer software \$'000	Total \$'000
<b>As at 1 July 2019</b>				
Gross book value	94,213	65,616	374,532	<b>534,361</b>
Accumulated depreciation/amortisation and impairment	(65,411)	(44,955)	(287,677)	<b>(398,043)</b>
<b>Total as at 1 July 2019</b>	<b>28,802</b>	<b>20,661</b>	<b>86,855</b>	<b>136,318</b>
Recognition of ROU assets on initial application of AASB 16	80,420	–	–	<b>80,420</b>
<b>Adjusted total as at 1 July 2019</b>	<b>109,222</b>	<b>20,661</b>	<b>86,855</b>	<b>216,738</b>
<b>Additions:</b>				
by purchase	7,380	6,330	850	<b>14,560</b>
internally developed	–	–	19,859	<b>19,859</b>
ROU assets	142,248	–	–	<b>142,248</b>
<b>Total additions</b>	<b>149,628</b>	<b>6,330</b>	<b>20,709</b>	<b>176,667</b>
Depreciation and amortisation	(6,396)	(7,478)	(33,557)	<b>(47,431)</b>
Depreciation of ROU assets	(16,050)	–	–	<b>(16,050)</b>
Write-offs recognised in the operating result	–	(2)	–	<b>(2)</b>
<b>Total as at 30 June 2020</b>	<b>236,404</b>	<b>19,511</b>	<b>74,007</b>	<b>329,922</b>
<b>Total as at 30 June 2020 represented by:</b>				
Gross book value	324,261	70,148	395,242	<b>789,651</b>
Accumulated depreciation/amortisation and impairment	(87,857)	(50,637)	(321,235)	<b>(459,729)</b>
<b>Total as at 30 June 2020</b>	<b>236,404</b>	<b>19,511</b>	<b>74,007</b>	<b>329,922</b>
<b>Carrying amount of ROU asset</b>	<b>206,618</b>	<b>–</b>	<b>–</b>	<b>206,618</b>

<sup>1</sup> The above table discloses property, plant and equipment not subject to operating leases.

## Accounting Policy

Assets are recorded at cost of acquisition, except where stated below.

The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

### Asset Recognition Threshold

Purchases of leasehold improvements, plant and equipment are initially recognised at cost in the Statement of Financial Position, except for purchases costing less than \$5,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions taken up by ASIC where there exists an obligation to restore the premises to their original condition at the conclusion of the lease. These costs are included in the value of ASIC's property expenses with a corresponding provision for the 'make good' recognised.

### Lease Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 ASIC has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, GGS and Whole of Government financial statements.

### Revaluations

Following initial recognition at cost, leasehold improvements, plant and equipment were carried at latest revaluation less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended on the volatility of movements in market values for the relevant assets. An independent valuation of ASIC's assets was undertaken as at 30 June 2019.

### Accounting Policy (continued)

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

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

### Depreciation

All depreciable leasehold improvements, plant and equipment assets are written down to their estimated residual values over their estimated useful lives to ASIC, using the straight-line method of depreciation.

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

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

	2020	2019
Leasehold improvements	<b>Residual lease term</b>	Residual lease term
Plant and equipment	<b>2 to 80 years</b>	2 to 80 years

### Impairment

All assets were assessed for impairment as at 30 June 2020. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

### Derecognition

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

## Accounting Policy (continued)

### Intangibles

ASIC's intangibles comprise software either purchased or internally developed for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful life of ASIC's hardware is 2 to 10 years (2019: 2 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2020.

### Significant accounting judgements and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- › The fair value of leasehold improvements and property, plant and equipment (excluding ROU assets) is assessed at market value or current replacement cost as determined by an independent valuer and is subject to management assessment between formal valuations.

### 3.3 Payables

	2020 \$'000	2019 \$'000
<b>3.3A: Suppliers</b>		
Trade creditors and accruals	30,798	41,832
Operating lease rent payable <sup>1</sup>	–	7,789
<b>Total suppliers</b>	<b>30,798</b>	<b>49,621</b>

Supplier payables are settled per the terms of the purchase order or contract and are expected to be settled within 12 months.

#### 3.3B: Other payables

Prepayments received/unearned income	15,423	9,199
Property lease incentives <sup>1</sup>	–	17,818
Salaries and bonuses	16,603	12,384
Separations and redundancies	1,401	505
Other	3,790	207
<b>Total other payables</b>	<b>37,217</b>	<b>40,113</b>

<sup>1</sup> ASIC has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

### 3.4 Interest-bearing liabilities

Lease liability	257,272	–
Repayment of lease liability	(14,462)	–
<b>Total interest-bearing liabilities</b>	<b>242,810</b>	<b>–</b>

#### Accounting Policy

Refer to the Overview section for the accounting policy on leases.

### 3.5 Other provisions

	Provision for restructuring \$'000	Provision for restoration costs \$'000	Provision for settlement costs \$'000	Total Other Provisions \$'000
As at 1 July 2019	789	7,671	9,820	18,280
Additions	–	112	4,000	4,112
Amounts reversed	(489)	(1,552)	(7,800)	(9,841)
Amortisation of restoration provision discount	–	188	–	188
<b>Total as at 30 June 2020</b>	<b>300</b>	<b>6,419</b>	<b>6,020</b>	<b>12,739</b>

#### Accounting Policy

##### Restoration costs

ASIC currently has four lease agreements (2019: seven) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. The provision reflects the current best estimate of these future restoration costs discounted to reflect the present value of the future payments.

##### Settlement costs

ASIC recognises a provision for the estimated costs that will be paid on settlement of current legal proceedings based on past history of settlement costs.

The accounting policy for the provision for restructuring is contained in Note 6 People and relationships.

## Note 4. Assets and liabilities administered on behalf of the Government

This section analyses assets used to conduct operations and the operating liabilities incurred as a result of activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 4.1 Administered – financial assets

	2020 \$'000	2019 \$'000
<b>4.1A: Supervisory cost recovery levies receivables</b>		
Supervisory cost recovery levies receivables – taxation	59,602	50,157
Supervisory cost recovery levies receivables – non-taxation	274,088	232,280
<b>Total supervisory cost recovery levies receivables receivables (gross)</b>	<b>333,690</b>	<b>282,438</b>
Less impairment loss allowance		
Supervisory cost recovery levies	3,147	–
<b>Total supervisory cost recovery levies receivables receivables (net)</b>	<b>330,543</b>	<b>282,438</b>
<b>4.1B: Other taxation receivables</b>		
Fees and fines receivable	219,965	220,744
<b>Total other taxation receivables (gross)</b>	<b>219,965</b>	<b>220,744</b>
Less impairment loss allowance		
Fees and fines	81,129	77,594
<b>Total other taxation receivables (net)</b>	<b>138,836</b>	<b>143,150</b>
Taxation receivables are due from entities that are not part of the Australian Government. Credit terms for goods and services were within 30 days (2019: 30 days)		
<b>4.1C: Trade and other receivables</b>		
Information brokers' fees	7,449	8,463
GST receivable	452	137
<b>Total trade and other receivables (gross)</b>	<b>7,901</b>	<b>8,600</b>

## Accounting Policy

### Receivables

Administered receivables are recognised at their nominal value less an impairment allowance. The Finance Minister has determined that statutory receivables are not financial instruments and accordingly ASIC has assessed administered receivables for impairment under AASB 136 *Impairment of Assets* (FRR 26.3).

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

The impairment allowance expense is calculated using estimation techniques to determine an estimate of current receivables which are unlikely to be collected in the future.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under s63 of the PGPA Act.

## 4.2 Administered – payables

	2020 \$'000	2019 \$'000
<b>4.2A: Suppliers and other payables</b>		
Supplier payables	178	233
Refund of fees payable	19,060	16,669
Unallocated monies	9,917	7,008
Grants payable <sup>1</sup>	3,995	1,023
Other non-current payables <sup>2</sup>	7,183	6,774
<b>Total payables</b>	<b>40,333</b>	<b>31,707</b>

All supplier and other payables are for entities that are not part of the Australian Government.

All supplier and other payables, with the exception of Other non-current payables, are expected to be settled within 12 months. Settlement is usually made within 30 days.

- 1 Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.
- 2 Other non-current payables are over payments of fees where payments are made to ASIC in error. The settlement period is expected to be greater than 12 months as these are unidentified payments.



	2020 \$'000	2019 \$'000
<b>4.2B: Unclaimed monies provisions</b>		
<i>Corporations Act 2001 claims</i>	<b>205,071</b>	197,957
<i>Banking Act 1959 claims</i>	<b>180,591</b>	123,229
<i>Life Insurance Act 1995 claims</i>	<b>31,622</b>	26,604
<b>Total other provisions</b>	<b>417,284</b>	347,790

## Accounting Policy

### Provisions

The provisions recognised in the Administered Schedule of Assets and Liabilities are for estimated claims payable from collections of unclaimed monies administered by ASIC as at balance date. ASIC adopted a provision for future claims based on an independent valuation as at 30 June, calculated by a registered actuary, under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.

### Significant accounting judgements and estimates

The provision has been estimated taking into account the historic claims pattern experienced since 2002 and the outstanding lodgements. The estimate reflects the volatility of unclaimed monies lodgements and claims from year to year, which is impacted by factors including economic events, legislative change, media exposure and the behaviour of claimants, each of which has differed significantly from year to year and over time. The estimated future flow of refunds over time has been discounted to present value at a risk-free rate of interest based on government bond rates with similar terms to the expected refunds. Allowance has been made for payment of compounding interest for all claims from 1 July 2013 on unclaimed balances in accordance with actual legislated interest rates and estimated future interest rates based on economist expectations for inflation in the medium to longer term, noting legislated interest rates are linked to movements in the CPI.

## Note 5. Funding

This section identifies ASIC's funding structure.

### 5.1 Appropriations

#### 5.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2020	Annual appropriation \$'000	Adjustments to appropriation <sup>1</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2020 (current and prior years) \$'000	Variance <sup>2</sup> \$'000
<b>Departmental</b>					
Ordinary annual services	403,261	20,667	<b>423,928</b>	515,165	<b>(91,237)</b>
Capital Budget <sup>3</sup>	25,149	–	<b>25,149</b>	26,569	<b>(1,420)</b>
Other Services					
Equity Injections	13,426	–	<b>13,426</b>	9,398	<b>4,028</b>
<b>Total Departmental</b>	<b>441,836</b>	<b>20,667</b>	<b>462,503</b>	<b>551,132</b>	<b>(88,629)</b>
<b>Administered</b>					
Ordinary annual services	10,261	–	10,261	5,194	5,067
<b>Total Administered</b>	<b>10,261</b>	<b>–</b>	<b>10,261</b>	<b>5,194</b>	<b>5,067</b>

1 Section 74 receipts.

2 The variance in Departmental expenses is due to the payment of prior year accrued expenses in the current year and approximately \$20m of expenditure funded from the opening balance of the Enforcement Special Account.

3 Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.

### Accounting Policy

#### Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCB) are recognised directly in contributed equity in that year.

Annual appropriations for 2019	Annual appropriation \$'000	Adjustments to appropriation <sup>1</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2020 (current and prior years) \$'000	Variance <sup>2</sup> \$'000
<b>Departmental</b>					
Ordinary annual services	374,313	12,032	<b>386,345</b>	400,204	<b>(13,859)</b>
Capital Budget	24,345	–	<b>24,345</b>	25,958	<b>(1,613)</b>
Other Services					
Equity Injections	7,294	–	<b>7,294</b>	13,069	<b>(5,775)</b>
<b>Total Departmental</b>	<b>405,952</b>	<b>12,032</b>	<b>417,984</b>	<b>439,231</b>	<b>(21,247)</b>
<b>Administered</b>					
Ordinary annual services	19,683	–	19,683	14,905	4,778
<b>Total Administered</b>	<b>19,683</b>	<b>–</b>	<b>19,683</b>	<b>14,905</b>	<b>4,778</b>

1 Section 74 receipts.

2 The variance in the departmental expenses is due to accrued expenses from the prior year being drawn down in the current year from operating and equity funding, as well as unspent appropriation from departmental capital budget.

	2020 \$'000	2019 \$'000
<b>5.1B: Unspent annual appropriations ('recoverable GST exclusive')</b>		
<b>Departmental</b>		
<i>Appropriation Act (No. 1) DCB 2017–2018<sup>1</sup></i>	<b>3,604</b>	3,604
<i>Appropriation Act (No. 2) 2017–2018</i>	–	1,951
<i>Appropriation Act (No. 1) 2018–2019</i>	–	75,767
<i>Appropriation Act (No. 1) DCB 2018–2019</i>	<b>4,409</b>	6,158
<i>Appropriation Act (No. 3) 2018–2019</i>	–	31,885
<i>Appropriation Act (No. 2) 2018–2019</i>	<b>21</b>	21
<i>Appropriation Act (No. 4) 2018–2019</i>	<b>3</b>	492
<i>Appropriation Act (No. 1) 2019–2020</i>	<b>115,311</b>	–
<i>Appropriation Act (No. 1) DCB 2019–2020</i>	<b>329</b>	–
<i>Appropriation Act (No. 3) 2019–2020</i>	<b>1,042</b>	–
<i>Appropriation Act (No. 4) 2019–2020</i>	<b>6,468</b>	–
Enforcement Special Account	<b>39,599</b>	62,954
<b>Total departmental</b>	<b>170,786</b>	186,754

Unspent departmental appropriations include cash balances of \$1.552m (2019: \$2.267m).

1 Includes \$3.604m quarantined under section 51 of the PGPA Act. The balance of this appropriation is not available beyond 30 June 2020, following the repeal of Appropriation Act (No.1) 2017–2018 on 1 July 2020.

<i>Appropriation Act (No. 1) 2017–2018<sup>1</sup></i>	284	1,473
<i>Appropriation Act (No. 1) 2018–2019</i>	3,239	6,032
<i>Appropriation Act (No. 3) 2018–2019</i>	–	1,045
<i>Supply Act (No. 1) 2019–2020</i>	3,836	–
<i>Appropriation Act (No. 1) 2019–2020</i>	6,202	–
<b>Total administered</b>	<b>13,561</b>	<b>8,550</b>

Unspent administered appropriations include cash balances of \$0.598m (2019: \$0.564m).

1 This amount is not available beyond 30 June 2020, following the repeal of Appropriation Act (No.1) 2017–2018 on 1 July 2020.

### 5.1C: Special appropriations ('recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2020 \$'000	2019 \$'000
<i>s69 Banking Act 1959, Administered</i>	Unlimited	ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. ASIC receives special appropriations from the OPA (section 69 <i>Banking Act 1959</i> ) to refund amounts to banking and deposit taking institution account holders.	25,450	16,535
<i>s216 Life Insurance Act 1995, Administered</i>	Unlimited	ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. ASIC receives special appropriations from the OPA (section 216 <i>Life Insurance Act 1995</i> ) to refund amounts to life insurance policy holders.	5,979	4,081
<i>s77 PGPA Act, Corporations Act 2001, National Consumer Credit Protection Act 2009, Business Names Registration (Fees) Regulations 2010 and Superannuation Industry (Supervision) Act 1993. (Refunds of overpaid Corporations Act fees and charges), Administered</i>	Unlimited	ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the OPA as received. Refunds of overpayments are appropriated under section 77 of the PGPA Act.	4,750	4,150
<i>s77 PGPA Act, Corporations Act 2001 (Refunds of unclaimed money held under s1341 Corporations Act 2001), Administered</i>	Unlimited	ASIC has responsibility for the administration of unclaimed monies under s1341 of the <i>Corporations Act 2001</i> .	24,880	32,955
<b>Total</b>			<b>61,059</b>	<b>57,721</b>

## 5.2 Special Accounts

	Enforcement Special Account <sup>1</sup>		ASIC Trust and Other Moneys Special Account 2018 <sup>2</sup>	
	2020 \$'000	2019 \$'000	2020 \$'000	2019 \$'000
Balance brought forward from previous period	62,954	59,135	12,196	4,908
<b>Increases</b>				
Appropriation for the reporting period	41,195	36,217	–	–
Other increases	7,549	2,213	9,884	51,674
Available for payments	111,698	97,565	22,080	56,582
<b>Decreases</b>				
Departmental				
Cash payments from the Special Account	(72,099)	(34,611)	–	–
Total departmental	(72,099)	(34,611)	–	–
Administered				
Cash payments from the Special Account	–	–	(13,242)	(44,386)
Total administered	–	–	(13,242)	(44,386)
	–	–		
Balance carried forward to the next period	39,599	62,954	8,838	12,196
Balance represented by:				
Cash held in entity bank accounts	–	–	8,838	12,196
Cash held in the Official Public Account	39,599	62,954	–	–
	39,599	62,954	8,838	12,196

1 Appropriation: s78 Public Governance, Performance and Accountability Act 2013.

Establishing Instrument: s78 Public Governance, Performance and Accountability Act 2013.

Purpose: the Enforcement Special Account (ESA) is a departmental special account which was established by a determination of the Finance Minister on 23 August 2016 to fund the costs of ASIC arising from the investigation and litigation of matters of significant public interest.

2 Appropriation: s78 Public Governance, Performance and Accountability Act 2013.

Establishing Instrument: s78 Public Governance, Performance and Accountability Act 2013.

Purpose: the ASIC Trust and Other Moneys Special Account was established by a determination of the Finance Minister on 30 June 2018,

(a) to perform duties or exercise powers for and on behalf of the Commonwealth in relation to money and other property vested in or held on behalf of the Commonwealth as a trustee, including:

(i) by making payments in relation to deregistered companies and property vested in the Commonwealth under Part 5A.1 of the Corporations Act;

(ii) by making payments in relation to liabilities imposed on property vested in the Commonwealth under Part 5A.1 of the Corporations Act; or

(iii) by making payments in relation to expenses incurred by or on behalf as the Commonwealth as a trustee.

- (b) to perform functions or exercise powers in relation to money or other property held on behalf of or for the benefit of a person other than the Commonwealth, including:
  - (i) in relation to money or other property held temporarily by ASIC as a consequence of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC;
  - (ii) by making payments to or for the benefit of a person for whose benefit the money was held by ASIC;
  - (iii) making payments of amounts required or contemplated to be paid by ASIC in the course of an investigation;
  - (iv) making payments to give effect to court orders, enforceable undertakings, settlements, transfers of assets, or other disbursements of monies held by ASIC on behalf of a person other than the Commonwealth; or
  - (v) making payments in relation to expenses incurred in relation to holding and realising third party assets, or locating and identifying any person for whose benefit an amount is held.
- (c) to perform functions and to exercise powers in relation to security bonds and security deposits lodged by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees, including security bonds and security deposits lodged under section 912B of the Corporations Act, and regulations 7.6.02AAA and 7.6.02AA of the Corporations Regulations, including by:
  - (i) discharging, returning or releasing a security bond or security deposit lodged with ASIC in whole or in part; or
  - (ii) making payments from security bonds or security deposits to compensate a person other than the Commonwealth who has suffered a pecuniary loss.
- (d) to repay an amount where a court order, Act or other law requires or permits the repayment of an amount received under clause 7; or
- (e) to reduce the balance of the special account (and, therefore, the available appropriation for the special account) without making a real or notional payment.

ASIC also has a Services for Other Entities and Trust Moneys Special Account – Australian Securities and Investments Commission (SOETM). This account was established under s78 *Public Governance, Performance and Accountability Act 2013*. The SOETM combines the purposes of the Other Trust Moneys and the Services for other Government and Non-agency Bodies special accounts into a single standard-purpose Special Account. The SOETM enables ASIC to continue to hold and expend amounts on behalf of persons or entities other than the Commonwealth. The SOETM will typically be used to accommodate small amounts of miscellaneous monies, for example, amounts received in connection with services performed for or on behalf of any persons or entities that are not agencies as prescribed under the PGPA Act, such as other governments. For the period ended 30 June 2020, the account had a nil balance and there were no transactions debited or credited to it during the current or prior reporting period.

### 5.3 Regulatory charging summary

	2020 \$'000	2019 \$'000
<b>Amounts applied</b>		
Departmental		
Appropriation applied	337,843	286,961
<b>Total amounts applied</b>	337,843	286,961
<b>Expenses</b>		
Departmental	337,843	286,961
<b>Total expenses</b>	337,843	286,961
<b>External Revenue</b>		
Administered		
Fees for services	11,274	13,600
ASIC Supervisory Cost Recovery Levy	326,569	273,361
<b>Total external revenue</b>	337,843	286,961

#### Regulatory charging activities

On 20 April 2016, the Australian Government announced it would introduce an industry funding model for ASIC. Under the industry funding model ASIC's regulatory costs will be recovered from the industry sectors we regulate, through a combination of:

- general industry levies (cost recovery levies);
- statutory industry levies; and
- cost recovery fees (fees for service), for user-initiated, transaction-based activities where we provide a specific service to individual entities.

ASIC's costs associated with regulatory activities will be recovered from industry as outlined in ASIC's Cost Recovery Implementation Statement. Activities include:

- › surveillance;
- › enforcement;
- › stakeholder engagement;
- › education;
- › guidance; and
- › policy advice.

The cost recovery implementation statement for the above activities is available at:

<https://download.asic.gov.au/media/5623776/cris-asic-industry-funding-model-2019-20-for-feedback-published-12-june-2020.pdf>



## 5.4 Net cash appropriation arrangements

	2020 \$'000	2019 \$'000
<b>Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations</b>	<b>(19,167)</b>	6,108
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<b>47,431</b>	46,122
Plus: depreciation ROU assets	<b>16,050</b>	–
Less: principal repayments – leased assets	<b>(14,462)</b>	–
<b>Total comprehensive (loss) – as per the Statement of Comprehensive Income</b>	<b>(68,186)</b>	(40,014)

## Note 6. People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

### 6.1 Employee provisions

	2020 \$'000	2019 \$'000
Annual leave entitlement	<b>25,950</b>	22,127
Long service leave entitlement	<b>54,923</b>	49,986
Restructuring provision	<b>1,358</b>	1,712
Redundancy provision	<b>1,017</b>	2,192
<b>Total employee provisions</b>	<b>83,248</b>	76,017

## Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within 12 months of the end of the reporting period are measured at their nominal amounts.

Other long term employee benefits are measured as net total of the present value of the defined benefit obligations at the end of the reporting period minus the fair value at the reporting period of plan assets (if any) of which the obligations are to be settled directly.

### Leave

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

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

The liability for long service leave has been determined by reference to the work of an independent actuary dated 18 December 2018. Actuarial reviews of long service leave are undertaken at least every five years. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

### Superannuation

ASIC employees are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other superannuation funds held outside the Australian Government.

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

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedule and notes.

ASIC makes employer contributions to its employees' defined-benefit superannuation schemes at rates determined by an actuary to be sufficient to meet the current cost to the Government, and ASIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

### Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

## Accounting Policy (continued)

### Restructuring

ASIC recognises a provision for restructuring when the Government has announced a funding measure which will result in a future reduction in functions, resources and staff and the costs associated with these future reductions can be reliably estimated.

### Significant accounting judgement and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- › Leave provisions involve assumptions based on the expected tenure of existing staff, patterns of leave claims and payouts, future salary movements and future discount rate.

## 6.2 Key management personnel remuneration

Key management personnel (KMP) are those persons having authority and responsibility for planning, directing and controlling the activities of ASIC, directly or indirectly. ASIC has determined the key management personnel to be members of the Commission, the Portfolio Minister and Minister for Revenue and Financial Services and other Australian Government entities and ASIC Executive Directors. Key management personnel remuneration is reported in the table below:

	2020 \$'000	2019 \$'000
Short-term employee benefits	8,300	6,558
Post-employment benefits	845	622
Other long-term benefits	183	150
<b>Total key management personnel remuneration expenses<sup>1</sup></b>	<b>9,328</b>	<b>7,330</b>

The total number of key management personnel who are included in the above table is 21 (2019: 22). During the 2018–19 financial year, an overpayment to a former KMP totalling \$1,672 was identified. This payment was a recoverable payment under s16A(1) of the *Remuneration Tribunal Act 1973* and has been repaid to the Commonwealth.

<sup>1</sup> The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by ASIC.

## 6.3 Related party disclosures

### Related party relationships

ASIC is an Australian Government controlled entity. Related parties to ASIC are Key Management Personnel including the Commission members and ASIC Executive Directors that have the responsibilities for planning, directing, and controlling ASIC's resources.

### Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

ASIC transacts with other Australian Government controlled entities consistent with normal day-to-day business operations provided under normal terms and conditions, including the payment of workers compensation and insurance premiums, sub-leasing of office space and payment of superannuation contributions. These are not considered individually significant to warrant separate disclosure as related party transactions.

## Note 7. Managing uncertainties

This section describes how ASIC manages financial risks within its operating environment.

### 7.1 Contingent assets and liabilities

	2020 \$'000	2019 \$'000
<b>7.1: Departmental contingent assets</b>		
Claims for costs		
Balance from previous period	9,638	6,239
New contingent assets	3,722	4,249
Re-measurement	1,663	2,064
Assets realised	(7,949)	–
Assets relinquished	(1,548)	(2,914)
<b>Total contingent assets</b>	<b>5,526</b>	<b>9,638</b>
<b>Net contingent assets</b>	<b>5,526</b>	<b>9,638</b>

### **Quantifiable contingencies (ASIC Departmental)**

The above note contains 19 matters (2019: 20 matters) where a contingent asset is disclosed in respect of cases where ASIC has received an award of costs in its favour, however agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated these matters represent a combined receivable of \$5.526m (2019: \$9.638m), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

### **Unquantifiable contingencies (ASIC Departmental)**

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

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

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

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

- › successfully defend the actions instituted; and
- › not be required to pay any damages.

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

### **Accounting Policy**

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position but are reported in this note. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than unlikely.

### **Significant accounting judgements and estimates**

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

## Quantifiable administered contingencies – Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the number of claims that are likely to be lodged with ASIC in respect to unclaimed monies was conducted by a registered actuary. ASIC adopted the registered actuary's calculation for the likely claims payable, reported in Note 4.2B.

The contingent liability represents an estimate of the principal unclaimed monies that have been lodged with ASIC but where the likelihood of a successful claim is regarded as unlikely. No allowance has been made for the compounding interest, which is payable for a successful claim lodged from 1 July 2013 in accordance with legislated interest rates. The contingent liability has been calculated by deducting from the total principal balance, excluding interest, of unclaimed monies lodged but not yet claimed, the undiscounted amount of the provision for future refunds excluding any interest:

	2020 \$'000	2019 \$'000
<i>Banking Act 1959</i>	<b>523,334</b>	475,864
<i>Life Insurance Act 1995</i>	<b>85,739</b>	73,882
<i>Corporations Act 2001</i>	<b>379,573</b>	345,075

## Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

## Accounting Policy

Administered contingent liabilities represent a repayment estimate of unclaimed monies that are considered unlikely to be paid. There are no administered contingent assets as at 30 June 2020 (2019: nil).

## 7.2 Financial instruments

	Notes	2020 \$'000	2019 \$'000
<b>7.2A: Categories of financial instruments</b>			
<b>Financial assets at amortised cost</b>			
Loans and receivables:			
Cash and cash equivalents <sup>1</sup>	3.1A	<b>41,151</b>	65,221
Trade receivables	3.1B	<b>39,796</b>	4,577
<b>Total financial assets at amortised cost</b>		<b>80,947</b>	69,798
<b>Financial liabilities at amortised cost</b>			
Trade creditors	3.3A	<b>30,798</b>	41,832
<b>Total financial liabilities at amortised cost</b>		<b>30,798</b>	41,832

1 Comparatives have been changed to include Cash in special accounts.

### Accounting Policy

#### Financial assets

ASIC classifies its financial assets in the following categories:

- › Cash and cash equivalents are measured at nominal amounts.
- › Trade receivables are measured at amortised cost

The classification depends on both ASIC's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition.

Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Comparatives have not been impacted by the application of AASB 9. The application of AASB 9 has had no impact on the classification or carrying amount of Trade receivables.

#### Financial assets at amortised cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and
2. the cash flows are solely payments of principal and interest on the principal outstanding amount.

### Accounting Policy (continued)

Amortised cost is determined using the effective interest method.

#### Effective interest method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

#### Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on the simplified approach.

The simplified approach for trade debtors is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

#### Financial liabilities at amortised cost

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

#### Accounting judgement and estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of financial assets and liabilities within the next reporting period.

	Notes	2020 \$'000	2019 \$'000
<b>7.2B: Impairment loss on financial instruments</b>			
<b>Financial assets at amortised cost</b>			
Impairment		40	589
<b>Net gain/(loss) on financial assets at amortised cost</b>		<b>40</b>	<b>589</b>



### 7.3 Administered – financial instruments

	Notes	2020 \$'000	2019 \$'000
<b>Financial assets at amortised cost</b>			
Loans and receivables:			
Cash and cash equivalents <sup>1</sup>		1,435	1,859
Trade receivables <sup>2</sup>	4.1B	7,449	8,463
<b>Total financial assets at amortised cost</b>		<b>8,884</b>	10,322
<b>Total financial assets</b>		<b>8,884</b>	10,322

1 Cash and cash equivalents is cash on hand only and is recognised at its nominal amount.

2 Comparatives have been changed to exclude GST.

The application of AASB 9 has had no impact on the classification or carrying amount of Administered trade receivables or liabilities.

### 7.4 Fair value measurement

#### Accounting Policy

ASIC deems transfers between levels of the fair value hierarchy to have occurred at the end of the reporting period. See Note 3.2A for further details on ASIC's valuation policy and procedures.

	2020 \$'000	2019 \$'000
<b>Non-financial assets:</b>		
Leasehold improvements	29,786	28,802
Plant and equipment	19,511	20,661
<b>Total non-financial assets</b>	<b>49,297</b>	49,463

ASIC did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2020.

## Note 8. Other information

### 8.1 Aggregate assets and liabilities

	2020 \$'000	2019 \$'000
<b>8.1A: Aggregate assets and liabilities</b>		
Assets expected to be recovered in:		
No more than 12 months	229,350	210,756
More than 12 months	329,922	136,318
<b>Total assets</b>	<b>559,272</b>	<b>347,074</b>
Liabilities expected to be settled in:		
No more than 12 months	121,329	101,460
More than 12 months	285,483	82,571
<b>Total liabilities</b>	<b>406,812</b>	<b>184,031</b>

### 8.1B: Administered – aggregate assets and liabilities

Assets expected to be recovered in:		
No more than 12 months	478,715	434,188
More than 12 months	–	–
<b>Total assets</b>	<b>478,715</b>	<b>434,188</b>
Liabilities expected to be settled in: <sup>1</sup>		
No more than 12 months	33,150	24,933
More than 12 months	424,467	354,564
<b>Total liabilities</b>	<b>457,617</b>	<b>379,497</b>

1 2019 comparatives have been amended to reflect the correct split between current and non-current liabilities.

## 8.2 Expenditure relating to statutory boards and tribunal

### Accounting Policy

Pursuant to Parts 11 and 12 of the ASIC Act and the *Superannuation (Resolution of Complaints) Act 1993*, ASIC is required to support the Companies Auditors Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of this board and the tribunal are included in the Statement of Comprehensive Income of ASIC.

	2020 \$'000	2019 \$'000
Companies Auditors Disciplinary Board	502	427
Superannuation Complaints Tribunal	7,686	7,502

The Superannuation Complaints Tribunal is an independent body with distinct responsibilities as set out under the *Superannuation (Resolution of Complaints) Act 1993* and has operated under the budgetary umbrella of ASIC since 1 July 1998.

## 8.3 Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. ASIC takes a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

Vested assets are not available to ASIC and are not recognised in the financial statements.

	2020 Quantity	2019 Quantity
Class of asset		
Land	592	638
Shares	122	117
Other	99	90
Closing balance	813	845

Land is comprised of real property as described on the relevant Land Titles Registry. Shares are comprised of parcels of shares in both private and publicly listed companies and include those parcels held by the company as trustee. Other assets include such property as intellectual property (e.g. trademarks) and mortgages.

## 8.4 Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* and the *Corporations Regulations 2001* require applicants for a dealer's or investment adviser's licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

### Note 8.4: Security deposits from dealers, investment advisers and liquidators

	2020 \$'000	2019 \$'000
Security deposits under Corporations Regulations 2001 regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	83	83
Inscribed stock	–	20
Bank guarantees	8,780	8,900
<i>Closing balance</i>	<b>8,863</b>	9,003
Security deposits under the Corporations Act 2001 s1284(1) (liquidators)		
Insurance bond	1,800	1,800
<i>Closing balance</i>	<b>1,800</b>	1,800

## 8.5 Budgetary reports and explanations of major variances

### 8.5A: Departmental Budgetary Reports

The following tables provide a comparison of the original budget as presented in the 2019–20 Portfolio Budget Statements (PBS) to the 2019–20 final outcome as presented in accordance with Australian Accounting Standards for ASIC. The budget is not audited. Explanations for variances greater than +/- 10% and greater than +/- \$5m are provided.

### Statement of Comprehensive Income

	Actual	Original Budget	Variance
	2020 \$'000	2020 \$'000	2020 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	275,356	238,558	36,798
Suppliers	149,338	163,782	(14,444)
Depreciation and amortisation	63,481	39,676	23,805
Finance costs – unwinding of restoration provision	1,397	5,676	(4,279)
Impairment loss on financial instruments	40	–	40

	Actual	Original Budget	Variance
	2020	2020	2020
	\$'000	\$'000	\$'000
Write-down and impairment of assets	2	–	2
<b>Total expenses</b>	489,614	447,692	41,922
<b>LESS:</b>			
<b>Own-source revenue</b>			
Rendering of services	1,703	2,000	(297)
Operating sublease rent and property recoveries	1,454	2,700	(1,246)
Other revenue	14,903	2,160	12,743
<b>Total own-source revenue</b>	18,060	6,860	11,200
<b>Gains</b>			
Reversal of write-downs and impairment	57	–	57
<b>Total gains</b>	57	–	57
<b>Net Cost of Services</b>	471,497	440,832	30,665
<b>Total revenue from Government</b>	403,261	402,219	1,042
<b>Surplus/(Deficit)</b>	(68,237)	(38,613)	(29,624)
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Items not subject to reclassification to net cost of services</b>			
Changes in asset revaluation reserve	–	–	–
<b>Total comprehensive income/(loss)</b>	(68,237)	(38,613)	(29,624)

#### Explanations of major variances

#### Affected line items

##### Expense

Employee benefits were higher than budgeted due mainly to the application of additional revenue from Government received as part of the Mid-Year Economic and Fiscal Outlook (MYEFO) in December 2019 for new budget measures, revaluation of employee entitlement provisions and accelerated enforcement actions funded from the Enforcement Special Account (ESA).

Employee benefits

Depreciation and amortisation expenses were higher than budgeted due mainly to the application of AASB16 Leases.

Depreciation and amortisation

##### Own-source revenue

The increase mainly relates to higher than expected court cost recoveries. These revenues are unpredictable and therefore subject to variation.

Other revenue

## Statement of Financial Position

	Actual	Original Budget	Variance
	2020 \$'000	2020 \$'000	2020 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	41,151	62,703	(21,552)
Trade and other receivables	170,493	112,766	57,727
<b>Total financial assets</b>	211,644	175,469	36,175
<b>Non-financial assets</b>			
Buildings	236,404	26,546	209,858
Plant and equipment	19,511	9,520	9,991
Computer software	74,007	78,952	(4,945)
Other non-financial assets	17,706	13,846	3,860
<b>Total non-financial assets</b>	347,629	128,864	218,764
<b>Total assets</b>	559,273	304,333	254,939
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	30,798	42,486	(11,688)
Other payables	37,217	36,211	1,006
<b>Total payables</b>	68,015	78,697	(10,682)
<b>Interest-bearing liabilities</b>			
Leases	242,810	–	242,810
<b>Total interest-bearing liabilities</b>	242,810	–	242,810
<b>Provisions</b>			
Employee provisions	83,248	68,455	14,793
Other provisions	12,789	14,181	(1,392)
<b>Total provisions</b>	96,037	82,636	13,401
<b>Total liabilities</b>	164,052	161,333	2,719
<b>Net assets</b>	395,221	143,000	252,221
<b>EQUITY</b>			
Contributed equity	474,633	459,075	15,558
Reserves	22,500	17,137	5,363
Accumulated deficits	(344,723)	(333,212)	(11,511)
<b>Total equity</b>	152,410	143,000	9,410

## Explanations of major variances

## Affected line items

### Financial assets

The decrease in cash and cash equivalents is mainly attributed to timing differences in funding received and accelerated expenditure incurred with respect to the ESA.

Cash and cash equivalents

The increase in trade and other receivables is mainly attributable to a \$34 million lease incentive receivable recognised by the application of AASB16 *Leases*.

Trade and other receivables

### Non-financial assets and Equity

The increase in these non-financial assets is mainly attributable to the application of AASB16 *Leases*. Refer to Note 3.2A.

Buildings

The variance is due to upgraded expenditure on devices to enable remote working, mainly associated with COVID-19.

Plant & equipment

### Payables

The variance is due to the timing of supplier payments.

Suppliers

The increase is attributable to the application of AASB16 *Leases*.

Interest-bearing liabilities

### Provisions

The variance is due to higher than expected increases and revaluations to employee provisions, mainly attributable to changes to valuation discount rates and increases to staff numbers associated with additional revenue received from Government as part of MYEFO for new budget measures and accelerated enforcement actions funded from the ESA.

Employee provisions

### Equity

The increase in equity is attributable to a higher than expected asset revaluation adjustment to Reserves in 2018–19, subsequent to the publication of the PBS.

Reserves

## Statement of Changes in Equity

	Actual	Original Budget	Variance
	2020 \$'000	2020 \$'000	2020 \$'000
<b>CONTRIBUTED EQUITY</b>			
Opening balance	436,058	431,649	–
<b>Transactions with owners</b>			
Contributions by owners			
Equity injections – Appropriations	13,426	2,277	11,149
Departmental capital budget	25,149	25,149	–
<b>Total transactions with owners</b>	38,575	27,426	11,149
<b>Closing balance as at 30 June</b>	474,633	459,075	15,558
<b>RETAINED EARNINGS</b>			
Opening balance	(295,515)	(294,599)	(916)
Adjustment on initial application of AASB 16	19,028	–	19,028
<b>Adjusted opening balance</b>	(276,487)	(294,599)	18,112
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	(68,237)	(38,613)	(29,624)
<b>Total comprehensive loss</b>	(68,237)	(38,613)	(29,624)
<b>Closing balance as at 30 June</b>	(344,724)	(333,212)	(11,512)
<b>ASSET REVALUATION RESERVE</b>			
Opening balance	22,500	17,137	–
<b>Comprehensive income</b>			
Other comprehensive income	–	–	–
<b>Total comprehensive income</b>	–	–	–
<b>Closing balance as at 30 June</b>	22,500	17,137	5,363
<b>TOTAL EQUITY</b>			
Opening balance	163,043	154,187	8,856
Adjustment on initial application of AASB 16	19,028	–	19,028
<b>Adjusted opening balance</b>	182,071	154,187	27,884
<b>Comprehensive income</b>			
Other comprehensive income	–	–	–
Surplus/(Deficit) for the period	(68,237)	(38,613)	(29,624)
<b>Total comprehensive loss</b>	(68,237)	(38,613)	(29,624)



	Actual	Original Budget	Variance
	2020	2020	2020
	\$'000	\$'000	\$'000
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations	13,426	2,277	11,149
Departmental capital budget	25,149	25,149	–
<b>Total transactions with owners</b>	38,575	27,426	11,149
<b>Closing balance as at 30 June</b>	152,409	143,000	9,409

#### Explanations of major variances

#### Affected line items

Equity injections – Appropriations was higher than budgeted due mainly to the application of additional revenue from Government received as part of MYEFO for new budget measures.

Equity injections – Appropriations

Adjustment on initial application of AASB 16.

Adjustment on initial application of AASB 16

The increase to the deficit is mainly attributable to the application of AASB16 *Leases* and accelerated enforcement actions funded from the ESA.

Surplus/(Deficit) for the period – Retained earnings

## Cash Flow Statement

	Actual	Original Budget	Variance
	2020 \$'000	2020 \$'000	2020 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	426,545	402,219	24,326
Operating cash received	1,703	4,700	(2,997)
Net GST received	20,922	–	20,922
Cost recoveries	8,057	–	8,057
Other cash received	10,887	1,800	9,088
<b>Total cash received</b>	<b>468,114</b>	<b>408,719</b>	<b>59,395</b>
<b>Cash used</b>			
Employees	262,990	238,558	24,432
Suppliers	194,067	169,098	24,969
Interest payments on lease liabilities	1,209	–	1,209
Transfers to the Official Public Account	20,667	1,063	19,604
<b>Total cash used</b>	<b>478,933</b>	<b>408,719</b>	<b>70,214</b>
<b>Net cash from/(used by) operating activities</b>	<b>(10,819)</b>	<b>–</b>	<b>(10,819)</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	34,756	27,426	7,330
<b>Total cash used</b>	<b>(34,756)</b>	<b>(27,426)</b>	<b>(7,330)</b>
<b>Net cash (used by) investing activities</b>	<b>(34,756)</b>	<b>(27,426)</b>	<b>(7,330)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity	35,967	27,426	8,541
<b>Total cash received</b>	<b>35,967</b>	<b>27,426</b>	<b>8,541</b>
<b>Cash used</b>			
Principal payments of lease liabilities	14,462	–	14,462
<b>Total cash used</b>	<b>(14,462)</b>	<b>–</b>	<b>(14,462)</b>
<b>Net cash from financing activities</b>	<b>21,505</b>	<b>–</b>	<b>21,505</b>
<b>Net increase/(decrease) in cash held</b>	<b>(24,070)</b>	<b>–</b>	<b>(24,070)</b>
Cash at the beginning of the reporting period	65,221	62,703	2,518
<b>Cash at the end of the reporting period</b>	<b>41,151</b>	<b>62,703</b>	<b>(21,552)</b>

## Explanations of major variances

## Affected line items

### Cash received

The increase relates to higher Own-source revenue receipts. These receipts are unpredictable and therefore subject to variation.

Net GST received is not budgeted for in the Portfolio Budget Statements (PBS). This item is offset against the Cash used – Suppliers original budget disclosed in the PBS.

Equity injections – Appropriations was higher than budgeted due mainly to the application of additional revenue from Government received as part of MYEFO for new budget measures.

Cost recoveries &  
Other cash received

Net GST received/  
Suppliers

Appropriations –  
contributed equity

### Cash used

Employee and supplier cash used were higher than budgeted due mainly to the application of additional revenue from Government received as part of MYEFO for new budget measures, and accelerated enforcement actions funded from the ESA, along with higher supplier prepayments.

Increase in the Purchase of property, plant and equipment was due mainly to the application of additional revenue from Government received as part of MYEFO for new budget measures.

The increase relates to higher Own-source revenue receipts. These receipts are unpredictable and therefore subject to variation.

The increase relates to the application of AASB16 *Leases*.

Employees and  
Suppliers

Purchase of  
property, plant and  
equipment

Transfers to the  
Official Public  
Account

Principal and  
interest payments –  
lease liabilities

### 8.5B: Administered budgetary reports

The following tables provide a comparison of the original budget as presented in the 2019–20 Portfolio Budget Statements (PBS) to the 2019–20 final outcome as presented in accordance with Australian Accounting Standards for the entity. The budget is not audited. Explanations of variances greater than +/- 10% and greater than +/- \$5m are provided.

#### Administered Schedule of Comprehensive Income

	Actual	Original Budget	Variance
	2020 \$'000	2020 \$'000	2020 \$'000
<b>EXPENSES</b>			
Grants	6,255	7,083	(828)
Impairment loss allowance on financial instruments	69,110	61,156	7,954
Claims for unclaimed monies	127,163	72,097	55,066
Promotional costs for MoneySmart initiatives	565	570	(5)
<b>Total expenses</b>	<b>203,093</b>	<b>140,906</b>	<b>62,187</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Fees	814,536	854,324	(39,788)
Supervisory cost recovery levies	59,602	19,028	40,574
<b>Total taxation revenue</b>	<b>874,138</b>	<b>873,352</b>	<b>786</b>
<b>Non-taxation revenue</b>			
Supervisory cost recovery levies	263,288	242,688	20,600
Fees and fines	221,036	218,117	2,919
Unclaimed monies	201,896	100,665	101,231
<b>Total non-taxation revenue</b>	<b>686,220</b>	<b>561,470</b>	<b>124,750</b>
<b>Total revenue</b>	<b>1,560,357</b>	<b>1,434,822</b>	<b>125,536</b>
<b>Net contribution by services</b>	<b>1,357,264</b>	<b>1,293,916</b>	<b>63,349</b>

## Explanations of major variances

## Affected line items

The increase in the impairment loss allowance is due to unexpected environmental and economic factors.

Impairment loss allowance on financial instruments

The increase in claims for unclaimed monies is due to the revaluation adjustment of the claims provision. Refer to the Accounting Policy note at 4.2B.

Claims for unclaimed monies

The increase is due to new expenditure measures approved as part of MYEFO, leading to higher than budgeted cost recoveries.

Supervisory cost recovery levies/Taxation revenue

The increase in revenue for unclaimed monies is due to lodgement revenue received under the Banking Act 1959 and Life Insurance Act 1995.

Non-taxation revenue unclaimed monies

## Administered Schedule of Assets and Liabilities

	Actual	Original Budget	Variance
	2020	2020	2020
	\$'000	\$'000	\$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	1,435	1,965	(530)
Supervisory cost recovery levies receivable	330,214	–	330,214
Fees and fines receivable	139,165	393,053	(253,888)
Trade and other receivables	7,901	6,641	1,260
<b>Total assets administered on behalf of Government</b>	<b>478,714</b>	<b>401,659</b>	<b>77,055</b>
<b>LIABILITIES</b>			
<b>Payables and provisions</b>			
Suppliers and other payables	40,333	36,685	3,648
Unclaimed monies provisions	417,286	344,640	72,646
<b>Total liabilities administered on behalf of Government</b>	<b>457,619</b>	<b>381,325</b>	<b>76,294</b>
<b>Net assets/(liabilities)</b>	<b>21,096</b>	<b>20,334</b>	<b>762</b>

### Explanations of major variances

### Affected line items

The variance is due to the classification, where the Supervisory cost recovery levies receivable and Trade and other receivables were budgeted for in Fees and fines receivable. The increase in total receivables arises as the Supervisory cost recovery levies were recognised in the budget on a cash basis whereas the actuals are recognised on an accrual basis.

This is mainly due to an increase in the value of unidentified payments received.

The provision has been impacted by significantly higher lodgement revenue and an actuarial review of claims patterns and economic factors resulting in lower discount rate being applied.

Supervisory cost recovery levies receivable/Fees and fines receivable/Trade and other receivables

Suppliers and other payables

Unclaimed monies provisions



# 8

## Appendices

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## 8.1 Appendices relating to ASIC's governance and operations

### Parliamentary oversight

#### Responsible Ministers

At 30 June 2020, 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 Economics Committee.

#### 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 2019–20, we received 311 letters and emails from members of Parliament and finalised 302. We responded to 93% of this correspondence within 14 days and 99% within 28 days.

### Financial and operational oversight

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

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

ASIC's Corporate Plan 2019–23 was published in August 2019.

ASIC's Interim Corporate Plan, to address the impact of the COVID-19 pandemic, was published in June 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 are taking action on all Royal Commission recommendations directed at ASIC.

We have published regular updates on our actions to implement Royal Commission recommendations, including in February 2020: **20-047MR ASIC update on enforcement and regulatory work**.

Details of our actions are set out in Chapters 1 and 2.

### Judicial decisions and decisions of administrative tribunals

There were no judicial decisions, administrative tribunal decisions, or decisions by the Office of the Australian Information Commissioner in 2019–20 that have had, or may have, a significant impact on ASIC's operations.

### Parliamentary Joint Committees

During 2019–20, ASIC testified before the Parliamentary Joint Committee on Corporations and Financial Services and provided answers to Questions on Notice.

ASIC made submissions to the following Parliamentary Joint Committee inquiries:

- › Parliamentary Joint Committee on Corporations and Financial Services – Inquiry into the regulation of auditing in Australia
- › Parliamentary Joint Committee on Corporations and Financial Services – Inquiry into litigation funding and the regulation of the class action industry.

### Senate Committees

During 2019–20, ASIC testified before the Senate Economics Legislation Committee and provided answers to Questions on Notice. ASIC also made a submission to the Senate Select Committee on Financial Technology and Regulatory Technology.

### House of Representatives Committees

During 2019–20, ASIC testified before the House of Representatives Standing Committee on Economics and provided answers to Questions on Notice.

## Corporate governance

### The role of the Commission

The Commission is ASIC's governing body and is responsible for achieving ASIC's statutory objectives as set out in the ASIC Act. ASIC's Chair is ultimately responsible for the duties of the accountable authority contained in the PGPA Act, which form part of the executive responsibilities of governing ASIC.

The Commission is responsible for ASIC's strategic direction and priorities. ASIC's Executive Directors are responsible for the day-to-day management of ASIC's work.

In 2019–20, ASIC continued its program to reform its governance, structure and decision-making processes. As set out in Chapter 1, ASIC has introduced an accountability and governance framework in order to support the Commission in effective, efficient and impartial decision making.

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.

The Commission sets ASIC's strategic priorities and organisational performance measures, allocates resources in line with these priorities and approves and monitors team business plans.

Commissioners are appointed by the Governor-General, on the nomination of the responsible Minister. The Minister 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 to the Commission 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 32 meetings in 2019–20. The Commission Enforcement Committee met 17 times, the Commission Regulatory Committee met eight times, and the Commission Risk Committee met five times in 2019–20.

Additional information on ASIC's 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 are available on our [website](#).

The Committee reviewed ASIC's 2019–20 financial statements and provided advice to the Chair and Commissioners on the preparation and review of financial statements before the Chair signed them. The Committee met four times during the year, supplemented by one special meeting.

Table 8.1.1 Audit Committee meetings, 2019–20

Member	Eligible to attend	Attended
<b>Geoffrey Applebee</b>		
First appointed as an independent committee member on 1 February 2010 and appointed as an independent committee member and Chair on 1 September 2015	1 main meeting 1 special meeting	1 1
Retired from the Committee on 31 August 2019		
<b>Cathie Armour</b>		
ASIC Commissioner	4 main meetings	3
First appointed as a committee member on 13 June 2018	1 special meeting	1
<b>Peter Achterstraat AM</b>		
First appointed as an independent committee member on 9 November 2017 and reappointed as a committee member and Chair on 1 November 2019	4 main meetings 1 special meeting	4 1
<b>Timothy Montgomery</b>		
Appointed as an independent committee member on 1 November 2019	3 main meetings	3
<b>Lisa Woolmer</b>		
Appointed as an independent committee member on 1 December 2019	2 main meetings	2

**Table 8.1.2 Remuneration of independent Audit Committee members, 2019–20**

Member	Fees for the 2019–20 year
Geoffrey Applebee	\$5,500
Peter Achterstraat AM	\$32,246
Timothy Montgomery	–
Lisa Woolmer	\$15,304

Geoffrey Applebee is a chartered accountant and company director with significant financial, business and community experience.

Peter Achterstraat AM is the NSW Productivity Commissioner and has held a number of senior NSW State Government appointments, as well as being a former Deputy Commissioner of Taxation with the ATO.

Timothy Montgomery is a senior information technology executive for a separate Commonwealth entity and has significant information technology experience within an Australian Government setting.

Lisa Woolmer is a chartered accountant and member of a number of audit and risk committees across the Commonwealth, Victorian state, and local government sectors.

The internal appointee, Cathie Armour, is a Commissioner of ASIC.

Internal audit services are provided by internal audit employees from ASIC's Internal Audit team, supported by specialist private sector internal audit providers as needed. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend Audit Committee meetings.

#### **Peter Achterstraat AM**

Chair  
Audit Committee  
August 2020

## **Advisory 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 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 facilitates consultation with the business community about ASIC's registry and licensing services, with an emphasis on small business. It advises on strategic direction, as well as operations and improvement initiatives, with a focus on assessing the impacts on business.

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

The Panel met twice in 2019–20. Themes of engagement across the year included the Government proposal to modernise business registers, the introduction of a Director Identification Number, and the impact of the COVID-19 pandemic on the registry's small business customers. The Panel also provided feedback on the experiences of businesses and agents using our registry services.

### **ASIC Consultative Panel**

The ASIC Consultative Panel was established in 2020, replacing the External Advisory Panel, to provide ASIC with a more flexible and responsive approach to external engagement.

The Panel enables ASIC to consult on proposed regulatory changes; provides intelligence on the external environment, including market conditions; and identifies 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.

Panel members may be called upon to consult on emerging issues as they arise and will meet as a group at a plenary meeting at least once annually.

In 2020, a subset of Panel members met once to discuss emerging threats and harms in the sectors ASIC regulates. Due to the disruption caused by the COVID-19 pandemic, the first formal meeting of the full Panel will occur later in 2020.

### **Australian Government Financial Literacy Board**

The Australian Government Financial Literacy Board was established in 2005 as a non-statutory body that provides independent and strategic guidance to the Government and ASIC on financial literacy and capability issues. The Board met twice in 2019–20 and discussed issues such as ASIC's engagement in the formal education sector, as well as the work of the Indigenous Outreach Program.

The terms of all members of the Board expired on 21 January 2020.

### **Consumer Advisory Panel**

The Consumer Advisory Panel (CAP) was established in 1999. It advises ASIC on current issues affecting retail investors and consumers in the financial services and wealth management industries, and informs ASIC's surveillance, enforcement, policy and financial education initiatives. The CAP meets three times a year.

This year, the CAP focused on implementation of the Royal Commission law reform agenda, ASIC's enforcement priorities and litigation outcomes, and significant research reports, including Report 632 *Disclosure: Why it shouldn't be the default*.

The CAP contributed to ASIC's strategic priority identification process and maintained its strong focus on financial products and services that lead to poor consumer outcomes, including in relation to superannuation and life insurance, buy now pay later arrangements, payday lending, debt management firms, mortgage broking,

timeshare memberships, and insurance claims handling, particularly after this year's bushfires.

It also maintained a policy focus on IDR policy settings, remediation, financial advice, and the implementation of ASIC's product intervention powers and the upcoming issuer and distributor obligations.

The CAP also advised ASIC about the consumer impacts of the COVID-19 pandemic and on CAP members' priorities in responding to the pandemic.

### **Corporate Governance Consultative Panel**

The Corporate Governance Consultative Panel was established in 2020 to enable ASIC to gain a deeper understanding of developments in corporate governance practices and emerging issues in this area. It replaced the previous Director Advisory Panel.

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

The Panel met once in 2019–20 to discuss the key regulatory measures adopted in response to the COVID-19 pandemic, as well as key corporate governance challenges in the pandemic environment, including ASIC's action to maintain equity market resilience, temporary insolvency relief for financially distressed businesses, and ASIC and ASX measures to assist companies with equity raising during the pandemic.

### **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.

The 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 three times in 2019–20 and advised on topics such as the ramifications of, and opportunities in the wake of, the COVID-19 pandemic; developments and issues related to crypto assets and initial coin offerings in Australia; and the implementation of reforms such as the consumer data right and the new payments platform, with a focus on what this means for the fintech and regtech sectors.

### **External Advisory Panel**

The External Advisory Panel was established in 2009 to help ASIC gain a deeper understanding of developments and issues in the financial services industry. The Panel met once in 2019 and discussed emerging threats, challenges and opportunities involving the Australian economy, consumers and industry. As part of ASIC's strategic review of its advisory panels, this year the External Advisory Panel was replaced by the ASIC Consultative Panel.

## **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 SMSFs) and digital financial advice. The members sit in a personal capacity.

The Panel met three times in 2019–20. Issues discussed included the use of ASIC’s product intervention powers, law reform arising from the Royal Commission, and ASIC’s ongoing work in relation to unmet advice needs, life insurance, fee disclosure statements and renewal notices.

## **Markets Advisory Panel**

The Markets Advisory Panel was established in 2010. Its members are drawn from the financial services industry and have extensive experience in retail markets, institutional banking and asset management. The Panel advises on ASIC’s approach to its responsibilities for ongoing supervision of the Australian market, as well as on broader market developments.

The Panel met five times in 2019–20. Issues discussed included the impact of the COVID-19 pandemic on markets and financial services firms; CHES replacement; technological, operational and cyber resilience; activist short selling; internal market making for actively managed funds; and retail investor harms, including the application of the product intervention power.

## **Disciplinary or registration panels**

The panels listed below have disciplinary or registration 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 we consider are appropriate for peer review because of their significance, complexity or novelty. No matters were referred to the FSCP during 2019–20.

### **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 (ARITA), 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 2019–20, ASIC referred 21 applications for registration as a liquidator to committees convened by ASIC. ASIC registered 17 liquidators following committee decisions that they should be registered, including four people who had applied for registration in 2018–19. Of the 21 applications referred during 2019–20, eight applicants were registered by ASIC, one applicant was in the process of being registered by ASIC (but not registered during the period), five were registered by ASIC with conditions, one was not registered, and the outcomes of the remaining six applications are yet to be determined.

During 2019–20, ASIC received three 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 not to vary the conditions imposed. The outcome of the remaining application is yet to be determined.

During 2019–20, four disciplinary committees considered matters referred by ASIC. Two committees decided to cancel liquidator registrations and ASIC implemented those decisions. One committee decided to impose conditions on the registration of a liquidator and ASIC implemented the decision. One committee was not able to make a decision because the Federal Court cancelled the liquidator's registration before the committee's decision was made.

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 2019–20, the MDP issued infringement notices in respect of two matters:

- › Finclear Execution Limited (Finclear) paid a \$70,000 infringement notice in connection with a pre-arranged transaction that the MDP considered to have resulted in the market for the shares not being fair and orderly. The MDP was also of the view that Finclear had not acted in accordance with its client's instructions by entering into a transaction that was not made in the ordinary course of trading.
- › Credit Suisse Equities (Australia) Limited (Credit Suisse) paid a \$75,000 infringement notice in connection with transactions that the MDP considered were not made in the ordinary course of trading and were not in accordance with instructions of Credit Suisse's clients.

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.



## 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 noted in Chapter 6, from 1 July 2019, ASIC is no longer part of the Australian Public Service (APS). The Treasury Laws Amendment (Enhancing ASIC's Capabilities) Bill 2018, passed on 17 September 2018, amended the ASIC Act to remove the requirement for ASIC to engage staff under the Public Service Act.

As at 30 June 2020, ASIC had a total of 1,940 employees.

**Table 8.1.3 ASIC employees (FTE), by location, 2019–20<sup>1,2,3</sup>**

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
<b>Total</b>	<b>783</b>	<b>806</b>	<b>170</b>	<b>101</b>	<b>43</b>	<b>21</b>	<b>15</b>	<b>1</b>	<b>1,940</b>

1 Net average number over 12 months on net full-time equivalent (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.

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

**Table 8.1.4 Combined totals by gender and employment type, 2019–20**

Roles	Ongoing				Non-ongoing				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	–	1	19
Total	721	711	201	27	136	115	21	8	1,940

**Table 8.1.5 ASIC employees (FTE) by stakeholder team, 2019–20**

Stakeholder teams	Total net FTE
<b>Markets</b>	
Corporations	48
Financial Reporting and Auditing	31
Insolvency Practitioners	24
Market Infrastructure	32
Market Supervision	83

Stakeholder teams	Total net FTE
<b>Wealth Management</b>	
Financial Advisers	50
Investment Managers	40
Superannuation	36
<b>Financial Services</b>	
Credit, Retail Banking and Payments	61
Insurers	39
Financial Capability	46
<b>Supervision<sup>1</sup></b>	
Close and Continuous Monitoring, and Governance	25
<b>Office of Enforcement<sup>2</sup></b>	
<b>Financial Services Enforcement</b>	
Financial Services Enforcement	81
Wealth Management Enforcement – Major Financial Institutions	119
<b>Markets Enforcement</b>	
Corporations and Corporate Governance	36
Enforcement WA and Criminal Intelligence Unit	36
Markets Enforcement	45
<b>Assessment and Intelligence</b>	157
<b>Registry</b>	183

1 Governance staff moved from Corporations to Supervision in March 2020, and are shown proportionately in Corporations and Supervision reflecting the time spent in each team across the year. Of the total 16 Governance FTE, 11 are included in Corporations and 5 in Supervision.

2 Plus 65 FTE staff working on Enforcement Special Account matters, and an additional 83 FTE providing Enforcement support services and legal counsel.

Most of our staff are employed under the ASIC Enterprise Agreement 2019–22, which is ongoing.

**Table 8.1.6 Industrial arrangements for ASIC employees as at 30 June 2020<sup>1</sup>**

Classification	ASIC Act s120	AWA <sup>2</sup>	EA <sup>3</sup>	Total
ASIC 1	–	–	20	<b>20</b>
ASIC 2	–	–	203	<b>203</b>
ASIC 3	–	–	290	<b>290</b>
ASIC 4	–	–	423	<b>423</b>
Exec 1	–	–	528	<b>528</b>
Exec 2	–	–	674	<b>674</b>
SES	29	10	20	<b>59</b>
<b>Total</b>	<b>29</b>	<b>10</b>	<b>2,158</b>	<b>2,197</b>

1 The number of industrial arrangements for ASIC employees is calculated based on total headcount as at 30 June 2020, rather than FTE. This is because each industrial instrument belongs to an individual, regardless of their work pattern, and our obligations against those instruments relate to a number of people, not FTE.

2 Australian workplace agreement.

3 Enterprise agreement.

**Table 8.1.7 Salary ranges per annum**

Classification	Minimum per annum	Maximum per annum
ASIC 1	\$45,904	\$51,750
ASIC 2	\$53,386	\$65,148
ASIC 3	\$68,048	\$79,562
ASIC 4	\$81,427	\$94,023
Exec 1	\$106,709	\$125,901
Exec 2	\$120,883	\$172,775
SES	\$195,000	\$377,064

We continue to provide our people with the opportunity to receive an annual performance bonus.

**Table 8.1.8 Performance payments, 2019–20, by classification**

Classification	No. of recipients	Aggregate	Minimum	Maximum	Average
ASIC 4	248	\$826,113	\$437	\$12,676	\$3,291
Exec 1	439	\$2,574,414	\$562	\$16,920	\$5,750
Exec 2	614	\$5,547,933	\$1,336	\$23,998	\$8,934
SES	54	\$848,611	\$2,712	\$31,378	\$15,429

Note: This table includes payments for the 2018–19 performance year that were paid in 2019–20, plus any pro-rata payments for the 2019–20 performance year for employees who left ASIC in 2019–20.

Table 8.1.9 Remuneration paid to key management personnel (KMP) in 2019–20<sup>1</sup>

Post-employment benefits										
Short-term benefits										
Other long-term benefits										
Termination benefits										
Total remuneration										
Name	Position title	Base salary (\$)	Bonuses <sup>9</sup> (\$)	Other benefits and allowances (\$)	Superannuation contributions (\$)	Long service leave (\$)	Other long-term benefits	Termination benefits (\$)	Total remuneration (\$)	
James Shipton	Chair <sup>2,10</sup>	811,654	–	–	25,000	18,710	–	–	855,364	
Daniel Crennan	Deputy Chair <sup>2,11</sup>	634,785	–	–	25,000	14,843	–	–	674,628	
Karen Chester	Deputy Chair <sup>2</sup>	536,047	–	–	73,613	13,799	–	–	623,459	
Catherine Armour	Commissioner <sup>2</sup>	572,030	–	–	25,000	13,186	–	–	610,216	
Danielle Press	Commissioner <sup>2</sup>	537,538	–	–	25,000	13,186	–	–	575,724	
Sean Hughes	Commissioner <sup>2</sup>	519,345	–	–	72,441	12,320	–	–	604,106	
John Price	Commissioner <sup>2,3</sup>	498,351	–	–	71,671	12,287	–	–	582,309	
Christopher Savundra	General Counsel	345,303	–	29,738	25,000	8,602	–	–	408,643	
Greg Kirk	Executive Director Strategy	319,905	–	29,738	55,605	7,819	–	–	413,067	
Rosanne Bell	Executive Director Registry	328,814	–	25,791	54,585	7,918	–	–	417,108	
Timothy Mullaly	Executive Director Financial Services									
	Enforcement	321,506	–	25,791	56,400	7,918	–	–	411,615	

		Short-term benefits			Post-employment benefits		Other long-term benefits	Termination benefits	Total remuneration
Warren Day	Executive Director Assessment & Intelligence	302,751	–	25,791	56,400	7,918	–	–	392,860
Joanna Bird	Executive Director Wealth Management	315,094	–	29,738	55,093	7,819	–	–	407,744
Sharon Concisom	Executive Director Markets Enforcement	327,109	–	25,791	56,400	7,918	–	–	417,218
Greg Yanco	Executive Director Markets	330,926	–	29,738	46,200	8,073	–	–	414,937
Paul Newson	Executive Director Financial Services <sup>4</sup>	9,532	–	–	–	–	–	–	9,532
Emma Curtis	Acting Executive Director Financial Services <sup>5</sup>	242,124	–	27,450	30,921	6,193	–	–	306,688

		Short-term benefits	Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration
Tim Gough	Acting Executive Director Financial Services <sup>5</sup>	252,910	–	23,807	38,711 6,094	– 321,522
Emily Hodgson	Acting Executive Director Operations <sup>6</sup>	157,267	–	14,640	20,676 3,733	– 196,316
Carlos Iglesias	Executive Director Operations <sup>7</sup>	155,713	6,105	14,869	27,556 3,986	– 208,229
Michael Saadat	Executive Director Financial Services <sup>8</sup>	13,874	–	2,288	3,992 601	– 20,755

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

2 The remuneration for these positions is set by the Remuneration Tribunal. This is outlined in Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2019.

3 Part year remuneration disclosure – ceased as a KMP on 20 June 2020.

4 Part year remuneration disclosure – commenced as a KMP on 22 June 2020.

5 Part year remuneration disclosure – commenced as a KMP on 2 August 2019; ceased as a KMP on 19 June 2020.

6 Part year remuneration disclosure – commenced as a KMP on 23 December 2019.

7 Part year remuneration disclosure – ceased as a KMP on 20 December 2019.

8 Part year remuneration disclosure – ceased as a KMP on 1 August 2019.

9 Due to the COVID-19 pandemic, most Senior Executives did not receive bonus payments for the 2019–20 bonus year. Any bonus payments made were to those temporarily on higher duties to SES or those who left ASIC before the COVID-19 pandemic.

10 In addition to the remuneration disclosed, the Chair has agreed to voluntarily reimburse ASIC for certain expenses ASIC paid following his 2018 relocation from the United States of America. The amount of the reimbursement is \$118,557 (includes GST).

11 In addition to the remuneration disclosed above, housing expenses of \$69,621 were paid by ASIC, following the relocation of the Deputy Chair from Melbourne to Sydney in January 2019 at the request of ASIC's Accountable Authority. The Deputy Chair offered and has agreed to repay the housing benefits as a debt to the Commonwealth.



**Table 8.1.10 Remuneration paid to senior executives in 2019–20<sup>1</sup>**

	Total remuneration bands (\$)	Number of senior executives	Short-term benefits			Average other benefits and allowances (\$)	Post-employment benefits		Other long-term benefits		Termination benefits	Total remuneration
			Average base salary (\$)	Average bonuses <sup>2</sup> (\$)	Average other benefits and allowances (\$)		Average superannuation contributions (\$)	Average long service leave <sup>3</sup>	Average other long-term benefits			
	0–220,000	17	96,653	1,515	8,469	13,519	2,316	–	–	10,936	133,408	
	245,001–270,000	1	212,376	–	2,206	29,535	5,138	–	–	–	249,255	
	270,001–295,000	4	222,930	–	28,434	33,879	5,580	–	–	–	290,823	
	295,001–320,000	9	240,835	–	27,737	32,591	5,912	–	–	–	307,075	
	320,001–345,000	8	256,972	–	28,688	40,313	6,290	–	–	–	332,263	
	345,001–370,000	5	274,663	–	27,748	43,794	6,774	–	–	–	352,979	
	370,001–395,000	2	326,316	–	26,171	25,270	7,967	–	–	–	385,724	

<sup>1</sup> This table is prepared on an accrual basis.

<sup>2</sup> Due to the COVID-19 pandemic, most Senior Executives did not receive bonus payments for the 2019–20 bonus year. Any bonus payments made were to those temporarily on higher duties to SES or those who left ASIC before the COVID-19 pandemic.

<sup>3</sup> This table includes accrued long service leave which can only be realised when the vesting requirements have been met.

Table 8.1.11 Remuneration paid to other highly paid staff in 2019–20<sup>1</sup>

Total remuneration bands (\$)	Number of senior executives	Short-term benefits			Post-employment benefits		Other long-term benefits		Termination benefits		Total remuneration
		Average base salary (\$)	Average bonuses <sup>2</sup> (\$)	Average other benefits and allowances (\$)	Average superannuation contributions (\$)	Average long service leave <sup>3</sup>	Average other long-term benefits	Average termination benefits (\$)			
225,001–245,000	24	187,718	12,149	–	30,844	4,372	–	–	235,083		
245,001–270,000	11	205,750	12,434	5,137	30,201	5,043	–	–	258,565		
270,001–295,000	3	216,434	–	19,716	34,489	5,405	–	–	276,044		

<sup>1</sup> This table is prepared on an accrual basis.

<sup>2</sup> Due to the COVID-19 pandemic, most Senior Executives did not receive bonus payments for the 2019–20 bonus year. Any bonus payments made were to those temporarily on higher duties to SES or those who left ASIC before the COVID-19 pandemic.

<sup>3</sup> This table includes accrued long service leave which can only be realised when the vesting requirements have been met.

## 8.2 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 we use this information to identify and respond

to misconduct. In 2019–20, we dealt with 12,355 reports of alleged misconduct. Of these reports, 2,631 related to one specific matter and were merged into one case for consideration and finalised in July 2019.

Table 8.2.1 shows the outcome of the misconduct reports received by ASIC during the financial year.

Table 8.2.1 Misconduct issues, by category, 2019–20

2019–20	
<b>Corporations and corporate governance</b>	
Governance issues	12%
Failure to provide books and records or a report as to affairs to an insolvency practitioner	10%
Fraud allegations	4%
Insolvency practitioner misconduct	4%
Insolvency matters	3%
Other (e.g. shareholder issues, reporting issues)	12%
<b>Subtotal</b>	<b>45%</b>
<b>Financial services and retail investors</b>	
Credit issues	13%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	10%
General licence obligations	6%
Other (e.g. insurance, advice, misleading or deceptive conduct, unconscionable conduct)	10%
<b>Subtotal</b>	<b>39%</b>

	2019–20
<b>Market integrity</b> – including insider trading, continuous disclosure, misleading statements, and market manipulation	6%
<b>Registry integrity</b> – including incorrect address recorded on ASIC’s register, lodging false documents with ASIC, and issues with business names	4%
<b>Subtotal</b>	<b>10%</b>
<b>Issues out of ASIC’s jurisdiction</b>	<b>6%</b>
<b>Total</b>	<b>100%</b>

**Table 8.2.2 Misconduct issues, by outcome, 2019–20**

	Number
<b>Total misconduct reports finalised<sup>1</sup></b>	<b>12,355</b>
Outcome	Percentage
<b>Referred for action by ASIC<sup>2</sup></b>	<b>19%</b>
<b>Resolved<sup>3</sup></b>	<b>10%</b>
Compliance achieved	1%
Warning letter issued	3%
Referred for internal or external dispute resolution	6%
Assistance provided	<0.5%
More appropriate agency	<0.5%
<b>Analysed and assessed for no further action<sup>4</sup></b>	<b>61%</b>
Insufficient evidence	41%
No action	20%
<b>No jurisdiction<sup>5</sup></b>	<b>8%</b>
<b>No breach or offences</b>	<b>2%</b>
<b>Total</b>	<b>100%</b>

- 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 EDR 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 8.2.3 provides a breakdown of the breach reports we assessed in 2019–20 by type and outcome.

**Table 8.2.3 Breach reports by type and outcome, 2019–20**

Type	Number
Auditor breach reports	1,172
Breach reports about AFS licensees and managed investment schemes	2,721
<b>Total breach reports finalised</b>	<b>3,893</b>
Outcome	Percentage
<b>Referred for action by ASIC</b>	<b>18%</b>
Referred for compliance, investigation or surveillance	17%
Assist existing investigation or surveillance	1%
<b>Analysed and assessed for no further action</b>	<b>82%</b>
No further action	81%
No offence identified	1%
<b>Total</b>	<b>100%</b>

For more information about 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 liquidators, administrators and receivers

The Corporations Act requires liquidators, administrators and receivers to report to ASIC if they suspect that company officers are guilty of an offence. Liquidators must also report if the return to unsecured creditors may be less than 50 cents in the dollar. Table 8.2.4 provides details of the statutory reports we assessed in 2019–20 by type and outcome.

**Table 8.2.4 Statutory reports from liquidators, administrators and receivers, 2019–20**

Type	Number
<b>Initial reports from liquidators, administrators and receivers<sup>1</sup></b>	<b>8,040</b>
Reports alleging misconduct	7,163
Reports not alleging misconduct	877
<b>Supplementary reports</b>	<b>520</b>
<b>Total statutory reports finalised (initial + supplementary)</b>	<b>8,560</b>
Outcome	Percentage
<b>Supplementary report analysed and assessed, no further information required<sup>2</sup></b>	<b>77%</b>
<b>Supplementary reports referred</b>	<b>23%</b>
Referred for compliance, investigation or surveillance	21%
Assisted existing investigation or surveillance	2%
<b>Total</b>	<b>100%</b>

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

2 There was insufficient evidence to warrant commencing a formal investigation in 77% 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.

## 8.3 Appendices relating to statements required by law

### Portfolio budget statement outcomes

Table 8.3.1 Agency resource statement, 2019–20

		Actual available appropriation for 2019–20 \$'000	Cash payments made <sup>1</sup> 2019–20 \$'000	Balance remaining 2019–20 \$'000
<b>Ordinary annual services<sup>2</sup></b>				
<b>Departmental</b>				
Departmental appropriation <sup>3</sup>		627,496	462,702	164,794
<b>Administered expenses</b>				
Outcome 1 – Bill 1				
Administration fund		10,261	5,194	5,067
<b>Total ordinary annual services</b>	<b>A</b>	<b>637,757</b>	<b>467,896</b>	<b>169,861</b>
<b>Other services</b>				
<b>Departmental non-operating</b>				
Equity injections <sup>4</sup>		15,890	9,398	6,492
<b>Total other services</b>	<b>B</b>	<b>15,890</b>	<b>9,398</b>	<b>6,492</b>
<b>Total available appropriations (A+B)</b>		<b>653,647</b>	<b>477,294</b>	<b>176,353</b>
<b>Special appropriations limited by criteria/amount</b>				
Banking Act 1959		N/A	25,450	N/A
Life Insurance Act 1995		N/A	5,979	N/A
<b>Total special appropriations</b>	<b>C</b>	<b>N/A</b>	<b>31,429</b>	<b>N/A</b>
<b>Total appropriations excluding special accounts (A+B+C)</b>		<b>653,647</b>	<b>508,723</b>	<b>N/A</b>

		Actual available appropriation for 2019–20 \$'000	Cash payments made <sup>1</sup> 2019–20 \$'000	Balance remaining 2019–20 \$'000
<b>Special Account<sup>5</sup></b>				
Opening balance		62,954	N/A	N/A
Appropriation receipts		41,195	N/A	N/A
Costs recovered		7,549	N/A	N/A
Payments made		N/A	72,099	N/A
<b>Total special account</b>	<b>D</b>	<b>111,698</b>	<b>72,099</b>	<b>N/A</b>
<b>Total resourcing (A+B+C+D)</b>		<b>765,345</b>	<b>580,822</b>	<b>N/A</b>
Less appropriations drawn from annual appropriations above and credited to special accounts		(41,195)	N/A	N/A
<b>Total net resourcing for ASIC</b>		<b>724,150</b>	<b>580,822</b>	<b>N/A</b>

1 Does not include GST.

2 Appropriation Bill (No. 1) 2019–20, Appropriation Bill (No. 3) 2019–20, prior year departmental appropriation and section 74 relevant agency receipts.

3 Includes \$25.149 million for the Departmental Capital Budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

4 Appropriation Bill (No. 2) 2019–20 and Appropriation Bill (No. 4) 2019–20.

5 Does not include Special Public Money.



**Table 8.3.2 Expenses by outcome**

	Budget 2019–20 <sup>1</sup> \$'000	Actual expenses 2019–20 <sup>2</sup> \$'000	Variance column 1 minus column 2 \$'000
<b>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.</b>			
A Administered expenses funded by administered appropriations	10,261	8,008	2,253
B Departmental expenses funded by departmental appropriations and own-source revenue	447,692	489,564	(41,872)
<b>Total for Outcome 1 (A+B)</b>	<b>457,953</b>	<b>497,572</b>	<b>(39,619)</b>
Average FTE	2,002	1,940	62

1 Based on the 2019–20 forecast as set out in ASIC's 2019–20 Portfolio Budget Statements.

2 2019–20 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), ASIC reports that in 2019–20 we did not exercise our powers under Part 29 of the SIS Act and Part 15 of the *Retirement Savings Account Act 1997*.

As required by section 136(1)(c), ASIC reports that during 2019–20 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 2019–20.

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 Executive Risk Committee.

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

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

## Other reports

This financial year, ASIC reported one instance of fraud, resulting in a loss of \$29,120.50, to the Finance Minister under section 19 of the PGPA Act. The CDPP has laid charges and is prosecuting the matter.

This financial year, there were no:

- › reports issued by the Auditor-General relating to the financial statements of Australian Government entities
- › reports by the Commonwealth Ombudsman on ASIC operations
- › 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 information 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](mailto: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](http://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 a register maintained by ASIC).

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 on our website at [www.asic.gov.au/about-asic/freedom-of-information-foi/information-publication-scheme/](http://www.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 2019–20, with comparative data for 2018–19.

**Table 8.3.3 Use of significant compulsory information-gathering powers**

		Number of notices 2019–20	Number of notices 2018–19
<b>Appear for examination</b>			
ASIC Act, s19 <sup>1</sup>	Requirement to appear for examination	<b>857</b>	589
ASIC Act, s58	Power to summons a witness and take evidence	<b>0</b>	0
National Credit Act, s253 <sup>1</sup>	Requirement to provide reasonable assistance	<b>153</b>	22
<b>Give reasonable assistance</b>			
Corporations Act, s1317R	Power to require assistance in prosecutions	<b>22</b>	13
ASIC Act, s49(3)	Power to require reasonable assistance in prosecutions	<b>13</b>	14
National Credit Act, s51	Requirement to provide reasonable assistance	<b>0</b>	1
Corporations Act, s601FF	Power to conduct surveillance/monitor managed investment scheme	<b>0</b>	0
National Credit Act, s274(4)	Requirement to provide reasonable assistance	<b>0</b>	0
Corporations Act, s912E	Power to require assistance and disclosure of books and information from an AFS licensee	<b>274</b>	148
<b>Produce documents</b>			
National Credit Act, s266	Requirement to produce books (credit activities)	<b>100</b>	91
National Credit Act, s267	Requirement to produce books	<b>247</b>	128
ASIC Act, s30	Notice to produce books about affairs of body corporate or registered scheme	<b>1,040</b>	898
ASIC Act, s31	Notice to produce books about financial products	<b>29</b>	27

		Number of notices 2019–20	Number of notices 2018–19
ASIC Act, s32A	Notice to produce books about financial services	0	4
ASIC Act, s33	Notice to produce books in person's possession	1,589	1,433
Corporations Act, s1213P	Power to provide a register of members of a foreign passport fund	0	–
<b>Provide access</b>			
ASIC Act, s29	Power to inspect books	0	1
Corporations Act, s821D	Power to require access to a CS facility	0	1
<b>Provide information</b>			
ASIC Act, s12GY(2)	ASIC to require claims to be substantiated	0	0
ASIC Act, s37(9)(a)	Power requiring explanation of books	0	2
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)	40	126
Corporations Act, s912C	Power to require information from an AFS licensee	962	734
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	4	8
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

		Number of notices 2019–20	Number of notices 2018–19
Corporations Act, s792D	Power to require reasonable assistance from a market licensee	22	3
<b>Provide information and produce books</b>			
ASIC Act, s30A	Notice to auditors requiring information or books	70	35
ASIC Act, s30B	Notice to registered liquidators requiring information or books	5	6
<b>Search warrants</b>			
<i>Crimes Act 1914</i> , s3E	Warrants to search premises/conveyance or person	10	66 <sup>2</sup>
ASIC Act, s36	Warrant to search premises	0	0

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

2 Of the 66 warrants issued (for 13 individual investigations) in 2018–19, 57 were executed.

**Table 8.3.4 Use of other powers**

		Number of notices 2019–20	Number of notices 2018–19
<b>Use of other powers</b>			
<b>Obligations of carriers and carriage service providers</b>			
<i>Telecommunications Act 1997</i> , s313	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	0	0
<b>Provide documents, information or evidence</b>			
<i>Mutual Assistance in Business Regulation Act 1992</i> , s10(2)	Requirement to produce documents, to give information, or to appear to give evidence and produce documents	50	30

## 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 pursuant to Part 5.4C of the Corporations Act.

On 1 July 2019, ASIC was allocated \$7.083 million, which, together with an amount of \$3.575 million rolled over from the previous financial year, resulted in total available funds of \$10.558 million. ASIC paid and committed the amount of \$7.184 million to liquidators in 2019–20. Applications in process will result in the balance being fully applied.

In 2019–20, ASIC received 797 applications (a 10% increase on the previous financial year) for funding comprising:

- › 635 director banning reports (9% increase)
- › 150 matters other than section 206F director banning reports (6% increase)

- › 12 funding liquidator actions to recover assets (one received in the previous year).

ASIC approved grant funding for 256 director banning reports and 58 matters other than director banning reports.

ASIC also funded liquidators appointed by ASIC to seven windings up of abandoned companies and the appointment of eight reviewing liquidators to report on 14 matters.

The AA Fund assisted in:

- › 37 director bannings, representing 84% of the total of 44 directors banned
- › 4 criminal convictions/prosecutions
- › liquidators commencing 36 public examinations.

Information on grants by ASIC under the AA Fund can be found at [www.asic.gov.au/for-finance-professionals/registered-liquidators/your-ongoing-obligations-as-a-registered-liquidator/assetless-administration-fund/](http://www.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 2019–20, the number of new cases received increased to 1,608 and the number of cases finalised increased to 1,610.

Table 8.3.5 below 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 8.3.5 Vested properties of deregistered companies (by number of cases)**

Claims by type	2019–20	2018–19
Total new cases	1,608	1,497
Total finalised cases	1,610	1,488
<b>Property disposals</b>		
Transferred	68	92
Sold	16	9
No longer vested <sup>1</sup>	767	723
Other <sup>2</sup>	60	51
Total property disposals	911	875

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

This section describes ASIC’s environmental performance in accordance with government policy. In 2019–20, we continued to mitigate our impact on the environment through the initiatives discussed below, which were consistent with the *Environmental 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 2019–20, we ensured that direct contributions to ESD principles were achieved by

way of activities such as increasing online self-service options, accepting online lodgements and using digital communication channels.

## Energy efficiency

Our total electricity consumption has reduced by 37% since 2010–11.

We minimise our consumption of office energy and associated environmental impacts with initiatives such as LED lighting, motion sensor-controlled lighting, and the use of power-saving mode for ICT equipment. We continue to review and report on our energy consumption results against the Energy Efficiency in Government Operations (EEO) Policy targets.

Table 8.3.6 Consumption of office energy<sup>1</sup>

Indicator	2019–20	2018–19
Light and power – ASIC tenancies (kWh)	2,947,775	2,810,828
MJ per person	4,011	4,337
Light and power – ASIC computer centres (kWh)	758,544	764,292
MJ per m <sup>2</sup>	6,064	5,823
Greenhouse gas emissions (tonnes CO <sub>2</sub> -e) – attributed to all light and power	3,318	3,420

<sup>1</sup> Consumption of office energy – results are calculated using a percentage of extrapolated data, as a portion of yearly consumption was not available for two offices before finalising the annual report.

## Resource efficiency and waste

Our digitisation strategies include providing IT devices to allow work mobility, using online legislation, increasing our digital record keeping, and electronic forms and workflows.

Paper consumption is further reduced by default duplex settings on printers, automatic overnight job purging, and staff working digitally from home due to the COVID-19 pandemic.

**Table 8.3.7 Resource efficiency and waste**

Indicator	2019–20	2018–19
Office paper purchased by FTE (A4 reams/FTE)	3.4	4
Percentage of office paper purchased with recycled content	100%	100%
Toner cartridges recycled (kgs)	416	571
IT equipment recycled or re-used (tonnes)	9.3	5.5

**Travel**

ASIC employees are authorised to travel only when there is a demonstrated business need and when alternative communication tools, such as telephone and video conferencing, are not appropriate.

This year, there were over 214,000 video connections between ASIC employees and involving ASIC and external locations. This represents an almost 600% increase and is mainly attributable to staff working digitally from home due to the COVID-19 pandemic.

**Table 8.3.8 Type and amount of travel undertaken by ASIC employees**

Indicator	2019–20	2018–19
<b>Ground travel<sup>1</sup></b>		
Total number of fleet vehicles	2	3
Total distance travelled by fleet vehicles (kms)	20,672	43,041
Average fuel consumption of fleet vehicles (litres/100 kms)	8.53	7.11
Total direct greenhouse emissions of fleet (tonnes CO <sub>2</sub> -e)	4.19	8.09
Total distance travelled using carshare and hire car (kms)	25,407	46,079
<b>Air travel</b>		
Total distance of air flights (kms)	10,524,116	10,849,207
Total greenhouse emissions of flights (tonnes CO <sub>2</sub> -e)	1.012	1.036
<b>Alternative meeting communications</b>		
Total number of video conferencing calls	41,526	9,113

1 Ground travel – fleet vehicles data is for the period 1/4/19–31/3/20.

## Information and engagement

Sustainability initiatives information is available to employees on our intranet and during the year interested staff participated in sustainability improvement sessions. We continued to provide detailed performance reporting and participate in environmental activities, such as Earth Hour, to promote sustainability.

## Consultancies and expenditure on advertising

During 2019–20, ASIC conducted the advertising campaigns set out in Table 8.3.9. Further information on ASIC's advertising campaigns is available on our website at [www.asic.gov.au](http://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](http://www.finance.gov.au).

**Table 8.3.9 Expenditure on advertising agency services, 2019–20**

Agency	Expenditure (\$)	Purpose
Australian Public Service Commission	34,073	2019–20 Public Service Gazette (APS Jobs Advertising)
Mediabrand Australia Pty Ltd	128,745	Google AdWords Moneysmart
Mediabrand Australia Pty Ltd	18,260	Google AdWords campaign
Mediabrand Australia Pty Ltd	16,499	2020 Graduate advertising – GradAustralia
Mediabrand Australia Pty Ltd	14,330	GradConnection Gold Package and Diversity Bundle
Mediabrand Australia Pty Ltd	13,200	Seek ad packs FY 19–20
Mediabrand Australia Pty Ltd	38,891	LinkedIn package 2020
The Nielsen Company (Australia) Pty Ltd	18,334	Portfolio Digital Advertising Monitoring 2019–20
<b>Total</b>	<b>282,332</b>	

## Procurement

ASIC's use of Commonwealth resources and expenditure of public money is primarily governed by the *Public Governance, Performance and Accountability Act 2013* (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, including 'value for money', 'encouraging competition', 'efficient, effective, ethical and economical use of resources' and 'accountability and transparency'.

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 2019–20 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

## Using AusTender

ASIC advertises all open tender opportunities through the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

During 2019–20, ASIC implemented two standing offer arrangements (procurement panels) and awarded 796 procurement activities (each valued at \$10,000 or more reported on AusTender) for a total value of \$166.920 million. Of these procurements, 251 were valued in excess of \$80,000 for a total value of \$140.857 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 2019 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

## Consultancy contracts

During 2019–20, ASIC entered into 39 new consultancy contracts, involving total expenditure of around \$6.733 million. In addition, 35 ongoing consultancy contracts were active during the year, involving total expenditure of \$8.638 million.

**Table 8.3.10 Consultancy trend data**

Business data	2019–20	2018–19
Number of new consultancies	39	49
Expenditure on new consultancies (\$ millions)	6.733	6.625
Number of ongoing consultancies	35	32
Expenditure on ongoing consultancies (\$ millions)	8.638	7.460

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](http://www.tenders.gov.au).

### Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally and business units seeking to engage consultants 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 2019–20:

- › 22 were for specialised or professional skills
- › 1 was for skills not currently available within ASIC
- › 16 were for independent research or assessment.

The method of procurement used was open tender for 15 engagements (including engagements from panels) and limited tender for 25 engagements.

The consultants were engaged for the following main service categories:

- › business intelligence consulting services
- › corporate objectives or policy development
- › data services
- › education and training services
- › human resources services
- › information technology consulting services
- › market research
- › research programs
- › safety or risk analysis
- › strategic planning consultation services.

## Procurement initiatives to support small business

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

ASIC's procurement practices support small businesses by:

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



# 9

## Glossary

# Glossary

Term	Meaning
<b>AA Fund</b>	Assetless Administration Fund
<b>ABA</b>	Australian Banking Association
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>AFCA</b>	Australian Financial Complaints Authority
<b>AFS licence</b>	Australian financial services licence
<b>ANZ</b>	Australia and New Zealand Banking Group Limited
<b>APEC</b>	Asia–Pacific Economic Cooperation
<b>APRA</b>	Australian Prudential Regulation Authority
<b>APRC</b>	Asia–Pacific Regional Committee
<b>APS</b>	Australian Public Service
<b>ARITA</b>	Australian Restructuring, Insolvency and Turnaround Association
<b>ASIC Act</b>	<i>Australian Securities and Investments Commission Act 2001</i>
<b>ASX</b>	ASX Limited or the exchange market operated by ASX Limited
<b>ATO</b>	Australian Taxation Office
<b>AUSTRAC</b>	Australian Transaction Reports and Analysis Centre
<b>buy now pay later</b>	An arrangement that allows consumers to buy and receive goods and services immediately from a merchant, and repay the provider over time
<b>CALD</b>	Culturally and linguistically diverse
<b>CAP</b>	Consumer Advisory Panel
<b>CBA</b>	Commonwealth Bank of Australia
<b>CCI</b>	Consumer credit insurance
<b>CDPP</b>	Commonwealth Director of Public Prosecutions
<b>CFDs</b>	Contracts for difference
<b>CFR</b>	Council of Financial Regulators
<b>CHESS</b>	ASX Clearing House Electronic Subregister System



Term	Meaning
<b>Corporate Plan</b>	<i>ASIC's Corporate Plan 2019–23</i>
<b>Corporations Act</b>	<i>Corporations Act 2001</i>
<b>COVID-19 pandemic</b>	Coronavirus disease caused by the SARS-CoV2 virus of 2019
<b>CP</b>	Consultation Paper
<b>CPRs</b>	Commonwealth Procurement Rules
<b>CRF</b>	Corporate Registers Forum
<b>CRIS</b>	Cost Recovery Implementation Statement
<b>cyber resilience</b>	An organisation's ability to prepare for, respond to and recover from a cyber attack
<b>DCM</b>	Debt capital market
<b>derivative</b>	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index
<b>DFAP</b>	Digital Finance Advisory Panel
<b>digital advice</b>	The provision of automated financial product advice using algorithms and technology and without the direct involvement of a human adviser (also known as robo-advice or automated advice)
<b>DIRRI</b>	Declaration of Relevant Relationships and Declaration of Indemnities
<b>EDR</b>	External dispute resolution
<b>EEGO</b>	Energy Efficiency in Government Operations
<b>ESA</b>	Enforcement Special Account
<b>ESD</b>	Ecologically sustainable development
<b>FASEA</b>	Financial Advisers Standards and Ethics Authority
<b>FDS</b>	Fee disclosure statements
<b>FFNS</b>	Fee-for-no-service
<b>FICC</b>	Fixed income, currencies and commodities
<b>financial capability</b>	The combination of an individual's attitude, knowledge, skills, confidence and ability to make sound financial decisions
<b>FinCoNet</b>	International Financial Consumer Protection Organisation

Term	Meaning
<b>fintech</b>	Financial technology
<b>FOI Act</b>	<i>Freedom of Information Act 1982</i>
<b>FSCP</b>	Financial Services and Credit Panel
<b>FTE</b>	Full-time equivalent
<b>FX</b>	Foreign exchange
<b>GFIN</b>	Global Financial Innovation Network
<b>GST</b>	Goods and services tax
<b>IAIS</b>	International Association of Insurance Supervisors
<b>IDR</b>	Internal dispute resolution
<b>IFIAR</b>	International Forum of Independent Audit Regulators
<b>industry funding</b>	A funding model whereby those who create the need for and benefit from ASIC's regulation bear the costs. Entities pay a share of the costs to regulate their subsector through industry levies based on a range of business activity metrics.
<b>INFO</b>	Information Sheet
<b>Innovation Hub</b>	ASIC's online hub providing tailored content for fintech businesses that are developing innovative financial products or services
<b>Interim Corporate Plan</b>	<i>ASIC Interim Corporate Plan 2020–21: Strategic priorities responding to the impact of the COVID-19 pandemic</i>
<b>IOSCO</b>	International Organization of Securities Commissions
<b>IPO</b>	Initial public offering
<b>IS Code</b>	Insurance in Superannuation Voluntary Code of Practice
<b>IT</b>	Information technology
<b>KMP</b>	Key management personnel
<b>kWh</b>	Kilowatt-hour, a measure of energy
<b>LED</b>	Light-emitting diode. A semiconductor device that converts electricity into light.
<b>LGBTIQ+</b>	Lesbian, gay, bisexual, trans, intersex and queer
<b>LIBOR</b>	London Inter-bank Offered Rate
<b>MDP</b>	Markets Disciplinary Panel

Term	Meaning
<b>MJ</b>	Megajoule, a unit of energy measurement
<b>Moneysmart</b>	ASIC's consumer website
<b>MOU</b>	Memorandum of understanding
<b>NAB</b>	National Australia Bank
<b>NAIDOC</b>	National Aborigines and Islanders Day Observance Committee
<b>National Credit Act</b>	<i>National Consumer Credit Protection Act 2009</i>
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OJK</b>	Otoritas Jasa Keuangan, the Indonesian Financial Services Authority
<b>OTC</b>	Over the counter
<b>payday lending</b>	Small-amount or short-term loans to individuals that generally attract significantly higher interest rates and costs than other types of loans
<b>PGPA Act</b>	<i>Public Governance, Performance and Accountability Act 2013</i>
<b>PGPA Rule</b>	Public Governance, Performance and Accountability Rule 2014
<b>phoenix activity (illegal)</b>	Transferring assets of an indebted company to a new company to avoid paying creditors, tax or other employee entitlements
<b>Phoenix Taskforce</b>	A cross-agency taskforce established by the Government in 2014, to combat illegal phoenix activity.
<b>Public Service Act</b>	<i>Public Service Act 1999</i>
<b>PYSP measures</b>	<i>Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019</i> and accompanying regulations
<b>RAP</b>	Reconciliation Action Plan
<b>RBA</b>	Reserve Bank of Australia
<b>RE</b>	Responsible entity
<b>regtech</b>	Regulatory technology; technology designed to address regulatory challenges in the financial services sector

Term	Meaning
<b>Regulatory Transformation Program</b>	ASIC's program to increase efficiency by establishing a common language across ASIC, streamlining our regulatory business processes, making compliance and interaction with us easier through online portals, and implementing a single technology strategy
<b>REP</b>	Report
<b>RG</b>	Regulatory Guide
<b>RN</b>	Renewal notice
<b>Royal Commission</b>	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
<b>SES</b>	Senior Executive Service
<b>SFCT</b>	Serious Financial Crime Taskforce
<b>SIS Act</b>	<i>Superannuation Industry (Supervision) Act 1993</i>
<b>SME</b>	Small to medium enterprise
<b>SMSF</b>	Self-managed superannuation fund
<b>suptech</b>	Supervisory technology
<b>TPD insurance</b>	Total and permanent disability insurance



# 10

## Compliance index

Reporting requirements under the <i>Public Governance, Performance and Accountability Act 2013</i>	244
Additional compliance reporting requirements	253

# Reporting requirements under the *Public Governance, Performance and Accountability Act 2013*

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>17AD(g)</b>	<b>Letter of transmittal</b>		
17AI	A copy of the letter of transmittal signed and dated by the accountable authority on the date the final text is approved, with a statement that the report has been prepared in accordance with section 46 of the PGPA Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	1
<b>17AD(h)</b>	<b>Aids to access</b>		
17AJ(a)	Table of contents	Mandatory	2–3
17AJ(b)	Alphabetical index	Mandatory	257
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	237–242
17AJ(d)	List of requirements	Mandatory	243–256
17AJ(e)	Details of contact officer	Mandatory	Inside back cover
17AJ(f)	Entity's website address	Mandatory	Inside back cover
17AJ(g)	Electronic address of report	Mandatory	Inside back cover
<b>17AD(a)</b>	<b>Review by accountable authority</b>		
17AD(a)	A review by the accountable authority of the entity	Mandatory	6–7
<b>17AD(b)</b>	<b>Overview of the entity</b>		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	8–10, 200

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	11–18
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	32–68
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	8–10, 32
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority	Mandatory	11
17AE(1)(aa)(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	11
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	11
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – mandatory	N/A
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, details of variation and reasons for change	If applicable, mandatory	N/A
<b>17AD(c)</b>	<b>Report on the performance of the entity</b>		
<b>Annual performance statement</b>			
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the PGPA Act and section 16F of the PGPA Rule	Mandatory	31–68
<b>17AD(c)(ii)</b>	<b>Report on financial performance</b>		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	29–30, 131–196
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	221–223

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, mandatory	N/A
<b>Management and accountability</b>			
<b>Corporate governance</b>			
17AG(2)(a)	Information on compliance with section 10 (fraud systems) of the PGPA Act	Mandatory	224
17AG(2)(b)(i)	A certification by the accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	224
17AG(2)(b)(ii)	A certification by the accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting, fraud that meet the specific needs of the entity are in place	Mandatory	224
17AG(2)(b)(iii)	A certification by the accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	224
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	11–18, 200
17AG(2)(d)–(e)	A statement of significant issues reported to the Minister under paragraph 19(1)(e) of the PGPA Act that relate to non-compliance with finance law and action taken to remedy non-compliance	If applicable, mandatory	224



PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee	Mandatory	201
17AG(2A)(b)	The name of each member of the entity's audit committee	Mandatory	201
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee	Mandatory	202
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings	Mandatory	201
17AG(2A)(e)	The remuneration of each member of the entity's audit committee	Mandatory	202
<b>External scrutiny</b>			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	22–27, 198–199
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, mandatory	199
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than reports under section 43 of the Act), a Parliamentary Committee or the Commonwealth Ombudsman	If applicable, mandatory	224
17AG(3)(c)	Information on any capability review on the entity that was released during the period	If applicable, mandatory	N/A
<b>Management of human resources</b>			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	123–130

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(4)(aa)	<p>Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following:</p> <ul style="list-style-type: none"> <li>› statistics on full-time employees</li> <li>› statistics on part-time employees</li> <li>› statistics on gender</li> <li>› statistics on staff location</li> </ul>	Mandatory	207–208
17AG(4)(b)	<p>Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following:</p> <ul style="list-style-type: none"> <li>› Statistics on staffing classification level</li> <li>› Statistics on full-time employees</li> <li>› Statistics on part-time employees</li> <li>› Statistics on gender</li> <li>› Statistics on staff location</li> <li>› Statistics on employees who identify as Indigenous</li> </ul>	No longer mandatory	N/A
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts, and determinations under subsection 24(1) of the Public Service Act	If applicable, mandatory	210
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements, arrangements, contracts or determinations during this period	If applicable, mandatory	210
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	No longer mandatory	210
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	If applicable, mandatory	125
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	If applicable, mandatory	211
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	If applicable, mandatory	211

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(4)(d)(iii)	Information on the average amount of performance payment, and the range of such payments, at each classification level	If applicable, mandatory	211
17AG(4)(d)(iv)	Information on the aggregate amount of performance payments	If applicable, mandatory	211
<b>Assets management</b>			
17AG(5)	An assessment of the effectiveness of assets management where assets management is a significant part of the entity's activities	If applicable, mandatory	185, 229–230
<b>Purchasing</b>			
17AG(6)	An assessment of the entity's performance against the Commonwealth Procurement Rules	Mandatory	234
<b>Consultants</b>			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	234–235
17AG(7)(b)	A statement that 'During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million].'	Mandatory	235

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	235
17AG(7)(d)	A statement that '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.'	Mandatory	235
<b><i>Australian National Audit Office access clauses</i></b>			
17AG(8)	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, the purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, mandatory	N/A
<b><i>Exempt contracts</i></b>			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) that has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, mandatory	N/A

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>Small business</b>			
17AG(10)(a)	A statement that '[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website.'	Mandatory	236
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	236
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature – a statement that '[Name of entity] 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's website.'	If applicable, mandatory	236
<b>Financial statements</b>			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the PGPA Act	Mandatory	131–196
<b>Executive remuneration</b>			
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory	212–216

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>Other mandatory information</b>			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that 'During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website.'	If applicable, mandatory	233
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, mandatory	N/A
17AH(1)(b)	A statement that 'Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].'	If applicable, mandatory	229
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	130
17AH(1)(d)	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of the FOI Act can be found	Mandatory	225
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	N/A
17AH(2)	Information required by other legislation	Mandatory	223–228

Note: N/A means not applicable.

Source: Department of Finance, Resource Management Guide No. 135 Annual reports for non-corporate Commonwealth entities, 2016.

## Additional compliance reporting requirements

Description	Requirement	Source of requirement	Location (page(s))
Exercise of ASIC's powers under Part 15 of the <i>Retirement Savings Accounts Act 1997</i> and under Part 29 of the <i>Superannuation Industry (Supervision) Act 1993</i>	Mandatory	ASIC Act, s136(1)(a)	223
ASIC's monitoring and promotion of market integrity and consumer protection in relation to the Australian financial system and the provision of financial services	Mandatory	ASIC Act, s136(1)(b)	70–98
ASIC's activities in accordance with each agreement or arrangement entered into by ASIC under section 11(14) of the ASIC Act	Mandatory	ASIC Act, s136(1)(c)	223
Information about the activities that ASIC has undertaken during the period in exercise of its powers, and performance of its functions, under Chapter 5 of, or Schedule 2 to, the Corporations Act and any provisions of that Act that relate to that Chapter or Schedule	Mandatory	ASIC Act, s136(1)(ca)	37, 95–97
Information about any instances during the period where ASIC failed to consult as required by section 1023F of the Corporations Act or section 301F of the National Credit Act	Mandatory	ASIC Act, s136(1)(cb)	223

Description	Requirement	Source of requirement	Location (page(s))
The operation of the <i>Business Names Registration Act 2011</i> , including details of the level of access to the Business Names Register using the internet and other facilities; the timeliness with which ASIC carries out its duties, functions and powers under the Act; and the cost of registration of a business name under the Act	Mandatory	ASIC Act, s136(1)(d)	59–60, 65–66
The number of times ASIC used an information-gathering power, the provision of the Corporations Act, the ASIC Act, or another law that conferred the power, and the number of times in the previous financial year ASIC used the power	Mandatory	ASIC Act, s136(1)(e), reg 8AAA(1)	225–228
ASIC’s regional administration in referring states and the Northern Territory, including a statement on our performance against service-level performance indicators during the relevant period	Mandatory	Corporations Agreement, s603(3)	101–104
Financial services and consumer credit external dispute resolution schemes	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 4	121–122
Court enforceable undertakings and their effectiveness	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 27	35



Description	Requirement	Source of requirement	Location (page(s))
Accountable authority must state, in the annual financial statements, whether, in the authority's opinion, the statements comply with subsection 42(2)	Mandatory	PGPA Act, s42(3)	135
<b>Work health and safety</b>			
(a) initiatives taken during the year to ensure the health, safety and welfare of workers who carry out work for the entity	Mandatory	<i>Work Health and Safety Act 2011</i> , Sch 2 s4(2)	127
(b) health and safety outcomes (including the impact on injury rates of workers) achieved as a result of initiatives mentioned under paragraph (a) or previous initiatives			127
(c) statistics of any notifiable incidents of which the entity becomes aware during the year that arose out of the conduct of businesses or undertakings by the entity			127
(d) any investigations conducted during the year that relate to businesses or undertakings conducted by the entity, including details of all notices given to the entity during the year under Part 10 of this Act			127
(e) such other matters as are required by guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit			127

Description	Requirement	Source of requirement	Location (page(s))
<b>Environmental performance</b>			
(a) include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development	Mandatory	<i>Environment Protection and Biodiversity Conservation Act 1999, s516A(6)</i>	231–233
(b) identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development			231–233
(c) document the effect of the reporter's activities on the environment			231–233
(d) identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment			231–233
(e) identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures			231–233
Any other Committee recommendations			N/A



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