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ASIC's role

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

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

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

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

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

- ♦ *Australian Securities and Investments Commission Act 2001* (ASIC Act)
- ♦ *Banking Act 1959*
- ♦ *Business Names Registration Act 2011*
- ♦ *Corporations Act 2001* (Corporations Act)
- ♦ *First Home Saver Accounts Act 2008*
- ♦ *Insurance Contracts Act 1984*
- ♦ *Life Insurance Act 1995*
- ♦ *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*
- ♦ *National Consumer Credit Protection Act 2009* (National Credit Act)
- ♦ *Retirement Savings Accounts Act 1997*
- ♦ *Superannuation (Resolution of Complaints) Act 1993*
- ♦ *Superannuation Industry (Supervision) Act 1993*.

Other regulators

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

Responsible Ministers

At 30 June 2013, the Ministers responsible for ASIC were the Treasurer, the Hon Chris Bowen MP, the Minister for Financial Services and Superannuation, the Hon Bill Shorten MP and the Hon Bernie Ripoll MP, Parliamentary Secretary to the Treasurer.

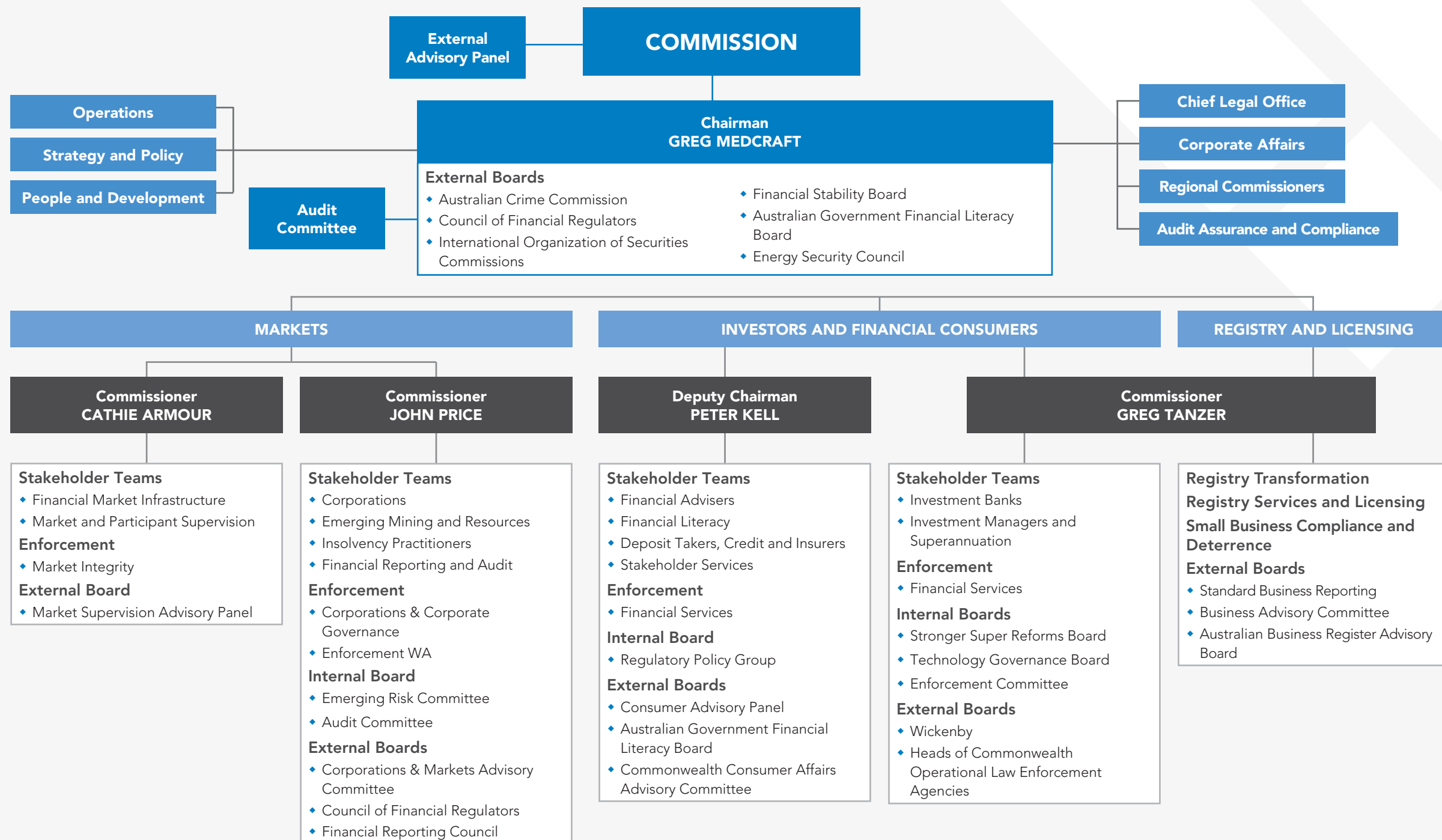
Parliamentary oversight

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

Relationship with states and territories

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

Corporate structure at 30 June 2013



Regulated populations and key responsibilities, 2012–13¹

INVESTORS AND FINANCIAL CONSUMERS

Deposit-takers, credit and insurers

173 authorised deposit-takers; 5,856 credit providers (Australian credit licensees); 28,201 credit representatives; \$68 billion in insurance premiums; 55 licensed general insurance companies with 7,461 reps; 641 non-cash payment facility providers; 13 trustee companies

ASIC staff: 65.5

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

Financial advisers

AFS licensees licensed to provide personal advice (3,394 licensees) or general advice (1,395 licensees), 2 ASIC-approved external dispute resolution schemes.

ASIC staff: 29

- ♦ Ensuring that financial advice licensees, insurers brokers and their representatives comply with the law.
- ♦ Overseeing the ASIC approved external dispute resolution schemes.
- ♦ Conducting projects on topical consumer protection issues.

Financial literacy

Approximately 20 million financial services consumers³

ASIC staff: 41 (includes consumer credit)

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

Investment banks

26 investment banks; 250 hedge fund managers/responsible entities; 43 retail OTC derivative providers; 7 credit rating agencies

ASIC staff: 23

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

Investment managers and superannuation

More than \$1.0 trillion funds under management; 200 super fund trustees; 483 active responsible entities; 4,152 registered managed investment schemes; 614 foreign financial service providers; 718 custodial service providers

ASIC staff: 40

- ♦ Ensuring that responsible entities, superannuation trustees and custodians comply with the law.
- ♦ Regulation and registration of managed investment schemes, including managed funds, listed and unlisted property trusts, mortgage funds, infrastructure schemes and agribusiness schemes.
- ♦ Regulation of financial product disclosure and marketing material issued by responsible entities and super trustees.
- ♦ Regulating exempted foreign financial service providers and foreign collective investment schemes and operators.

Enforcement

Financial services (includes consumer credit)

ASIC staff: 127²

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

MARKETS

Corporations (including emerging mining and resources companies)

2 million registered companies, of which 2,141 are listed entities (including registered schemes and foreign companies)

ASIC staff: 49

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

Financial market infrastructure

18 authorised financial markets; 6 licensed clearing and settlement facilities

ASIC staff: 28

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

Insolvency practitioners

685 registered liquidators; 10,746 companies entering external administration per annum

ASIC staff: 23.5

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

Financial reporting and audit

4,852 registered company auditors; 27,893 companies which are required to produce financial reports; 86 audit firms

ASIC staff: 38

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

Market and participant supervision

136 market participants; 800 securities dealers; supervision of 7 markets

ASIC staff: 67 (includes new integrated market surveillance system development)

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

Enforcement

Market integrity and corporate governance

ASIC staff: 121²

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

REGISTRY AND LICENSING SERVICES

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

68 million searches of ASIC registers. Licensing and registration services for 2 million companies, 1.74 million business names, 5,043 AFS licensees, 5,856 credit licensees, 4,852 registered company auditors, 685 registered liquidators 4,152 registered managed investment schemes. Over 700,000 calls handled by Client Contact Centre. 18,247 claims for unclaimed money received and \$72.6 million paid to owners. 1,317 new matters received and 1,478 matters finalised regarding property of deregistered companies

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

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

Enforcement

Small business compliance and deterrence

ASIC staff: 38²

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

Misconduct and breach reporting

ASIC staff: 90

- ♦ Receiving and assessing reports of misconduct from the public (11,522 received and 11,682 finalised in 2012–13).
- ♦ Receiving and assessing statutory reports from liquidators, administrators and receivers (11,320 received and 10,244 finalised in 2012–13).
- ♦ Receiving and assessing breach reports from licensees and auditors (1,191 received and 1,214 assessed in 2012–13).
- ♦ Handling requests to and from foreign regulators (481 received and 408 sent by ASIC in 2012–13).

¹ Data is indicative. See relevant sections of annual report for 2012–13 data. All staff figures are FTE and represent staff dedicated to respective populations. Excludes Strategy and Policy, Corporate Affairs, Operations, People and Development, and statutory bodies.

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

³ ABS, 2011.

ASIC's surveillance coverage of regulated populations in 2012–13

This chart provides a snapshot of ASIC's surveillance coverage in 2012–13. The chart shows the regulated population and the number of years it would theoretically take to cover the entire population through high intensity surveillances, based on the number of surveillances ASIC conducted in the 2012–13 financial year. In practice, ASIC's risk based approach to surveillance means that some portion of the population would be touched multiple times while others would not be touched at all. The data is indicative only.

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

INVESTORS AND FINANCIAL CONSUMERS

Financial advisers

90
industry meetings

Surveillance coverage:

3,394 Australian financial services licensees authorised to provide personal advice

- ♦ Top 20 – 0.8 years on average
- ♦ Next 30 – 1.8 years on average
- ♦ Remaining 3,344 – primarily reactive surveillances

1,395 Australian financial services licensees authorised to provide general advice – reactive surveillances only

2 ASIC-approved external dispute resolution schemes – every year

Investment banks

22
industry meetings

ASIC staff: 23

Surveillance coverage:

26 investment banks – once a year

250 hedge fund investment managers / responsible entities – 11.3 years on average

43 retail OTC derivative providers – every year

7 credit rating agencies – every year

Investment managers and superannuation

97
industry meetings

ASIC staff: 40

Surveillance coverage:

483 active responsible entities

- ♦ Top 25 – 70% of funds under management – every 2 years
- ♦ 9 identified as most at risk of noncompliance – every year
- ♦ 91 responsible entities in sectors where risks have been identified or where we have concerns – varies from year to year
- ♦ Remaining 358 – primarily reactive surveillances

200 super fund trustees

- ♦ 5 identified as most at risk of noncompliance – every year
- ♦ Remaining 195 – primarily reactive surveillances

20 major custodians – 2.9 years on average

Deposit-takers, credit and insurers

72
industry meetings

ASIC staff: 65.5

Surveillance coverage:

173 authorised deposit-taking institutions

- ♦ Big 4 – every year
- ♦ Remaining 169 – 13 years on average

141 insurers – 7 years on average

641 licensed non-cash payment facility providers – primarily reactive surveillances

13 trustee companies – 7 years on average

5,688 non-ADI credit licensees (lenders and intermediaries) with 28,201 credit representatives – 37 years on average

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

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

MARKETS

Corporations (including emerging mining and resources companies)

97
industry meetings

ASIC staff: 49

Surveillance coverage:

21,690 public companies, including 1,983 listed entities (excludes foreign companies)

- ♦ All control transactions for listed entities
- ♦ A significant proportion of prospectuses
- ♦ A small sample of entities in areas of emerging risk – every year
- ♦ Remaining entities – reactive surveillances only

Insolvency practitioners

24
industry meetings

ASIC staff: 23.5

Surveillance coverage:

685 registered liquidators – 3.6 years on average

Financial market infrastructure

56
industry meetings

ASIC staff: 28

Surveillance coverage:

18 authorised financial markets – every year
6 licensed clearing and settlement facilities – every year

Financial reporting and audit

125
industry meetings

ASIC staff: 38

Surveillance coverage:

86 audit firms

- ♦ Big 4 audit 95% of listed entities by market capitalisation – 1.5 years on average
- ♦ Next 8 audit 4% of listed entities by market capitalisation – 2.5 years on average
- ♦ Remaining 74 audit 1% of listed entities by market capitalisation – 10.3 years on average

Financial reports of 1,983 listed entities (excludes foreign companies) and 26,000 unlisted entities

- ♦ Top 500 listed entities – 3 years on average
- ♦ Remaining 1,500 listed entities (excludes foreign companies) – 12 years on average
- ♦ 300 unlisted entities with larger numbers of users – 90 years on average supplemented by reactive surveillances

Market and participant supervision

43
industry meetings

ASIC staff: 67

(includes new integrated market surveillance system development)

Surveillance coverage:

Monitoring of the ASX, Chi-X, NSX and ASX24 markets – every day

136 market participants – 3.3 years on average
800 securities dealers

- ♦ 100 larger entities (clients and volumes) – 4 years on average
- ♦ 700 smaller entities – reactive surveillances and targeted reviews of high risk entities

Major enforcement outcomes

Major enforcement outcomes, 2012–13

Type of action	2012–13	2011–12
Litigation completed (total) ¹	144	179
Litigation completed successfully ²	95%	92%
New litigation commenced ¹	149	134
Investigations commenced	193	173
Investigations completed	187	183
Criminal proceedings completed	25	28
No. of people convicted	22	27
No. of people jailed	9	20
Non-custodial sentences/fines	13	8
Civil proceedings completed	15	24
Illegal schemes shut down or other action taken	39	1
People disqualified or removed from directing companies	72	84
People/companies banned from financial services or consumer credit	50 (financial services)	54
	38 (credit)	
Action against auditors/liquidators	7	7
No. of enforceable undertakings	20	22
Negotiated outcomes	17	17

1. Includes criminal and civil litigation and administrative actions. Excludes summary prosecutions, conducted by ASIC, for less serious criminal offences.

2. Includes criminal and civil litigation. Excludes administrative actions and summary prosecutions, conducted by ASIC, for less serious criminal offences.

Financial summary and expenditure

Appropriations and revenue

ASIC received \$350 million in appropriation revenue compared with \$304 million in 2011–12. In addition ASIC received \$17 million in other revenue compared with \$35 million in 2011–12. The increase in appropriation revenue relates to an increase in operational funding, an increase in expenditure for investigations funded by the Enforcement Special Account and funding for new responsibilities for enhanced supervision of Australia's financial markets and implementation of the Stronger Super and Future of Financial Advice reforms.

Revenue for the Commonwealth

ASIC raised \$717 million for the Commonwealth in fees and charges which has increased 8% in 2012–13. The increase in revenue is driven by a full year in 2012–13 of business names registration revenue and the introduction of the insolvency notices website on 1 July 2012.

Outcomes and expenditure

Parliament funds ASIC to achieve the following outcome:

Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems.

ASIC expenses were \$411 million in 2012–13, which is 7% higher than in 2011–12. The increase in expenditure relates to increased responsibilities for enhanced market supervision and implementation of the Stronger Super reforms. There was also an increase in expenditure funded by ASIC's Enforcement Special Account.

Additional funding for future years for specific initiatives

In the 2013–14 Portfolio Budget Statements ASIC received additional funding over four years of:

- ♦ \$7.849 million (including \$1.591 million capital) to increase service levels in ASIC's Client Contact Centre
- ♦ \$5.914 million to implement ASIC's G20 commitments regarding over the counter derivatives
- ♦ \$2.576 million additional operational funding for the Superannuation Complaints Tribunal, and
- ♦ \$1.35 million to create an online registration regime for financial advisers giving tax advice.

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

	2012–13	2011–12	2010–11
Operating expenses			
Total	\$411m	\$384m	\$385m
Annual change on previous year	+7%	–	-1%
Fees and charges raised for the Commonwealth			
Total	\$717m	\$664m	\$622m
Annual change on previous year	+8%	+7%	+7%

ASIC at work



The ASIC Annual Forum 2013, held in March, attracted over 430 local and international delegates, including local and international regulators, academics and industry leaders.



ASIC Chairman Greg Medcraft hosts regular lunchtime sessions with staff to exchange ideas and opinions in an informal environment.



Registry Services Senior Manager Luke Keet (centre) chatting with participants at the 10th Corporate Registers Forum in April 2013.



The Board of the International Organization of Securities Commissions met in Sydney in March 2013, hosted by ASIC. Pictured at centre front are outgoing Chair Masamichi Kono and incoming Chair Greg Medcraft.