



# ANNUAL REPORT

## 2015–2016

- ♦ investor and consumer trust and confidence
- ♦ fair and efficient markets
- ♦ efficient registration services



**ASIC**

Australian Securities & Investments Commission

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**ASIC**

Australian Securities & Investments Commission

**GREG MEDCRAFT**

Chairman

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

14 October 2016

The Hon Scott Morrison MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2016.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001*, section 46 of the *Public Governance, Performance and Accountability Act 2013*, sections 17AA to 17AJ of the *Public Governance, Performance and Accountability Rule 2014* and the guidance in 'Resource Management Guide No.135: Annual reports for non-corporate Commonwealth entities' published by the Department of Finance in July 2016.

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

Greg Medcraft  
Chairman

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## Chairman's report

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2015–16 has been a period of significant achievement for ASIC as we continued to work towards our vision.

ASIC's vision is to allow markets to fund the economy and, in turn, economic growth; in doing so, contributing to the financial well-being of all Australians. We do this by:

- ♦ promoting investor and consumer trust and confidence
- ♦ ensuring fair and efficient markets
- ♦ providing efficient registration services.

### Long-term challenges

How we achieve our vision will be influenced by the key challenges we face. The five long-term challenges to our vision are:

- ♦ aligning conduct in a market-based system with investor and consumer trust and confidence
- ♦ digital disruption and cyber resilience in our financial services and markets
- ♦ structural change in our financial system through increasing market-based financing, led by the growth in superannuation
- ♦ complexity in financial markets and products, driven by innovation
- ♦ globalisation of financial markets, products and services.

Over 2015–16 we continued to use our 'detect, understand and respond' approach to meet the long-term challenges to our vision.

### Key achievements 2015–16

Understanding how investors, consumers and gatekeepers make decisions is central to our approach. Investor and consumer decisions can be influenced by their financial literacy and by behavioural biases. Culture, incentives and deterrence are some of the key factors driving individual and firm conduct within the sectors we regulate.

Taking account of these drivers, we use our toolkit of stakeholder engagement, education, guidance, surveillance, enforcement and policy advice to achieve our vision.

We assist investors and consumers with financial education through multiple channels. This education is targeted at a wide cross section of demographics in our community, from primary, secondary and trade schools to people from non-English speaking backgrounds, Indigenous communities and military personnel.

Financial literacy is now embedded in the Australian Curriculum. ASIC's MoneySmart Teaching program supports the delivery of financial literacy in schools. Last year, more than 50% of Australian schools engaged with the program. To date more than 20,500 teachers have undertaken professional development in financial literacy since the program began in 2012. This contributes to better empowering tomorrow's adults when it comes to dealing with their finances.

ASIC's MoneySmart website – [moneysmart.gov.au](http://moneysmart.gov.au) – has over 700 webpages of consumer information, and has been visited over 6.1 million times in the last year. This is a 15% increase on the year before.

To shape the conduct of our gatekeepers, we use our tools of guidance, surveillance and enforcement.

ASIC is a law enforcement agency. We devote around 70% of our regulatory resources to surveillance and enforcement. Importantly, where we detect instances of the law being broken, we make best use of our resources and powers to ensure there are meaningful consequences.

Over 2015–16 we completed 1,441 high-intensity surveillances and 175 investigations across the sectors we regulate. The outcomes of these surveillances and investigations are shown in our infographic.

## ASIC surveillance and enforcement outcomes, 2015–16

**1,441**  
HIGH-INTENSITY  
SURVEILLANCES UNDERTAKEN

**175**  
INVESTIGATIONS  
COMPLETED



### CRIMINAL ACTIONS

**22** criminal convictions

**13** people jailed



### CIVIL ACTIONS

**\$1.3m** in civil penalties



### BANNINGS, DISQUALIFICATIONS AND LICENCE CONDITIONS

**136** people/companies removed  
or restricted from providing  
financial services or credit

**39** people disqualified or  
removed from directing companies

**24** actions taken against auditors  
and liquidators



### ENFORCEABLE UNDERTAKINGS

**22** enforceable undertakings  
secured



### COMPENSATION AND REMEDiation

**\$210.5m** compensation  
and remediation for investors  
and consumers



### INFRINGEMENT NOTICES

**109** infringement notices issued

**\$2.3m** dollar value of  
infringement notices



### INDUSTRY REPORTS

**29** industry reports promoting  
changes in industry behaviour and  
informing government policy and  
law reform

In addition to these surveillance and enforcement results, ASIC has delivered a number of key initiatives and outcomes. For example, we:

- developed a new measure of market cleanliness (based on an analysis of anomalous trading ahead of material, price-sensitive announcements). This measure indicates that Australia's equities markets have shown a general increase in market cleanliness in the five years since the transfer of market supervision to ASIC in 2010
- developed new online tools to assist Australians to make better financial decisions – for example, the MoneySmart Cars app and the interest-only loan calculator
- continued to operate and develop our Innovation Hub that aims to help new, innovative businesses navigate the regulatory framework we administer (see page 80–81)
- registered over 240,000 new companies and over 330,000 new business names
- dealt with 146 disclosures by whistleblowers through our Office of the Whistleblower
- reviewed over 9,000 reports of misconduct from the public.

### ASIC's capabilities

At ASIC we pride ourselves on our people and our culture. Our staff bring a range of experience and diversity of thought to what we do. Our people are highly skilled professionals. Our values – accountability, professionalism and teamwork – guide us in the way we work, the way we make decisions and how we interact with each other and our stakeholders.

Our Diversity Council provides leadership across ASIC on all diversity issues including driving the achievement of gender targets. In 2015–16 we progressed further against these targets, including increasing the previously static percentage of female senior executives to 40%.

We have undertaken a workforce planning review to determine the capabilities we will need over the next five years to meet our objectives and have embarked on a change agenda to improve our capabilities, based around enhancing our people, powers, processes and technology.

### Outlook

ASIC continues to position itself to meet the opportunities and challenges that the longer term will bring. We are focused on identifying new trends or risks which may arise from a rapidly evolving digital environment.

We recently released our four-year Corporate Plan which sets out in detail the challenges and risks we will face and our strategy for meeting them. This year ASIC's *Corporate Plan 2016–17 to 2019–20* also outlines our view of 'what good looks like' for gatekeepers across the sectors we regulate.

Our work in 2016–17 will continue to focus on culture as a key driver of gatekeeper conduct. A positive culture – at both firm and industry level – is central to investor trust and confidence.

The additional funding support over the next four years announced by the Government will enable us to expand our abilities as a law enforcement agency to better detect, understand and respond to misconduct. It will allow us to extend our data platform across our regulatory business to better capture, share and use data, and to develop our data analytics capabilities to better identify, monitor and respond to risks. It will also allow us to take on more proactive surveillances at both the individual firm and industry level – within the financial advice, superannuation and managed funds, credit, and insurance sectors.

We will continue to work closely with Government on the key areas of law reform from the Financial System Inquiry, including product design and distribution obligations, product intervention powers, banning of individuals from managing financial firms, and strengthening our licensing and enforcement regimes.

Ensuring that Australians can have trust and confidence in the financial system, that markets are fair and efficient and providing efficient registration services, is at the heart of everything we do at ASIC.



**Greg Medcraft**  
Chairman

## Government priorities and parliamentary inquiries

In October 2015, the Government released its response to the Financial System Inquiry, accepting most of the recommendations. The inquiry examined how the financial system could best meet Australia's evolving needs and support economic growth. The final report made 44 recommendations across themes of efficiency, resilience and fairness. This included a recommendation that an industry funding model for ASIC be introduced, that ASIC be removed from the *Public Service Act 1999* and that ASIC be provided with stronger regulatory tools.

ASIC made two public submissions, one in the initial consultation phase and one responding to the Inquiry's interim report.

The Government's response to the Inquiry supported many of the changes ASIC recommended in our submissions. The Government's financial system reform agenda will be implemented in stages over the coming years. The Government has allocated \$9.2 million to Treasury and ASIC towards consideration and implementation of further reform measures recommended by the Financial System Inquiry. They include:

- ♦ a product intervention power to enable ASIC to respond to market problems in a flexible, timely, effective, and targeted way
- ♦ product distribution obligations for industry to foster a more customer-focused culture
- ♦ a review of ASIC's enforcement regime, including consideration of substantially increased penalties
- ♦ the strengthening of consumer protection in the ePayments Code to keep pace with emerging technologies.

### ASIC Capability Review

The Financial System Inquiry recommended that financial regulators undergo periodic capability reviews to ensure they have the appropriate governance, capabilities and systems to meet their objectives and future regulatory challenges. In July 2015, ASIC became the first regulator to undergo a capability review.

The review report contained 34 recommendations. We support nearly all of the recommendations and have released our implementation plan, which sets out how we

are taking action to develop our capabilities in the six high-level priority areas raised by the Panel's recommendations:

- ♦ external governance and performance reporting
- ♦ internal governance
- ♦ Commission, workforce planning and culture
- ♦ strategic communication and stakeholder management
- ♦ organisation structure and regulatory toolkit
- ♦ data management.

### Additional powers and funding for ASIC

The Government has committed an additional \$127.3 million in funding over the next four years to implement recommendations from the ASIC Capability Review and the Financial System Inquiry. Of this amount \$121.3 million has been allocated to ASIC:

- ♦ \$61.1 million will enable ASIC to increase our data analytics capabilities, including updating our data management system and increasing our surveillance capabilities
- ♦ \$57 million will enable ASIC to increase our enforcement and surveillance activities with a focus on financial advice, responsible lending, life insurance and breach reporting
- ♦ \$3.2 million will enable ASIC to facilitate the accelerated implementation of key Financial System Inquiry recommendations.

### ASIC industry funding model

On 20 April 2016, the Government announced it will introduce an industry funding model for ASIC in response to a key recommendation of the Financial System Inquiry.

An industry funding model for ASIC will ensure there is greater alignment between the costs of ASIC's regulatory activities and those industry participants who create the need for, and engage in, these activities. It will also provide greater stability and certainty in ASIC's funding, ensuring we are adequately resourced to carry out our regulatory mandate.

ASIC will work closely with Treasury and industry in refining and settling the funding model prior to commencement.

### ASIC registry tender

ASIC's registry business – the companies register, Business Names Register and other corporate and professional registers – forms a critical part of Australia's economic infrastructure and is essential to the efficient operation of Australia's economy.

In May 2015, following a scoping study, the Government announced a competitive tender process to test the capacity of a private sector operator to upgrade and operate the ASIC registry.

In 2015–16, the tender process progressed through a number of phases, led by the Department of Finance. Responses were received from a broad range of domestic and international businesses across sectors, including information technology, information management and financial investment.

On 29 April 2016, the Minister for Finance announced the final step in testing the private sector interest to upgrade, operate and add value to the registry functions of the ASIC registry, with final bids due from invited parties by 29 August 2016. The Government will make a decision on any further steps following evaluation of the final bids.

### Making it easier for business

We are committed to continuing to streamline our processes and making it easier for business to interact with us. For example:

- ◆ In 2015–16, ASIC continued to help innovative start-ups and fintech businesses navigate the regulatory system we administer through our Innovation Hub. Since its launch in March 2015, we have provided informal assistance to 67 fintech start-ups. Of the licence applications received from innovative businesses, ASIC has approved 21 new licences or variations to existing licences. In June 2016, we also released a consultation paper on further measures to facilitate innovation in financial services, including a 'regulatory sandbox' licensing exemption (see pages 80–81).
- ◆ We estimate that ASIC's Business Names Register will save businesses over \$201.5 million in reduced fees to register or renew business names, in its first five years of operation (May 2012 to June 2017). The cost to register a business name in 2015–16 was \$34 for a one-year registration and \$79 for a three-year registration.
- ◆ In 2015–16, we began work on the streamlined business registration project which will make it easier for businesses to complete their company and business registrations using a single online portal. The portal for company and business registrations will be available on [business.gov.au](http://business.gov.au). It will connect the Australian Taxation Office and ASIC to allow businesses to register without having to contact the agencies separately.
- ◆ In July 2015, we rolled out our Market Entity Compliance System, an online regulatory compliance portal that provides market participants and market infrastructure providers with tools and information to assist them in complying with a number of their regulatory obligations.

ASIC continues to reduce red tape and lower compliance costs by working closely with Treasury, the Office of Best Practice Regulation and the Government.

In 2015–16, measures implemented by ASIC reduced ongoing annual compliance costs for business by \$309 million, a significant contribution to Government's annual red tape reduction target and exceeding the Government's target for ASIC. Since September 2013, we have reduced ongoing annual compliance costs for business by almost \$475 million.



## Providing relief

Businesses frequently approach ASIC for help to make the law work better for them. To cut red tape, we may vary or set aside certain legal obligations where the compliance savings outweigh the regulatory risks to investors and consumers. We can provide these waivers to an individual business (individual relief) or class of businesses (legislative instrument).

### Individual relief

In 2015–16, ASIC received 1,982 applications for individual relief. We granted relief in response to 1,251 applications, we refused 80 applications, 407 applications were withdrawn, and as at 30 June 2016 we were assessing the remaining 244 applications. To ensure transparency we release a report twice a year on our decisions to cut red tape.

### Legislative instruments

At 30 June 2016, there are over 300 ASIC legislative instruments (class orders) in operation. Of these, 86 are due to sunset<sup>1</sup> in 2016, 132 in 2017, and 19 in 2018. To ensure transparency we generally publish a consultation paper prior to making, amending or repealing a legislative instrument. In 2015–16, we published 20 consultation papers on remaking 77 and repealing 12 legislative instruments.

## Parliamentary inquiries

In 2015–16, ASIC made submissions to Senate and Parliamentary Joint Committee inquiries and appeared when required. These included appearances before the Senate Economics Committee inquiry into insolvency in the Australian construction industry, as well as matters relating to credit card interest rates, forestry managed investment schemes and foreign bribery and an inquiry regarding co-operative, mutual and member-owned firms.

## PJC inquiry into the impairment of customer loans

In June 2015, the House of Representatives referred an inquiry into the impairment of customer loans.

We made a submission in August 2015 and provided details on the obligations of lenders in relation to defaults on loans, the appointment and role of insolvency practitioners in the impairment of customer loans, and the obligations of receivers in relation to forced sales.

The final report was tabled in May 2016 and made a number of recommendations. They include:

- ♦ new regulations to prevent banks from unduly profiting from defaulted or impaired loans
- ♦ revision of the banking codes of practice to improve customer protection
- ♦ extending the responsible lending provisions under the *National Consumer Credit Protection Act 2009* to small business loans
- ♦ additional powers for the Australian Small Business and Family Enterprise Ombudsman to enable it to mediate disputes between lenders and small businesses.

1. Under the *Legislative Instruments Act 2003*, all class orders 'sunset' or automatically lapse after a specified period (mostly 10 years) unless we take action to preserve them. Sunsetting supplements the ordinary processes we use to keep our legislative instruments up to date.

## Government priorities and parliamentary inquiries continued

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### Senate inquiry into penalties for white-collar crime

In November 2015, the Senate announced an inquiry into the inconsistencies and potential inadequacies of current criminal, civil and administrative penalties for corporate and financial misconduct.

ASIC made a submission in April 2016, supporting a review of penalties for white-collar crime to provide the right incentives for better market behaviour. In particular, we supported a review to address:

- ♦ inconsistency of criminal penalties for comparable offences
- ♦ the availability and level of civil penalties, including the inconsistency of civil penalties under the *Corporations Act 2001* with other civil penalties or non-criminal monetary penalties for corporate and financial misconduct
- ♦ whether infringement notices should be available for a broader range of breaches
- ♦ making available disgorgement proceedings to enhance regulators' ability to deter and respond to wrongful profit
- ♦ the practical application of civil penalty processes compared with criminal processes.

In its response to the final report of the Financial System Inquiry, the Government noted it would review ASIC's enforcement regime (including penalties) in 2017.

### Senate Inquiry into the scrutiny of financial advice

In September 2014, the Senate announced an inquiry into the scrutiny of financial advice. In March 2016, the Senate referred additional matters in regard to the life insurance industry.

Ensuring consumers have access to reliable financial advice is a priority for ASIC. We made a submission in December 2014, welcoming the recent changes to the financial advice laws, but noting that more could be done to increase competence and professional standards and enhance consumer protection. We made a further submission in April 2016 in regard to the life insurance industry.

## Commissioners

### Greg Medcraft

#### **Chairman, BComm**

Greg Medcraft was appointed ASIC Chairman on 13 May 2011 for a five-year term. His term was extended for a further 18 months from 13 May 2016.

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

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

In 2002, Greg co-founded the American Securitization Forum and was its Chairman from 2005 until 2007 when he returned to Australia.

Before joining Société Générale, Greg worked as a Chartered Accountant with KPMG.

From March 2013 to May 2016, Greg was Chair of the International Organization of Securities Commissions Board and a member of the Financial Stability Board (FSB). Greg is currently a member of the Standing Committee on Supervisory and Regulatory Cooperation (SRC) of the FSB, which reports to the G20.



### Peter Kell

#### **Deputy Chairman, BA (Hons)**

Peter Kell commenced as Deputy Chair on 6 May 2013. Prior to this appointment he was a Commissioner from 7 November 2011.

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

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

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



## Commissioners continued

### Cathie Armour

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

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

Cathie has 18 years' experience in legal counsel leadership roles in international financial institutions. Most recently, she was General Counsel for Macquarie Capital and an Executive Director of Macquarie Group, advising on equity, debt and private capital markets, mergers and acquisitions, and financial investment transactions. She has also held senior compliance and operational risk positions at Macquarie Capital and at JP Morgan in Australia. Before she joined ASIC, Cathie was also a member of the ASX Tribunal.

Cathie previously worked in private legal practice for the forerunners of the firms King & Wood Mallesons and Allens in Sydney and for Milbank, Tweed, Hadley & McCloy in New York.



### John Price

**BA, LLB (Hons)**

John Price commenced as an ASIC Commissioner on 21 March 2012. In March 2015, John was reappointed for a further 3 years to 20 March 2018.



He has over 15 years regulatory experience in a variety of regulatory roles at ASIC relating to policy making, fundraising, mergers and acquisitions, financial services and products, licensing, insolvency and financial reporting and audit.

John was previously a member of the Corporations and Markets Advisory Committee, an advisory body to Government on corporate and markets issues and also the Financial Reporting Council, a body providing broad oversight of various accounting and audit-related issues in Australia.

John is a current member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies.

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

### Greg Tanzer

**BEd, LLB (Hons)**

Greg Tanzer commenced as an ASIC Commissioner on 5 March 2012. In December 2015, Greg's term was extended until 30 November 2016.

He served as Secretary General of the International Organization of Securities Commissions from 2008 until early 2012.

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

Before joining ASIC, Greg worked in the Australian Government Attorney-General's Department and the Department of Finance. He is a qualified solicitor and barrister.





# 1

## ABOUT ASIC

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## 1.1 ASIC's role

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

ASIC's vision is to allow markets to fund the economy and in turn, economic growth. In doing so, we contribute to the financial well-being of all Australians. We do this by:

- ♦ promoting investor and consumer trust and confidence
- ♦ ensuring fair and efficient markets
- ♦ providing efficient registration services.

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, 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 a minimum of procedural requirements
- ♦ receive, process and store – efficiently and quickly – the information that we receive
- ♦ 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.

ASIC enforces the law and regulates companies, financial markets and financial services under the following key legislation:

- ♦ *Australian Securities and Investments Commission Act 2001* (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).

ASIC also administers parts of the following legislation:

- ♦ *Banking Act 1959* (Banking Act)
- ♦ *Life Insurance Act 1995* (Life Insurance Act)
- ♦ *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*.

### 1.1.1 Relationship with other agencies

ASIC maintains an operational and policy relationship with:

- ♦ Attorney-General's Department
- ♦ Australian Competition and Consumer Commission (ACCC)
- ♦ Australian Crime Commission (ACC)
- ♦ Australian Federal Police (AFP)
- ♦ Australian Prudential Regulation Authority (APRA)
- ♦ Australian Taxation Office (ATO)
- ♦ Australian Transaction Reports and Analysis Centre (AUSTRAC)
- ♦ Commonwealth Director of Public Prosecutions (CDPP)
- ♦ Commonwealth Ombudsman
- ♦ Fair Work Ombudsman
- ♦ Reserve Bank of Australia (RBA)
- ♦ The Treasury.

ASIC is a member of the Council of Financial Regulators (CFR), the coordinating body for Australia's main financial regulatory agencies. Other members are APRA, Treasury and the RBA.

## 1.1.2 Working with the International Organization of Securities Commissions (IOSCO)

ASIC is a member of the IOSCO Board and a number of its Policy Committees and taskforces. ASIC Chairman, Greg Medcraft, was the Chair of the IOSCO Board from March 2013 to May 2016. ASIC is also the inaugural Chair of the IOSCO Assessment Committee.

Through various activities and projects, ASIC has demonstrated an important commitment to supporting the international regulatory agenda and ensuring that Australian influence is applied to international policy settings.

In 2015–16, the IOSCO Board approved *IOSCO's Strategic Direction 2015 to 2020*. ASIC took a lead role in setting this ambitious, clear and funded plan for IOSCO to maintain and grow its position as the leading global reference point for standard setting in securities regulation.

Under the chairmanship of Greg Medcraft, IOSCO continued to pursue its mission of developing international standards, strengthening information sharing, and supporting the development of markets. IOSCO supports the collective objective of regulators to allow markets to fund the economy and, in turn, economic growth. This means ensuring that:

- ♦ investors have trust and confidence in financial markets
- ♦ markets are fair, efficient and transparent
- ♦ financial system risks that arise in markets are mitigated.

The challenges that shape IOSCO's strategy are:

- ♦ conduct risk
- ♦ digital disruption and cyber resilience
- ♦ globalisation of financial markets and products
- ♦ structural change and the growth of market-based financing.

### Risk identification and standard setting

In 2015–16, ASIC supported IOSCO's work on the key emerging issues of digital disruption, innovative technologies being applied in financial markets ('fintech') and cyber resilience. IOSCO serves as a valuable forum for members to discuss and debate these issues, consider common approaches and share good regulatory practices.

To help develop high-quality, internationally consistent regulatory approaches to facilitate cross-border activity, ASIC contributed actively to the development of IOSCO standards and guidance concerning:

- ♦ criteria for identifying simple, transparent and comparable securitisations
- ♦ regulation of cross-border activity
- ♦ financing small to medium enterprises
- ♦ liquidity management and custody in collective investment schemes.

In 2015–16, the IOSCO Assessment Committee (chaired by ASIC) completed various reviews of how members are implementing IOSCO standards, recommendations and guidance – for example, the application of IOSCO's Standards for Derivative Market Intermediaries Regulation. These reviews have helped members identify where further reform work is needed.

## 1.1 ASIC's role continued

### Assisting members

ASIC's Chairman, Greg Medcraft, spearheaded efforts to significantly expand IOSCO's capacity-building program. This included holding additional seminars, creating an online toolkit and approving the first IOSCO regional capacity-building hub in Kuala Lumpur. IOSCO also launched its Global Certificate Program for regulators of securities markets, in association with the Program on International Financial Systems at the Harvard Law School.

In May 2016, the IOSCO Enhanced Multilateral Memorandum of Understanding (MMoU) was endorsed by the IOSCO Presidents Committee at its Annual Conference. The IOSCO MMoU is a cooperation arrangement that enables 109 regulators, including ASIC, to share information to combat cross-border fraud and misconduct. The enhancements will provide additional powers to member regulators, ensuring continued effectiveness in the context of technological developments and increased globalisation.

### Advocacy

Under Greg Medcraft's leadership, IOSCO's voice became more prominent in debates on global regulatory reform. In 2015–16, there was increased participation from IOSCO members in key Financial Stability Board committees and working groups, including the Standing Committee on Standards Implementation.

Through participation in the Annual Meeting of the World Economic Forum in Davos in January 2016 and the IMF Spring Meetings in Washington DC in April 2016, the ASIC Chairman further raised the profile of securities regulation and its relevance to economic growth and development.

### 1.1.3 International cooperation

Innovation, developments in technology and international financial regulation mean financial markets throughout the world are increasingly integrated, competitive and complex – calling for coordinated international responses.

ASIC is linked to a global network of regulators to get the best outcomes for Australians. In addition to membership of IOSCO, ASIC is a member of the International Association of Insurance Supervisors and FinCoNet, the International Financial Consumer Protection Organisation.

### International cooperation requests

We maintain close relationships with peer regulators and law enforcement agencies to facilitate international regulation and enforcement.

In 2015–16, we made 362 international cooperation requests and received 398 requests from international financial regulators and other law enforcement agencies on various topics including investigations, compliance and surveillance, enforcement, policy research, general referrals, delegations, licensing or due diligence.

This included 92 requests to ASIC for assistance in enforcement matters, including 17 requests seeking ASIC's assistance to compel material from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

We met with 17 delegations, including from emerging markets, to discuss consumer protection and market regulation.

### Bilateral engagement

ASIC enters into memoranda of understanding with peer agencies to promote cross-border cooperation and facilitate information sharing.

In March 2016, ASIC entered into a Cooperation Agreement with the United Kingdom's Financial Conduct Authority, which will provide financial technology companies in Australia and the United Kingdom with more support (before, during and after authorisation) as they attempt to enter their respective markets. In June 2016, ASIC entered into a similar agreement with the Monetary Authority of Singapore.

During 2015–16, ASIC jointly led a new initiative to establish an Asia–Pacific Regional Supervisory College Forum (RSC). This initiative is designed to enhance supervisory cooperation and facilitate information sharing efforts in the Asia–Pacific region in relation to targeted financial groups that have regional systemic importance. The RSC's first sessions were held in February 2016. Members of the RSC include the Securities and Exchange Board of India, the Financial Services Agency of Japan, the Korean Financial Supervisory Service, the Monetary Authority of Singapore, the Malaysian Securities Commission and the Financial Markets Authority of New Zealand.



## 1.1.4 Relationship with states and territories

The states have referred their corporations power to the Commonwealth, and the Commonwealth, states and territories are parties to the *Corporations Agreement 2002* (Corporations Agreement) that underpins the current legislative scheme.

The Corporations Agreement provides for the Legislative and Governance Forum on Corporations – which ASIC attends as an observer.

Under the Corporations Agreement and ASIC Act, ASIC maintains regional offices and business centres in each state and territory, and consults with state or territory Ministers on the appointment of ASIC regional commissioners. Regional commissioners brief the local business community on ASIC's work through regional liaison committees (for more information, see pages 101–102). ASIC also provides state and territory government agencies with free online access to our companies database and must respond to requests from state or territory Ministers for information that is not available on the companies database.

These arrangements are currently required to be renewed every five years, and the current arrangements expire on 15 July 2021.

ASIC also has a role as a joint regulator of the Australian Consumer Law with the states and territories, and with the ACCC.

## 1.1.5 Responsible Ministers

At 30 June 2016, the Ministers responsible for ASIC were the Treasurer, the Hon Scott Morrison MP; the Minister for Small Business and Assistant Treasurer, the Hon Kelly O'Dwyer MP; and the Parliamentary Secretary to the Treasurer, the Hon Alex Hawke MP.

## 1.1.6 Parliamentary oversight

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

## 1.1.7 Correspondence with Parliamentarians

We receive correspondence from Parliamentarians both directly and indirectly through requests from Treasury. We aim to respond to 100% of correspondence within 28 days of receipt.

In 2015–16, we responded to 182 letters and emails from Parliamentarians directly and indirectly. We responded to 96% of correspondence within 14 days, 99% within 28 days, and 100% within 30 days.

## 1.1.8 Financial and operational oversight

ASIC is a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which primarily governs ASIC's use and management of public resources.

The PGPA Act also requires ASIC to prepare a Corporate Plan covering ASIC's purposes, environment, performance, capability and risk oversight and management for the forward estimates period. ASIC published our first Corporate Plan for the period 2015–16 to 2018–19 on 31 August 2015. Our Corporate Plan for the period 2016–17 to 2019–20 was published on 31 August 2016.

The Auditor-General audits ASIC's annual financial statements on behalf of the Parliament.

## ASIC at work



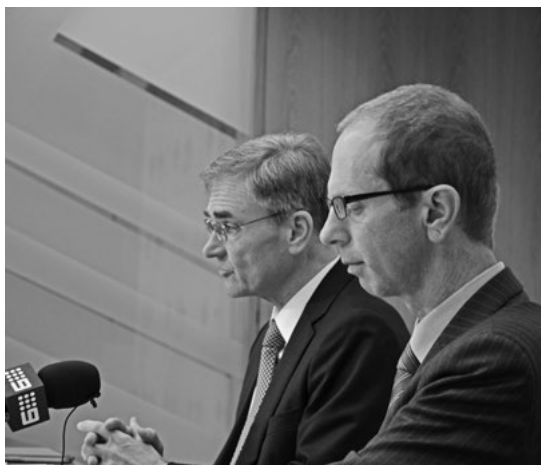
*Each year ASIC recruits talented graduates with a diverse range of skills and backgrounds. The 2016 graduates are shown here with ASIC Commissioners, during their induction program.*



*Wendy Bryant, Chief Information Officer (left) and Jo Harper, IT Program Director and recipient of the ASIC Women in Leadership award for 2016.*



*ASIC Commissioner John Price (with microphone) and Mark Adams, Senior Executive Leader, Strategic Intelligence speaking at an information session at Tyro FinTechHub, September 2015.*



*ASIC Chairman Greg Medcraft and Deputy Chairman Peter Kell holding a media conference in April 2016.*



*Staff at ASIC's Traralgon office at an Australia Day fundraising event, January 2016.*

1.2 Corporate structure at 30 June 2016



# MISSION

## DRAFT

- mission  
regulators  
ion of  
s
- ♦ Heads of Commonwealth Operational Law Enforcement Agencies
  - ♦ Australian Government Financial Literacy Board

Chief Legal Office

Corporate Affairs

Regional Commissioners

Audit Assurance and Compliance

## INVESTORS AND CONSUMERS

## REGISTRY

ty Chairman  
TER KELL

Commissioner  
GREG TANZER

Teams  
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racy  
s, Credit and Insurers  
and Intelligence

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I  
olicy Group

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visory Panel  
overnment Financial  
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th Consumer Affairs  
ncil

### Stakeholder Teams

- ♦ Investment Managers and Superannuation
- ♦ Small Business Compliance and Deterrence

### Enforcement

- ♦ Financial Services

### Internal Boards

- ♦ Technology Governance Board

### External Boards

- ♦ Heads of Commonwealth Operational Law Enforcement Agencies

### Registry

#### External Boards

- ♦ Standard Business Reporting
- ♦ Business Advisory Committee
- ♦ Australian Business Register Advisory Board

# 1.3 ASIC and regulated populations<sup>1</sup>

## INVESTORS AND CONSUMERS

### Deposit-takers, credit and insurers

**159 authorised deposit-taking institutions; 5,726 Australian credit licensees; 36,650 credit representatives; 93 licensed general insurance companies; 28 life insurers; 12 friendly societies; 607 non-cash payment facility providers; 12 trustee companies**



Michael Saadat –  
Senior Executive Leader

- ♦ ASIC staff: 59
- ♦ Stakeholder engagement: 194 industry meetings

### Financial advisers

**AFS licensees licensed to provide personal advice (3,690 licensees) or general advice (1,588 licensees)**



Joanna Bird and Louise Macaulay –  
Senior Executive Leaders

- ♦ ASIC staff: 26
- ♦ Stakeholder engagement: 213 industry meetings

### Investment managers and superannuation

**More than \$1.5 trillion in funds under management; 145 superannuation fund trustees; 448 active responsible entities; 3,619<sup>2</sup> registered managed investment schemes; 784 foreign financial service providers; 895 custodial service providers**



Gerard Fitzpatrick –  
Senior Executive Leader

- ♦ ASIC staff: 41
- ♦ Stakeholder engagement: 331 industry meetings

### Financial literacy

**Approximately 20 million<sup>2</sup> financial services consumers**



Miles Larbey –  
Senior Executive Leader

- ♦ ASIC staff: 28

### Assessment and intelligence (including small business compliance and deterrence)<sup>4</sup>



Warren Day –  
Senior Executive Leader

- ♦ ASIC staff: 161
- ♦ Stakeholder engagement: 61 industry meetings (for small business compliance and deterrence)

# MARKETS

Corporations (including emerging mining and resources companies)<sup>5</sup>  
**23,047 public companies, 2,076 of which are listed entities (including registered schemes and foreign companies)**



Kate O'Rourke and Jane Eccleston – Senior Executive Leaders, Corporations

- ♦ ASIC staff: 33
- ♦ Stakeholder engagement: 38 industry meetings



Jane Gouvernet – Senior Executive Leader, Emerging Mining and Resources

- ♦ ASIC staff: 10
- ♦ Stakeholder engagement: 43 industry meetings

Insolvency practitioners  
**707 registered liquidators; 9,848 companies entering external administration**



Adrian Brown – Senior Executive Leader

- ♦ ASIC staff: 21
- ♦ Stakeholder engagement: 51 industry meetings

Financial reporting and audit  
**4,483 registered company auditors; 28,000 entities required to produce financial reports; 6,671 SMSF auditors**



Douglas Niven – Senior Executive Leader

- ♦ ASIC staff: 30
- ♦ Stakeholder engagement: 140 industry meetings

Financial market infrastructure  
**52 authorised financial markets; 18 licensed financial markets; 7 licensed clearing and settlement facilities; 2 licensed derivative trade repositories**



Oliver Harvey – Senior Executive Leader

- ♦ ASIC staff: 26
- ♦ Stakeholder engagement: 310 industry meetings

Market and participant supervision  
**120 market participants; 750 securities dealers**



Greg Yanco – Senior Executive Leader

- ♦ ASIC staff: 69
- ♦ Stakeholder engagement: 218 industry meetings

Investment banks<sup>6</sup>  
**22 investment banks; 65 retail over-the-counter (OTC) derivative providers; 7 credit rating agencies; 47 wholesale electricity derivative dealers.**



Chris Van Homrigh – Senior Executive Leader

- ♦ ASIC staff: 17
- ♦ Stakeholder engagement: 103 industry meetings

## ENFORCEMENT<sup>7</sup>

### Financial services and credit enforcement



Tim Mullaly – Senior Executive Leader  
and David McGuinness – Senior Executive

♦ ASIC staff: 69

### Markets enforcement



Chris Savundra – Senior Executive Leader  
and George Stogdale – Senior Executive

♦ ASIC staff: 82

### Enforcement Western Australia



Natalie Durr –  
Senior Executive Leader

♦ ASIC staff: 18

## REGISTRY SERVICES

### Registry services and Customer Contact Centre

90.7 million searches of ASIC registers. Registry services for 2.37 million companies, 2.07 million business names, 5,511 AFS licensees, 5,726 credit licensees, over 23,000 financial advisers on the Financial Advisers Register, 4,483 registered company auditors, 6,671 registered SMSF auditors, 707 registered liquidators, 3,619<sup>1</sup> registered managed investment schemes. Over 861,000 enquiries handled by Customer Contact Centre



Rosanne Bell –  
Senior Executive Leader

♦ ASIC staff: 205

1. Data is indicative. See relevant sections of annual report for 2015-16 data. All staff figures are average net full-time equivalents (FTE) and represent staff dedicated to respective populations, including operational staff working on non-business-as-usual projects. Excludes Strategy Group, Chief Legal Office, Corporate Affairs, Operations, People and Development, and statutory bodies.
2. ABS 2011, *Australian Census of Population and Housing*, Cat. No. 2001.0, Australian Bureau of Statistics, Canberra.
3. Excluding managed investment schemes in wind up or strike off.
4. On 1 July 2016, the functions of the Small Business, Compliance and Deterrence team were merged with Assessment and Intelligence.
5. On 1 July 2016, the functions of the Emerging Mining and Resources team were merged with the Corporations team.
6. On 1 July 2016, the functions of the Investment Banks team were merged into Market Supervision (formerly Market and Participant Supervision) and Market Infrastructure (formerly Financial Market Infrastructure).
7. Plus 143 full-time equivalent (FTE) staff working on Enforcement Special Account matters, and an additional 82 FTE providing Enforcement support services and legal counsel.



## 1.4 ASIC's surveillance coverage of regulated populations

This chart provides a snapshot of ASIC's surveillance coverage in 2015–16 and our anticipated surveillance coverage in 2016–17, based on 2016–17 budget and resources. The chart shows the regulated population and the estimated number of years it would theoretically take to cover the entire population through all types of surveillance (both completed and current)<sup>1</sup>, based on the number of entities subject to surveillance by ASIC in 2015–16.

### INVESTORS AND CONSUMERS

#### Financial advisers

<b>2015–16</b>	<b>2016–17<sup>2</sup></b>
<b>Surveillance resources: 23</b>	<b>Est: 34</b>

##### Surveillance coverage:

3,690 AFS licensees authorised to provide personal advice

- ♦ Top 20 – 42% of advisers – 0.2 years —
- ♦ Next 30 – 19% of advisers – 1.6 years ↑
- ♦ Remaining 3,640 – *primarily reactive surveillances* ↑

1,588 AFS licensees authorised to provide general advice only – *reactive surveillances only* —

#### Deposit-takers, credit and insurers

<b>2015–16</b>	<b>2016–17<sup>2</sup></b>
<b>Surveillance resources: 36</b>	<b>Est: 47</b>

##### Surveillance coverage:

159 authorised deposit-taking institutions (ADIs)

- ♦ Big 4 – every year ↑
- ♦ Remaining 155 – *primarily reactive surveillances, supplemented by reviews of target risks or concerns* ↑

133 insurers – *primarily reactive surveillances, supplemented by reviews of target risks or concerns* ↑

607 licensed non-cash payment facility providers and distributors – *primarily reactive surveillances* —

12 trustee companies – *reactive surveillances only* —

5,574 non-ADI credit licensees (lenders and intermediaries) with 30,752 credit representatives – *primarily reactive surveillances, supplemented by reviews of target risks or concerns* ↑

#### Investment managers and superannuation

<b>2015–16</b>	<b>2016–17<sup>2</sup></b>
<b>Surveillance resources: 8</b>	<b>Est: 23</b>

##### Surveillance coverage:

448 active responsible entities

- ♦ Top 20 – 70% of funds under management – every 2 years —
- ♦ 33 identified as most at risk of non-compliance – every year ↑
- ♦ 18 responsible entities where we have identified risks or have concerns – *varies from year to year* ↓
- ♦ Remaining 377 – *primarily reactive surveillances* —

145 super fund trustees

- ♦ 8 identified as most at risk of non-compliance – every year —
- ♦ 40 where we have identified risks or concerns – *varies from year to year* ↑
- ♦ Remaining 97 – *primarily reactive surveillances* —

916 custodial and depository service providers

- ♦ 6 custodians where we have identified risks or have concerns – *varies from year to year* ↑
- ♦ Remaining 910 – *primarily reactive surveillance or considered as part of surveillances of other entities utilising services* —

#### Small business compliance and deterrence

<b>2015–16</b>	<b>2016–17</b>
<b>Surveillance resources: 6</b>	<b>Est: 6</b>

##### Surveillance coverage:

11,494 companies identified for the potential to conduct illegal phoenix activity

- ♦ A small sample of entities in high-risk industries – every year —
- ♦ Supplemented by reactive surveillances and reviews to target risks or concerns —

1. ASIC's surveillance activity includes onsite visit and desk-based reviews and can vary in intensity (e.g. a high-intensity surveillance lasts for more than two days). Surveillance figures in this chart include all surveillances completed in 2015–16 as well as those in progress at 30 June 2016.

**Key:** ↑ increase — remain stable ↓ decrease



ASIC's risk-based approach to surveillance means that a subset of the population is examined multiple times while others are not be examined at all. The data is indicative only. Staff numbers are full-time equivalents (FTE) that are allocated to undertake surveillances in each team. They do not represent the total staff for each team that undertakes a range of work.

## MARKETS

### Market and participant supervision

**2015–16** **2016–17**  
Surveillance resources: 37 Est: 37

#### Surveillance coverage:

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

120 market participants – 0.5 years

750 securities dealers – reactive surveillances  
and targeted reviews of high-risk entities only

Supplemented by reactive surveillances and  
reviews to target risks or concerns

### Corporations (including emerging mining and resources companies)

**2015–16** **2016–17**  
Surveillance resources: 13 Est: 15

#### Surveillance coverage:

23,047 public companies, including 2,076  
listed entities

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

### Investment banks

**2015–16** **2016–17**  
Surveillance resources: 9.75 Est: N/A<sup>3</sup>

#### Surveillance coverage:

22 investment banks – 0.2 years

65 retail OTC derivative providers – 1.25 years

7 credit rating agencies – 0.6 years

### Financial reporting and audit

**2015–16** **2016–17**  
Surveillance resources: 24 Est: 23

#### Surveillance coverage:

Financial reports of around 2,000 listed  
entities (excludes foreign companies) and  
26,000 unlisted entities

♦ Top 500 listed entities – 98% of total market  
capitalisation – 2.4 years

♦ Remaining 1,500 listed entities –  
167 reports reviewed every year

♦ 2,100 unlisted public interest entities –  
35 reports reviewed every year

100 audit firms that audit listed entities

♦ Big 4 audit – 95.8% of listed entities  
by market capitalisation – every year  
(36 files reviewed)

♦ Next 20 audit – 3.9% of listed entities  
by market capitalisation – 1.5 years  
(16 files reviewed)

♦ Remaining 83 audit – 0.3% of listed entities  
by market capitalisation – 16 years  
(5 files reviewed)

Supplemented by reactive surveillances

### Financial market infrastructure

**2015–16** **2016–17**  
Surveillance resources: 15 Est: 18

#### Surveillance coverage:

52 authorised financial markets

- ♦ 18 licensed financial markets – every year
- ♦ Remaining 34 – reactive surveillances only

7 licensed clearing and settlement facilities –  
every year

2 licensed trade repositories – every year

### Insolvency practitioners

**2015–16** **2016–17**  
Surveillance resources: 12.5 Est: 11.4

#### Surveillance coverage:

707 registered liquidators – 2.3 years

- Includes funding for specific measures announced as part of the Government's 2016–17 budget.
- On 1 July 2016, the functions of the Investment Banks team were merged into Market Supervision (formerly Market and Participant Supervision) and Market Infrastructure (formerly Financial Market Infrastructure).

## 1.5 ASIC for all Australians

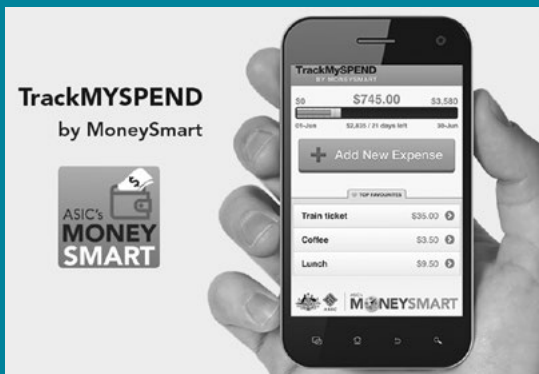
ASIC assists Australians at every stage of life and in many different circumstances. We help them to make the most of financial opportunities, make financial decisions and deal with challenges when they occur. ASIC's MoneySmart website was visited over 6.1 million times in 2015–16 – an increase of 15% on the previous year. It offers more than 700 pages of free, impartial and comprehensive information on money matters, and is directed to people from a wide range of demographic groups. 90% of people surveyed reported that they took action on their finances after visiting MoneySmart in 2015–16.

### Examples of ASIC's work at life stages in 2015–16



#### Financial advice and investing

- ◆ Our **Financial Advisers Register** has been searched more than 790,000 times by consumers seeking information about advisers, such as work history, qualifications and the products they can advise on.
- ◆ The **MoneySmart Investing Challenge** helps investors develop new skills such as how to judge a good investment, how to diversify their portfolio and how to identify the risks of different products. Investors choose a topic of interest and answer a series of short questions designed to get them thinking about and evaluating their knowledge of the topic.



#### Budgeting and saving

- ◆ Our online calculators give consumers direction and motivate them to achieve their financial goals. The most popular calculators offered on MoneySmart are the **Budget Planner**, the **Mortgage Calculator** and the **Income Tax Calculator**. Our online calculators are used on average 393,000 times per month.
- ◆ Purchase of a new car is a major financial decision for many Australians. Our new **MoneySmart Cars app** helps consumers work out the real cost of buying and running a car and identify hidden costs and alternative ways to finance a car.
- ◆ Our **TrackMySPEND app** was **downloaded over 90,000 times** in 2015–16, allowing Australians to track their personal expenses on the go and manage their money better.

#### Borrowing and credit

- ◆ ASIC cracked down on misleading or deceptive advertising – 12 ads were withdrawn or fixed.
- ◆ Our **Rent vs Buy calculator** enables consumers to compare the cost of renting electrical goods and furniture (a consumer lease) with the cost of borrowing money to buy them. Since its launch in September 2015, on average 5,000 people use the calculator each month.
- ◆ Our MoneySmart **interest-only mortgage calculator** helps Australians understand the amount of interest they will pay with an interest-only mortgage compared to a principal and interest loan.

## Examples of ASIC's work for particular demographic groups in 2015–16



### School children

- ◆ Since 2012, **more than 20,500 teachers** have received financial literacy professional development on MoneySmart Teaching resources for primary and secondary schools.
- ◆ In 2015–16, **5,079 schools**, more than 50% of the nation's schools, engaged with the MoneySmart Teaching program.



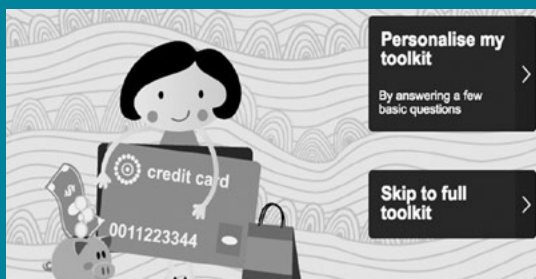
### Indigenous communities

- ◆ Our **Take a minute with your money** campaign helps regional and remote Indigenous consumers with information about car loans, renting appliances, and using book up (a tab or store account) through a series of three innovative animations.
- ◆ Our **Be Smart Buy Smart** resource helps Indigenous consumers get a fair go when shopping and save time, money and trouble.



### Women

- ◆ Our **Women's Money Toolkit** helps Australian women manage their finances, make money decisions at key life stages and enhance their financial well-being.



### Divorce and separation

- ◆ ASIC's **Divorce and Separation Financial Checklist** and the **Asset Stocktake Calculator** assist people with the financial aspects of divorce, separation or relationship breakdown.



### Retirees and those approaching retirement

- ◆ ASIC's MoneySmart **retirement planner** helps consumers determine their likely income from super and the age pension and work out how to boost their retirement income.

# 1.6 Financial summary and expenditure

## 1.6.1 Outcomes

Parliament funds ASIC to achieve the following outcome:

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

## 1.6.2 Revenue for the Commonwealth

In 2015–16, ASIC raised \$876 million for the Commonwealth in fees and charges, an increase of 6.4% from 2014–15. The increase in revenue is driven by continued net company growth coupled with fee indexation.

## 1.6.3 Revenue, appropriations and expenditure

In 2015–16, ASIC received approximately \$311 million in appropriation revenue from Government, including \$27 million from the Enforcement Special Account (ESA), representing an \$11 million or 3% reduction compared with 2014–15. We received approximately \$5 million of own-source revenue, which is consistent with the previous year. The decrease in

appropriation revenue relates to a net decrease in both operational funding and funding for special initiatives.

Total operating expenditure of \$371 million was \$17 million or 4.8% higher than 2014–15, predominantly as a result of higher ESA expenditure. In 2015–16, ASIC incurred significant expenditure on the BBSW and FX Benchmark matters and the Wealth Management project. Note 5.2 to the Financial Statements details the movements in the ESA (for more information, see page 153).

In 2015–16, ASIC changed our accounting treatment in relation to ESA revenue. In prior years ESA revenue was recognised when enforcement activity expenditure met the criteria set out in the Finance Minister’s ESA Determination. ESA revenue is now recognised when the appropriation is legally available to ASIC. The ESA was set up as a contingency fund to give ASIC independence in the large investigations it pursues, the costs of which could not otherwise be absorbed without significantly prejudicing its general enforcement role. ESA revenue is recognised when the appropriation is legally available to ASIC; however ESA expenditure may vary significantly from year to year depending on the stage of the matters.

Table of 2015–16 revenue, appropriations and expenses

	2015–16 \$'000	2014–15 \$'000	Change \$'000	%
Revenues from Government (inc. ESA)	311,427	322,465	(11,038)	(3%)
Own-source revenue	5,200	4,844	356	7%
Total revenue	316,627	327,309	(10,682)	(3%)
Total expenses (including depreciation and amortisation)	371,223	354,293	16,930	5%
Surplus/(deficit)	(54,596)	(26,984)	(27,612)	(102%)

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

	2015–16	2014–15	2013–14
Operating expenses			
Total	\$371m	\$354m	\$405m
Annual change on previous year	+4.8%	-12%	-1%
Fees and charges raised for the Commonwealth			
Total	\$876m	\$824m	\$763m
Annual change on previous year	+6.4%	+8%	+6%



# 2

## ANNUAL PERFORMANCE STATEMENT

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## Introductory statement

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I, Greg Medcraft, as the accountable authority of the Australian Securities and Investments Commission, present the 2015–16 annual performance statement of the Australian Securities and Investments Commission, as required under paragraph 39(1)(a) of the 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.

### ASIC's purpose

---

ASIC's vision is to allow markets to fund the real economy and, in turn, economic growth.<sup>1</sup> In doing so, we contribute to the financial well-being of all Australians.

To give effect to this vision, we focus on our objectives:

- ♦ promoting investor and consumer trust and confidence
- ♦ ensuring fair and efficient markets
- ♦ providing efficient registration services.

### Long-term challenges and key risks in 2015–16

ASIC's *Corporate Plan 2015–16 to 2018–19* identified the long-term challenges to our strategic objectives, and the key risks flowing from those challenges that warranted our attention in 2015–16.

In 2015–16, the **long-term challenges** to ASIC's objectives were:

- ♦ balancing a free market-based system with investor and consumer protection, with a focus on ensuring that the culture and conduct of financial system participants emphasises putting the interests of their customers first
- ♦ digital disruption to existing business models and channels
- ♦ structural change in our financial system through growth of market-based financing, largely driven by growth in superannuation
- ♦ financial innovation-driven complexity in financial products and markets
- ♦ the impact of globalisation on financial markets, products, and services.

In 2015–16 the **key risks** flowing from our long-term challenges were:

- ♦ gatekeeper conduct with a particular focus on:
  - responsible entities
  - lenders
  - markets
  - directors, auditors and insolvency practitioners
- ♦ cyber attacks
- ♦ poor financial advice
- ♦ misalignment of retail product design and distribution and consumer understanding
- ♦ cross-border businesses, services and transactions.

### Responding to our long-term challenges and key risks

In 2015–16 we focused on achieving our vision and objectives through our 'detect, understand and respond' approach. ASIC:

- ♦ **detects** misconduct or the risk of misconduct through surveillance, breach reporting, reports from whistleblowers and the public, and data gathering and matching
- ♦ **understands** and analyses the intelligence we receive
- ♦ **responds** to misconduct or the risk of misconduct through education, disrupting harmful behaviour, enforcement, communicating the actions we take, engagement with industry and stakeholders, guidance and policy advice.

1. Based on *Corporate Plan 2015–16 to 2018–19*, page 2; Portfolio Budget Statement 2015–16, Outcome 1, page 168.



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## Performance criteria

Our *Corporate Plan 2015–16 to 2018–19* sets out a range of performance indicators against our key activities and regulatory tools:

- ♦ Stakeholder engagement
  - Streamlined licensing for fintech start-ups.
  - Industry messages delivered to stakeholders.
- ♦ Education
  - Production, delivery and promotion of ASIC's MoneySmart website financial literacy resources and tools.
  - People enabled to check adviser credentials and helped to choose an adviser.
  - Number of unique visitors to ASIC's MoneySmart website, and proportion who took subsequent action on their finances.
- ♦ Guidance
  - Published regulatory guidance, including about remediation.
  - Number of new or revised regulatory guides published.
  - Number of relief applications received and approved.
- ♦ Surveillance
  - Number of surveillances completed.
  - Number of failures to comply with conduct obligations detected and responded to.
  - Improvements made by entities in response to identified areas needing improvement.
  - Published reports on surveillance outcomes.
  - Data matching and analytics, including detecting and responding to potential cyber attacks.
- ♦ Enforcement
  - Successful enforcement or other regulatory action.
  - Percentage of misconduct reports resolved resulting in changes to systems, processes or procedures, or corrective disclosures made.
  - Number of investigations and criminal and civil litigations and administrative actions completed.
  - Percentage of successful criminal and civil litigations.
  - Number of enforceable undertakings accepted.
- ♦ Policy advice
  - Identification of policy issues and law reform options through policy advice to the Australian Government, Treasury and parliamentary committees and inquiries (e.g. implementation of the Financial System Inquiry).
  - Progression of international policy initiatives and participation in forums with other jurisdictions to support Australia's national interest in innovative businesses, services and transactions in global markets; and bilateral and multilateral engagements established.



## 2.1 Investor and consumer trust and confidence



One of ASIC's objectives is promoting investor and consumer trust and confidence. The trust and confidence of investors and consumers is necessary to drive competitive, efficient and well-functioning financial services and credit markets.

Under the Portfolio Budget Statement 2015–16, our deliverables are designed to:

- ♦ educate investors and promote information about risk, reward and diversification, and improve financial literacy levels so investors and consumers are empowered with trust and confidence in the financial system
- ♦ hold people with a trusted role in the financial system (that is, gatekeepers such as advisers, custodians, and product manufacturers and distributors) to account if they are not meeting their obligations
- ♦ supervise and hold accountable those in the financial services sector where misconduct is detected
- ♦ recognise and understand how and why investors and consumers make financial decisions, and respond using this understanding.

Our success is measured by the extent to which:

- ♦ investors and consumers have trust and confidence to participate, and when participating, in the financial system
- ♦ product issuers, credit providers and advisers meet required standards
- ♦ fair and efficient processes are in place for resolution of disputes
- ♦ misconduct causing investor and consumer detriment is detected, responded to (including by being remedied, and reported, by regulated entities in a timely fashion) and deterred.<sup>1</sup>

This objective reflects consumers' ability to participate confidently in financial services and credit markets, as well as measuring the behaviour of the financial services and credit businesses those consumers interact with, such as banks, credit unions, insurance companies, financial advisers, managed investment schemes and superannuation funds.

Our *Corporate Plan 2015–16 to 2018–19* sets out a range of performance indicators in relation to our key activities for 2015–16. The following section of this annual performance statement sets out our performance against these indicators.

1. Portfolio Budget Statement 2015–16, Program 1.1.





## Key outcomes 2015–16

### Investor and consumer trust and confidence

Outcome	2015–16	2014–15	2013–14	2012–13
<b>Stakeholder engagement</b>				
Meetings with industry groups and other stakeholders <sup>1</sup>	799	627	685	281
Consultation papers published	16	6	5	18
Industry reports published	18	10	14	7
<b>Education</b>				
Unique visits to ASIC's MoneySmart website	6.1 million	5.4 million	4.7 million	3.7 million
Users who took action on their finances after visiting MoneySmart	90%	89%	86%	90%
Number of unique school interactions with MoneySmart Teaching <sup>2</sup>	5,079	3,185	396	92
<b>Guidance</b>				
New or revised regulatory guides published	17	9	10	31
New or revised information sheets	9	13	18	14
Legislative instruments made, including amendments and repeals	48	19	17	21
Relief applications received <sup>3</sup>	451	581	816	1,071
Approved <sup>3</sup>	300	409	518	616
Refused <sup>3</sup>	24	41	48	172
Withdrawn <sup>3</sup>	61	59	250	283
In progress <sup>3</sup>	66	72		

1. Data reflects reporting in given years on the basis of corporate structure and methodology at that time. In 2013–14, there was a change in methodology. As a result, meetings involving multiple ASIC teams have been counted against each team involved. Data does not include meetings held by Commissioners. In 2015–16, a substantial part of the increase in stakeholder engagement numbers was due to a particularly intensive year of engagement given our work on fees disclosure, risk management arrangements and law reform initiatives.
2. The MoneySmart Teaching program started in August 2012.
3. Data reflects point-in-time reporting in given years. Break-down of withdrawn and in-progress applications not available in 2013–14 or 2012–13.

## 2.1 Investor and consumer trust and confidence continued

Outcome	2015–16	2014–15	2013–14	2012–13
<b>Surveillance</b>				
High-intensity surveillances completed	461 <sup>4</sup>	557	860	871
<i>In 2015–16, proactive, risk-based surveillance focused on areas such as financial advice, vertically integrated businesses in the funds management industry, interest-only home loans, funeral insurance and consumer leasing.</i>				
Instances of potentially misleading or deceptive promotional material withdrawn or amended	45	54	127	120
<b>Enforcement</b>				
<b>Investigations</b>				
Investigations commenced	93	77	97	81
Investigations completed	79	88	113	92
<b>Criminal actions</b>				
Criminal litigation completed <sup>5</sup>	7	7	16	14
Criminal litigation completed successfully <sup>5</sup>	100%	86%	94%	86%
New criminal litigation commenced <sup>5</sup>	13	11	13	8
Number of people convicted	7	6	15	12
Custodial sentences (including fully suspended) <sup>6</sup>	3	5	13	11
Non-custodial sentences/fines	4	1	2	1
Total dollar value of fines	\$8,500	\$10,000	\$5,000	\$75,000
<b>Civil actions</b>				
Civil litigation completed	36	43	12	39
Civil litigation completed successfully	94%	86%	100%	100%
New civil litigation commenced	44	20	31	37
Total dollar value of civil penalties	\$1,275,000	\$18,975,000 <sup>7</sup>	\$1,500,000	\$677,500
<b>Administrative actions<sup>8</sup></b>				
Administrative actions completed	74	64	67	58
New administrative actions commenced	51	74	60	59
People/companies banned from financial services <sup>9</sup>	81	53	63	50
People/companies banned from credit services	55	39	46	38

4. Includes 102 high-intensity surveillances completed by Small Business Compliance and Deterrence which are not reported elsewhere in this Annual Performance Statement.


5. Excludes summary prosecutions for strict liability offences.

6. The reporting of this outcome in 2015–16 has changed compared to previous years (for 'number of imprisonments') to take account of custodial sentences that have been fully suspended. The figures for 'non-custodial sentences/fines' from 2012–13 to 2014–15 have also been adjusted because of this change.

7. The civil penalty amount of \$18,975,000 in 2014–15 related to The Cash Store Pty Ltd matter.

8. An administrative action is a decision by a delegate of ASIC to exercise a statutory protective power. Examples of an administrative action are a decision to disqualify a person from managing corporations, prohibit a person from providing financial services or engaging in credit activities, cancel or suspend an Australian financial services (AFS) licence or credit licence, or impose additional conditions on an AFS licence or credit licence.

9. Includes instances where conditions were placed on an AFS licensee.



Outcome	2015–16	2014–15	2013–14	2012–13
<b>Enforceable undertakings</b>				
Enforceable undertakings accepted	13	10	18	12
<b>Infringement notices</b>				
Number of infringement notices issued – ASIC Act <sup>10</sup>	9	32	16	3
Dollar value of infringement notices – ASIC Act <sup>10</sup>	\$93,600	\$319,400	\$163,200	\$19,800
Number of infringement notices issued – National Credit Act <sup>10</sup>	87 <sup>11</sup>	38	4	5
Dollar value of infringement notices – National Credit Act <sup>10</sup>	\$1,130,500 <sup>11</sup>	\$391,000	\$77,000	\$5,500
<b>Compensation</b>				
Compensation or remediation	\$210.5 million <sup>12</sup>	\$35.2 million	\$172.6 million	\$203.9 million
<b>Policy advice</b>				
<p><i>In 2015–16 we made several submissions to Senate and Parliamentary Joint Committee inquiries. We also provided policy advice in areas such as small amount credit contract laws, financial adviser professionalism and training, life insurance reforms, Stronger Super reforms and the Asia Region Funds Passport.</i></p>				

10. In 2015–16, ASIC changed the way we report ‘number of infringement notices issued’ and ‘dollar value of infringement notices’ to provide a break down between ASIC Act and National Credit Act matters. The figures for 2012–13, 2013–14 and 2014–15 have been adjusted to reflect the change in our reporting.

11. Two entities were issued 22 and 58 infringement notices respectively under the National Credit Act.

12. In 2015–16, there were six matters that comprised 79% (\$165.5 million) of the total figure for compensation or remediation.

## 2.1 Investor and consumer trust and confidence *continued*



### 2.1.1 Deposit-takers, credit and insurers

ASIC's work in this sector is focused on conduct by credit licensees (lenders and intermediaries) and insurance providers. Our work focused on promoting responsible lending practices and addressing the sale of inappropriate products to consumers. It is critical that lenders and insurers do not put consumers into unsuitable products that could put them at risk of experiencing substantial financial hardship and undermine investor and consumer trust and confidence in the financial system.

#### Stakeholder engagement

In 2015–16, we held 194 meetings with stakeholders, including industry associations such as the Australian Bankers Association, the Insurance Council of Australia, the Customer Owned Banking Association and the Mortgage and Finance Association of Australia, to provide further guidance in areas where ASIC would like to see cultural change, such as the payday lending industry and the sale of add-on insurance products.

We also engaged with financial counsellors and community legal centres in local and regional areas to provide guidance on developing areas of financial services and credit activities.

#### Guidance

##### Non-cash payments

ASIC made changes to the ePayments Code that will make it easier for businesses to give information to their customers digitally. This follows similar changes to the Corporations Act.

ASIC preserved the current exemptions for non-cash payment facilities for three more years to provide certainty to industry that the current policy settings and regulatory approach will continue while the Government, ASIC, APRA and the RBA consider the changes required to implement the Financial System Inquiry report.

The Financial System Inquiry recommended graduating retail payments regulation and making the ePayments Code mandatory.

We also provided clearer and simpler guidance to industry on non-cash payment facilities by consolidating seven separate class orders into one legislative instrument.

#### Surveillance

In 2015–16, ASIC completed 152 high-intensity surveillances of the consumer banking, consumer credit and insurance sector.

In 75 surveillances, we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures detected and our response to those failures (such as working with individual entities to improve their practices) are set out below.

#### Interest-only home loans

ASIC's review of more than 140 consumer interest-only home loan files from 11 bank and non-bank lenders found lenders needed to lift their standards to meet their responsible lending obligations. Lenders were often failing to consider whether an interest-only loan would meet a consumer's needs, particularly in the medium to long term. For example:

- ♦ in 30% of files reviewed, there was no evidence that the lender had considered whether the interest-only loan met the borrower's requirements
- ♦ in over 20% of files reviewed, lenders had not considered the borrower's actual living expenses when approving the loan, but relied instead on expenditure benchmarks.

In response to our review, we released a report in August 2015 that made a number of recommendations for lenders and brokers to help them comply with their responsible lending obligations. Following ASIC's review, all 11 lenders either changed their practices or committed to implementing necessary changes in 2015–16.

## Consumer leasing

ASIC's review of consumer leases found that they can be a very expensive option for consumers seeking to access common household goods, and that the market for consumer leases is failing many low-income consumers. We released a report setting out our findings in September 2015, and provided a copy of this report to the Government's review of the law's effectiveness in dealing with small amount credit contracts (which also considered consumer leases).

## Add-on insurance sold through car dealerships

ASIC's review of add-on insurance sold through car dealerships detected that:

- ♦ some consumers agreed to buy add-on insurance products when they were unaware of the cover offered or even the premium. The sales process inhibited good decision-making by consumers – for example, the consumer only had a short period of time to understand and familiarise themselves with the insurance offered
- ♦ life insurance sold through car dealers is often substantially more expensive than comparable life insurance products and provides very low claim payouts relative to premiums
- ♦ there were high levels of sales to consumers who may not need life cover – for example, young people with no dependents.

In response to our review, we released two reports in February 2016 setting out our findings. We have asked insurers to address our concerns in relation to the design, price, structure and sales practices for these products. If industry cannot voluntarily develop changes to deliver better outcomes to consumers, we will consider taking further action.

ASIC has also conducted a review of add-on products sold by general insurers, and found similar poor consumer outcomes. We will publish a further report in 2016–17 on add-on products offered by general insurers.

## Funeral insurance

ASIC's review of funeral insurance detected that funeral insurance premiums tend to rise steeply for people over 50 and that many people cancel their policy in the first few years, losing the benefit of premiums already paid.

In response to our review, we released a report in October 2015 that recommended insurers do more to ensure consumers understand key features of the policy when it is sold to them, especially when selling to vulnerable groups like Indigenous consumers. We also recommended that insurers provide an upfront estimate of the total cost of the policy in defined scenarios and, where applicable, disclose the risk that premium payments have the potential to exceed the benefit amount.

ASIC has been encouraged by steps the industry has taken in response to increased scrutiny and has urged insurers to carefully consider what additional measures they can put in place to ensure good consumer outcomes.

## Margin lending

ASIC's review of the lending practices of six margin lenders (covering 90% of the market) found that in certain circumstances four of the five margin lenders who approved 'double-gearred' margin loans, did not, despite the associated risks, take additional steps to meet their responsible lending obligations when approving the loans.

In response to our review, one margin lender decided to cease offering double-gearred loans. The remaining four lenders made several commitments to reduce risks, including ensuring that their policies have, or continue to have, extra buffers to allow for interest rate rises and/or changes in expenses, lower maximum allowable loan amounts and lower loan-to-value ratios for double-gearred borrowers.

## 2.1 Investor and consumer trust and confidence *continued*

### Life insurance

ASIC is undertaking a broad industry-wide review of claims handling in the life insurance sector. This initial review is aimed at determining whether there are concerning claims-handling practices across the industry. We will complete this initial review and issue a public report in October 2016.

### Mortgage broker remuneration

ASIC has, at the request of the Government, commenced a review of the effect of current mortgage broker remuneration structures on the quality of consumer outcomes. Our review involves examining data on residential mortgages from a range of industry participants, including lenders, aggregators and mortgage brokers, to assess whether:

- ♦ there are material differences in consumer outcomes (for example, loan size and default rates) between loans originated through the broker channel and those obtained directly from the lender
- ♦ lenders that are vertically integrated are receiving a greater portion of loans from mortgage broker businesses which they own.

We also conducted two roundtable discussions attended by regulators and a range of industry stakeholders, including lenders, aggregators, brokers and consumer advocates in February 2016.

We will provide the findings of our review to Government by the end of 2016.

### Enforcement

#### Punitive outcomes

##### Consumer leasing

In November 2015, the Federal Court awarded penalties totalling \$1.25 million against consumer leasing company Make It Mine Finance Pty Ltd ('Make It Mine'). The court found that Make It Mine failed to disclose important information to its customers, breached various responsible lending obligations and operated for a period while unlicensed.

In addition to the penalties, in September 2015, Make It Mine agreed to ASIC imposing a condition on its credit licence that required it to engage an independent external compliance consultant to review and report to ASIC on its policies and procedures to ensure compliance with consumer credit laws.

##### Payday lending

In October 2015, the Federal Court found that payday lenders, Fast Access Finance Pty Ltd, Fast Access Finance (Beenleigh) Pty Ltd and Fast Access Finance (Burleigh Heads) Pty Ltd (the FAF companies) breached consumer credit laws by engaging in credit activities without holding an Australian credit licence.

ASIC was concerned that the FAF companies' business model was deliberately designed to avoid the protections offered to consumers by the National Credit Act, including the cap on interest charges (FAF companies were charging interest well in excess of the 48% interest rate cap).

In November 2015, the Court made declarations and ordered the FAF companies to pay compensation, amounting to approximately \$17,000, to five consumers who gave evidence in the proceedings, by 14 December 2015. The FAF companies have not paid this compensation as they state they are impecunious.

In March 2016, the penalty hearing proceeded before Justice Dowsett in the Federal Court in Brisbane. Judgment on the quantum of penalty has been reserved.

## Loan fraud

We continue to take action on loan fraud involving false loan applications and supporting documents. In 2015–16, for example:

- ♦ Emma Feduniw (also known as Emma Khalil) pleaded guilty to providing documents (false borrower employment letters) to Westpac in support of eight home loan applications totalling \$2.7 million knowing that they contained false or misleading information. In many cases the loan applicant had never worked for the particular employer.
- ♦ Former Sydney finance broker, Jennifer Mary Farias, pleaded guilty to three charges of loan fraud involving 10 loan applications submitted to a credit provider containing false invoices and false information. Ms Farias was convicted and sentenced to a one-year intensive correction order and ordered to pay compensation totalling \$100,000.
- ♦ As a result of our investigation into Myra Home Loans Pty Ltd (Myra), Aizaz Hassan and Mohamed Radhi Maki Ebrahim Ahmed both pleaded guilty to one count of common law conspiracy to defraud and were each sentenced to five years community correction orders. The investigation into the fraudulent loans arranged by Myra centred on a conspiracy to defraud banks and other financial institutions by creating and using false documents to support loan applications submitted on behalf of Myra clients. The false documents included bank statements, payslips, citizenship certificates and statutory declarations.

## Infringement notices

In 2015–16, 87 infringement notices totalling \$1.13 million were paid under the National Credit Act.<sup>1</sup>

## Protective outcomes

In 2015–16, we achieved a number of outcomes to promote compliance with the National Credit Act:

- ♦ 33 credit licences cancelled or suspended
- ♦ three credit licensees had conditions placed on their licence
- ♦ 13 individuals were permanently banned from engaging in credit activities
- ♦ six individuals were banned from providing credit services for shorter periods.

We acted to protect consumers from advertising and debt collection processes that were potentially misleading. For example, as a result of our actions, GE Money changed its advertising of personal loans and debt consolidation loans. The overall impression given by the advertisement was that all customers would receive an interest rate that was 'one of the best rates in the market'. We were concerned that the advertising was misleading because only some customers qualified for the lowest interest rate that was offered.

We acted to protect consumers from poor practices in the motor vehicle finance sector. For example, as a result of our actions:

- ♦ Capital Finance Australia Limited, a subsidiary of Westpac Banking Corporation, paid \$493,000 in penalties and implemented new procedures to ensure compliance after ASIC found it breached consumer protection provisions in the National Credit Act relating to the repossession of motor vehicles.
- ♦ Car finance provider, BMW Australia Finance Ltd (BMW Finance), paid \$391,000 in penalties and had a condition placed on its Australian credit licence. The licence condition requires BMW Finance to appoint an independent compliance consultant after ASIC found it breached consumer protection provisions relating to responsible lending and the repossession of motor vehicles.

1. Compliance with an infringement notice is not an admission of guilt or liability. The recipient is not taken to have contravened the National Credit Act.

## 2.1 Investor and consumer trust and confidence continued

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### Remedial outcomes

In 2015–16, our actions contributed to over \$125.9 million being refunded or compensated. For example:

- ♦ In response to ASIC concerns about responsible lending and credit cards, Westpac committed to a remediation program that included customer refunds and a contribution of \$1 million to support financial counselling and literacy. The remediation program involved reviewing credit limit increases previously provided where a cardholder experienced financial difficulty. Westpac also agreed to change its credit limit increase processes to ensure that, at a minimum, reasonable inquiries are made about a customer's income and employment status before the limit is increased.
- ♦ In March 2016, Nimble Australia Pty Ltd (Nimble) agreed to refund over 7,000 customers more than \$1.5 million after ASIC detected significant deficiencies in Nimble's compliance with the responsible lending laws when providing short-term loans to consumers. Nimble also agreed to make a \$50,000 contribution to Financial Counselling Australia.
- ♦ In November 2015, the Commonwealth Bank of Australia agreed to refund approximately \$80 million to around 216,000 Wealth Package customers as compensation for failing to apply fee waivers, interest concessions and other benefits since 2008. The benefits related to home loans, credit cards and transaction accounts. The bank engaged an independent firm to review and provide recommendations to improve controls, ensure its remediation process would identify all affected package holders, and ensure an accurate calculation of refunds.

### Policy advice

#### Small amount credit contract laws

ASIC made two submissions to the independent review of the small amount credit contract laws. ASIC's submissions to the review supported changes to improve consumer outcomes in relation to small amount credit contracts and low-value leases of household goods. The submissions were based on our surveillance of these product providers.

#### Credit card interest rates and impairment of customer loans

We made submissions to the Government inquiries into credit card interest rates and the impairment of customer loans (for additional information, see page 7).





## 2.1.2 Financial advisers

ASIC's work in this sector is focused on improving the quality of financial advice. Poor financial advice can undermine investor and consumer trust and confidence in the financial system. We worked to improve the quality of financial advice by addressing conflicted advice, misaligned incentives and inadequate risk management, removing 'bad apple' advisers and taking other regulatory action where advice was not in the client's best interests.

### Stakeholder engagement

In 2015–16, we held 213 meetings with financial advice industry stakeholders, including the Australian Bankers' Association, Association of Financial Advisers, CPA Australia, Financial Planning Association of Australia, Financial Services Council and SMSF Association on issues such as life insurance reforms and robo-advice.

### Robo-advice

The provision of digital advice (also known as robo-advice or automated advice) has grown rapidly in Australia since 2014. ASIC supports the development of a healthy and robust digital advice market in Australia. In an environment where only around 20% of adult Australians seek personal financial advice, we think that digital advice has the potential to offer an attractive, convenient and low-cost service to retail clients who may not otherwise seek advice.

To assist those providing, or intending to provide, digital advice, we have met with 29 digital advice providers in 2015–16 to understand their business models and discuss any regulatory issues. From our discussions with industry it became clear that digital advice providers would benefit from specific guidance from ASIC (see below).

### Guidance

#### Remediation by advice licensees

A key part of an AFS licensee's obligations is remediating clients for losses suffered following non-compliant advice, fraud or other breaches of the law.

In December 2015 we consulted on draft guidance on review and remediation programs conducted by AFS licensees who provide personal advice to retail clients. After submissions closed on our consultation paper in February 2016, we held roundtables with key stakeholders to discuss the issues raised in their submissions. Our final guidance will be issued in 2016–17.

### SMSF advice

In July 2015, we released two information sheets to improve the quality of advice provided by advisers on SMSFs. The information sheets are intended to help advisers comply with their conduct and disclosure obligations under the Corporations Act and outline what ASIC looks at when undertaking surveillance in this area. The information sheets also specify the types of risks and costs that an adviser should consider, discuss and then disclose to clients when providing advice on establishing or switching to an SMSF.

### Robo-advice

In March 2016, we released a consultation paper on the provision of digital advice to retail clients in Australia. The consultation paper sought feedback on issues unique to digital advice businesses – in particular the organisational competence obligation that applies in a digital advice context and the ways in which digital advice licensees should monitor and test their algorithms. We published our regulatory guide on 30 August 2016.

### Surveillance

In 2015–16, ASIC completed 130 high-intensity surveillances to monitor how financial advisers complied with their advice conduct obligations.

In 84 surveillances, we detected and responded to failure by financial advisers to comply with their conduct obligations. Examples of these and other surveillance activities, including the types of failures detected and our response to those failures (such as, improvements to practices of financial advice licensees and their representatives), are set out below.

## 2.1 Investor and consumer trust and confidence *continued*

### Professional indemnity insurance

ASIC's review of the availability and cost of professional indemnity insurance for AFS licensees providing financial product advice found that the market is stable and insurance is available. However, we also found that there is a gap between our requirements in Regulatory Guide 126 *Compensation and insurance arrangements for AFS licensees* and the professional indemnity insurance policies that are generally available (for example, in relation to defence costs and fraud and dishonesty cover).

In response to our review, we released a report setting out our findings in December 2015. ASIC expects industry to address the gaps between our requirements and their professional indemnity insurance policies. ASIC will follow up with surveillance of financial advice licensees' professional indemnity insurance and if we find problems we will consider taking further action.

### Use of the term 'independent' by AFS licensees

ASIC's review of the use of the word 'independent' in marketing and promotional materials detected instances of inappropriate use. The independence of financial system gatekeepers such as financial advisers is an important issue for consumers and investors due to the influence it has on their investment decisions and choice of adviser. Consumers must not be misled into believing that an adviser is independent and free from influence by commissions or other benefits or associations if that is not the case.

In response to our review, a number of AFS licensees – Wilson HTM Ltd, iSelect Life Pty Ltd and Citywide Insurance Brokers – took steps to remove or amend claims made about the independence of their services.

### Fee for no service

In April 2015, we announced an investigation into multiple instances of licensees charging clients for financial advice that was not provided. Most of the fees have been charged as part of a client's service agreement with their financial adviser.

Our investigation into licensees charging fees without providing the requisite services is ongoing.

In 2015–16, a large AFS licensee self-reported a breach to ASIC and made changes to their supervision and monitoring systems to reduce the likelihood of similar breaches occurring. A remediation program to provide refunds to clients was also implemented.

## Enforcement

### Protective outcomes

We have taken enforcement action to protect the public where, for example, individual advisers and AFS licensees have not acted in the interests of investors and consumers.

In 2015–16, ASIC cancelled, suspended or placed conditions on seven AFS licences, with five additional AFS licensees voluntarily handing in their licence. Four individuals were permanently banned or agreed to stay out of the industry permanently and a further six individuals were banned or agreed to stay out of the industry for shorter periods. For example:

- ♦ we imposed new conditions on the AFS licence of Sentinel Private Wealth Pty Ltd (Sentinel), following concerns over the company's compliance with financial services laws such as inadequate measures to manage its risks and effectively monitor and supervise its staff. Following an independent review commissioned by Sentinel, the financial planning firm has appointed a compliance officer and enhanced its policies and procedures.
- ♦ we permanently banned Andrew Moroney from providing financial services following findings that he operated a business model that prioritised his own interests ahead of his clients. Mr Moroney's advice practice annually recommended that his clients replace one insurance policy with another. This meant Mr Moroney received a high up-front commission payment each year for each replaced insurance policy. Clients who entered into a new life insurance policy annually risked exclusionary periods or revised terms.

## ASIC's wealth management project

The ASIC wealth management project was established in late 2014 to lift the standards of major financial advice providers, the quality of their financial advice, and their remediation programs for clients who have suffered loss as a result of their failure or action. The wealth management project focuses on the largest financial advice firms.

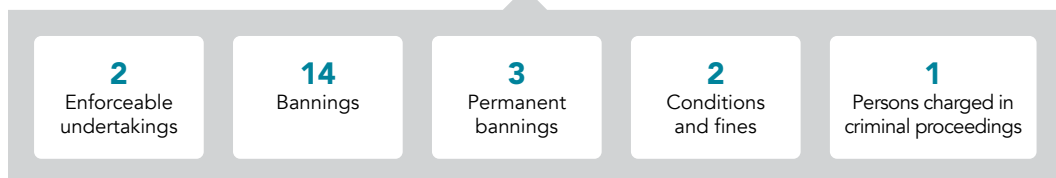
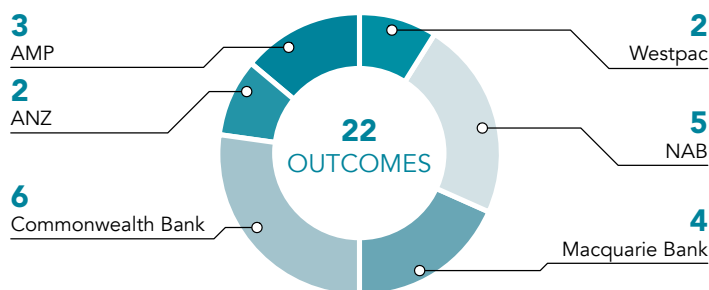
Our work in the wealth management project covers a number of areas including:

- ♦ working with the largest financial advice firms to address, identify and remediate non-compliant advice
- ♦ undertaking a significant number of investigations and risk-based surveillances which target a range of misconduct, including quality of advice in large, vertically integrated institutions.

We have achieved significant regulatory outcomes against licensees and advisers over the life of the project. For example, our actions resulted in 14 advisers being banned from the financial services industry either permanently or for a period of time. Highlights included:

- ♦ In April 2016, Hardik Bhimani was permanently banned from providing financial services after an investigation found he had misappropriated advice fees owed to his employer, charged his clients excessive fees, and failed to provide a client with statements of advice.
- ♦ In October 2015, Sharnie Kent was banned from providing financial services for eight years after an investigation found she had contravened financial services laws, was involved in Commonwealth Financial Planning Limited's contravention of financial services laws and was not adequately trained or competent to provide financial services.

## Wealth management project—Life of project



Our project work includes working with licensees on compliance programs. Since commencement of our project, the National Australia Bank has launched a financial advice remediation program to determine if compensation should be paid to clients and Macquarie Equities Ltd completed a

program of compliance work involving, in part, an assessment of the quality of advice for sample periods.

ASIC has also been working with licensees on programs to remediate clients where licensees charged clients for financial advice, including annual advice reviews, where the advice was not provided.

## 2.1 Investor and consumer trust and confidence *continued*

### Protective outcomes (continued)

We also accepted five enforceable undertakings from advisers and AFS licensees. For example, in May 2016, we accepted an enforceable undertaking from Brian Dobinson, which permanently prevents Mr Dobinson from being involved in any capacity with the provision of financial services or products. Mr Dobinson provided financial product advice through his related entities including Dobinson Holdings Pty Ltd and Lighthouse Redcliffe Pty Ltd. He was an authorised representative of Total Financial Solutions Australia Limited between 1 October 2010 and 11 December 2015.

Our surveillance found that Mr Dobinson failed to act in his clients' best interests when providing advice. Under the additional licence conditions, Total Financial Solutions Australia Limited implemented a remediation program for all clients who received advice from Mr Dobinson. This program is being overseen by an independent expert to ensure any clients who were provided advice that was not in their best interests by Mr Dobinson will receive appropriate remediation including, if applicable, compensation.

### Remedial outcomes

When investors and consumers have suffered loss due to alleged failures within an organisation, ASIC often works with that organisation to ensure people are appropriately compensated. For example:

- ◆ In 2015, ANZ announced it would reimburse several thousand clients who had paid for an annual review that may not have been provided. In 2015–16, we worked with ANZ to agree on an appropriate remediation methodology to ensure clients are appropriately compensated. The total amount will be approximately \$30 million.
- ◆ During 2015–16, ASIC continued to supervise the remediation program implemented by Macquarie Equities Limited following the conclusion of its enforceable undertaking in January 2015. Since the remediation program was implemented in late 2014, Macquarie Equities has approved remediation payments in excess of \$17 million. ASIC noted an overall improvement in the quality of Macquarie Equities' documentation.

### Policy advice

#### Adviser professionalism and training

In its response to the Financial System Inquiry, the Government agreed to increase professionalism, education and training standards for financial advisers. Key elements include requirements for advisers to hold a degree, pass an exam, undertake continuing professional development and subscribe to a code of ethics. The Government also agreed to establish an independent, industry-funded body to set details of the new standards.

The Government released draft legislation for public comment on 3 December 2015. In October 2015 and May 2016, together with key industry stakeholders, we attended two roundtables hosted by Treasury to discuss implementation of the reforms.

#### Life insurance reforms

In December 2015, the Government released draft legislative amendments and explanatory material containing proposed amendments to the Corporations Act to remove the exemption from the conflicted remuneration provisions for life insurance advice, and to allow benefits to be paid to advisers if requirements imposed by ASIC are met. The draft legislative amendments give ASIC power to make a legislative instrument to set out a maximum level of upfront and ongoing commission payments permitted in relation to life insurance products and the amount of upfront commissions to be repaid to life insurers ('clawback').

We are working to develop our approach to implementing the life insurance reforms. We engaged with key industry stakeholders through two roundtables hosted by Treasury in October and November 2015.

We subsequently released for consultation our proposals to implement aspects of the retail life insurance industry reforms that relate to commission payments and clawback. We also sought feedback on the information that life insurers should report back to us so that we can monitor the reforms and understand developments in the life insurance industry.

## External dispute resolution schemes

### ASIC's role

ASIC administers the financial services and consumer credit dispute resolution framework, which includes internal dispute resolution (IDR) and external dispute resolution (EDR). Within this framework, ASIC is responsible for setting or approving standards for IDR procedures and approving and overseeing the effective operation of approved EDR schemes.

ASIC publishes guidance to ensure that EDR schemes meet the approval criteria, which include benchmarks relating to independent governance, efficiency, effectiveness, accountability and fairness. Each quarter, senior ASIC staff meet with senior EDR scheme personnel to discuss key trends and issues arising from complaints, as well as policy and regulatory issues and law reform.

There are currently two ASIC-approved EDR schemes: the Financial Ombudsman Service (FOS) and the Credit and Investments Ombudsman (CIO).

### Dispute resolution reviews

The dispute resolution framework plays an important role in promoting consumer and investor trust in financial services markets. The two industry based schemes – CIO and FOS – and the statutory Superannuation Complaints Tribunal together deal with around 40,000 consumer and small business disputes each year.

In April 2016, the Government announced an independent review, led by an expert panel, of the financial system's EDR and complaints framework. The Panel will consider whether changes to current dispute resolution and complaints bodies are necessary to deliver effective outcomes for users in a rapidly changing and dynamic financial system. The Panel will report to Government by the end of March 2017.

The Government also requested that FOS consider extending its current jurisdiction to include a wider range of small business loans, including a review of monetary limits and compensation caps. This would extend FOS' small business jurisdiction beyond the minimum

set out in the Corporations Act. The FOS Board is leading public consultation on this issue.

ASIC welcomes the announcement of both these reviews.

### Systemic issues and misconduct

As well as resolving many thousands of disputes each year, EDR schemes must identify, resolve and report to ASIC on systemic issues and cases of serious misconduct.

Systemic issues typically have implications beyond the immediate actions and rights of the parties to the dispute, such as where a system error inside a financial institution affects many consumers. The schemes identify potential systemic issues arising out of disputes and first raise these directly with licensees. Where a systemic issue is confirmed, the relevant licensee must work with the scheme to remedy the problem, which could include compensating consumers or refunding fees or money paid. Not all matters will be confirmed as definite systemic issues. However, they may result in other positive outcomes for licensees and consumers. For example, they may help licensees identify training gaps or opportunities for improvements to processes.

Serious misconduct may involve fraudulent conduct, grossly negligent or inefficient conduct, or wilful or flagrant breaches of relevant laws.

In 2015–16, FOS reported 58 definite systemic issues and five cases of serious misconduct to ASIC. The CIO reported 38 definite systemic issues and six definite cases of serious misconduct. ASIC assessed these reports and, where appropriate, used the information to inform current or new investigations.

### External review of schemes

Under ASIC's approval guidelines, approved schemes must commission an independent review of their operations and procedures every five years.

The CIO is due for its next independent review in 2016 but this process has been deferred in light of the broader review of the EDR framework due to report in March 2017.

## 2.1 Investor and consumer trust and confidence *continued*



### 2.1.3 Investment managers and superannuation

ASIC's work in this sector is focused on conduct by responsible entities and superannuation trustees. Investor and consumer trust and confidence in our financial system is undermined when poor gatekeeper culture and incentives lead to investors being treated unfairly. This can result in significant loss for investors, particularly of retirement savings in the funds management sector. Our work focused on the prevention of wrongdoing in this area.

#### Stakeholder engagement

In 2015–16, we held 331 meetings with funds management stakeholders. This was a particularly intensive year for industry engagement because of our work on fees disclosure, risk management arrangements and law reform initiatives such as crowd-sourced equity funding. We held regular liaison meetings with industry associations such as the Association of Superannuation Funds of Australia, the Alternative Investment Management Association, the Financial Services Council, the Property Funds Association and Property Council. We presented at a number of industry conferences and delivered a national stakeholder update, *ASIC Insights*. We also contributed to the *ASIC Wealth and Funds Management Update* released in March 2016.

#### Guidance

##### Fees and cost disclosure

ASIC continues to engage with superannuation trustees and responsible entities to ensure that fees and costs disclosed to investors in product disclosure statements and periodic statements are accurate and consistently disclosed across the industry. In November 2015, we updated our guidance on fee and cost disclosure for superannuation trustees and responsible entities. Our work will help improve the quality of disclosure to investors, which will strengthen their confidence in superannuation and managed investments.

##### Risk management arrangements of responsible entities

ASIC is developing guidance to assist responsible entities to comply with their risk management obligations under the Corporations Act. This will include guidance for responsible entities on issues such as the monitoring and reporting of financial requirements and conducting internal audits of high risk areas of the business. We anticipate publishing a consultation paper in 2016–17.

##### Marketplace lending

In March 2016, ASIC released an information sheet to help providers of marketplace lending (also known as 'peer-to-peer') products with information about their regulatory obligations. Marketplace lending is an innovative product that matches people who have money to invest with people who are looking for a loan. The information sheet describes the current regulatory regime and provides good practice strategies for marketplace lenders. We have encouraged fintech start-ups who are looking to provide marketplace lending to use the information sheet to understand the current regulatory framework.

##### Surveillance

In 2015–16, ASIC completed 77 high intensity surveillances to review how responsible entities, superannuation trustees and other entities operating in the wealth management sector complied with their obligations.

In 60 surveillances, we detected and responded to a failure or failures by responsible entities, superannuation trustees and entities providing related services to comply with their conduct obligations. Examples of these and other surveillances activities, including the types of failures detected and our responses to those failures (such as, improvements to practices of responsible entities and superannuation trustees) are set out below.

## Risk profiled entities project

ASIC undertakes an annual conduct review of responsible entities and superannuation trustees to assess compliance with the AFS licence obligations, rectify any deficiencies and improve overall industry standards.

In September 2015, we provided an overview of the compliance issues detected during our surveillance of responsible entities and superannuation trustees in 2014–15. In response to the compliance failures and areas of concern, we required relevant responsible entities and superannuation trustees to:

- ◆ amend and update compliance measures
- ◆ develop procedures such as those related to due diligence and authorisation of disclosure documents and promotional material
- ◆ withdraw disclosure documents and marketing materials
- ◆ issue revised or supplementary disclosure.

For example, a responsible entity agreed to improve its compliance arrangements following our surveillance. This included making improvements to its record-keeping practices, establishing clear lines of reporting within the managed fund, and enhancing documented procedures for reporting to ASIC.

Two superannuation trustees agreed to improve their compliance arrangements following our surveillance. This included making improvements to their dispute resolution, disclosure and breach reporting procedures. In particular, one trustee made improvements to its website to better describe the features of its 'self-managed' option.

Our broader surveillance activities also resulted in a number of other regulatory outcomes, including referrals to enforcement, withdrawal and revision of disclosure, and more broadly, amendments and improvements in the quality of licensees' compliance arrangements and governance frameworks.

For example, improvements to compliance arrangements included some responsible entities:

- ◆ amending their conflicts of interest policy and procedures, conflicts register and compliance plan
- ◆ updating compliance arrangements and resources and rectifying overdue accounts
- ◆ amending processes in response to findings about valuation, oversight of financial reports, documentation and management of conflicts of interest, monitoring of scheme assets and disclosure (including on websites).

## Vertical integration

In March 2016, ASIC released a report outlining findings of an extensive review of conflicts management practice in vertically integrated businesses in the funds management industry. We were specifically concerned about those entities which operate at least two businesses, such as funds management, responsible entity, superannuation trustee, platform structure (Investor Directed Portfolio Services (IDPS) and IDPS-like structure), investment administration and custody business. Our view is that these models may create more opportunity for conflict to arise.

Our review found that many organisations appear to take their conflicts management obligations seriously, with detailed and tailored policies that appear to be embedded in business practices from boards and senior management, cascading down to business units. However, in some organisations reviewed, it appeared that the conflicts policy is one of many policies which have been prepared to satisfy a regulatory requirement rather than seeking to properly identify and address conflicts and embed requirements to address conflicts into business practices. We will factor our findings into future risk-based assessments.



## 2.1 Investor and consumer trust and confidence *continued*

### **Effectiveness of executive officer remuneration and systemic transparency disclosures**

In September 2015, we followed up on an earlier surveillance that detected instances of non-compliance with disclosure requirements (related to executive remuneration and other information about superannuation funds' governance) introduced as part of the Stronger Super reforms. We provided guidance to trustees on a number of simple changes they could make to their websites to enhance disclosure, including how to improve navigation and how to best display information (such as proxy voting). We also contacted 21 superannuation trustees about concerns we had with their executive officer remuneration and systemic transparency disclosures.

### **Enforcement**

#### **Punitive outcomes**

We took action involving managed funds so investors can have trust and confidence in their investments in financial markets. For example:

- ♦ In May 2016, the Supreme Court of Queensland found five former executives of MFS Investment Management Limited liable for breaching their directors' and officers' duties. The MFS Group, subsequently known as Octaviar, collapsed in 2008 owing \$2.5 billion. ASIC launched civil action alleging the senior executives misappropriated \$143.5 million of unitholders' money to repay debts of the MFS Group companies. We alleged the conduct involved falsifying and backdating company documents to justify the transactions. Our action addressed the core obligations of a responsible entity and its directors and officers to operate the fund with care and diligence, and in the best interests of the fund's members. A hearing is scheduled to commence in October 2016 in relation to the penalties that should be imposed on the defendants.

- ♦ In December 2015, the Federal Court made orders to wind up five of the managed investment schemes operated by Avestra Asset Management Limited (Avestra) and, in February 2016, the court ordered the liquidation of Avestra itself. We alleged that Avestra contravened its duties in relation to a number of managed investment schemes for which it is the responsible entity. We alleged that Avestra borrowed money on an unsecured basis from the property of its schemes, and invested scheme property in entities and offshore funds connected to its directors without proper due diligence or regard for the interests of members. In April 2016, the court made orders to proceed with the liquidation of Avestra and to join former Avestra directors Paul Rowles and Clayton Dempsey as defendants.

#### **Protective outcomes**

ASIC has taken a number of actions to improve compliance and protect the interests of unit holders, investors and members.

In 2015–16, we cancelled or suspended five AFS licences, issued three infringement notices and issued final and interim stop orders. For example:

- ♦ We cancelled the AFS licences of TMK Index Limited and Ergo Capital Limited for failing to comply with key obligations, including requirements around the lodgement of accounts, breach notifications, meeting Net Tangible Asset requirements and maintaining adequate, competent staffing arrangements.
- ♦ We suspended the AFS licence of Dunfo Capital Pty Ltd (formerly GSM Financial Group Pty Ltd) for failing to comply with a number of key obligations including requirements around lodging financial statements and auditor reports on time, meeting Net Tangible Assets requirements and maintaining the competence to provide financial services.
- ♦ We imposed a final stop order on a product disclosure statement where we had concerns about disclosure of commission payments, conflicts of interest, the extent of the issuers' mandate to invest in a margin foreign exchange and the performance record of the fund.



## Remedial outcomes

In 2015–16, we monitored the payment of compensation to investors and consumers. For example, our actions resulted in ANZ agreeing to pay compensation of \$4.5 million to customers and rectification and other remediation of approximately \$49 million, in respect of breaches by its subsidiaries OnePath Custodians Pty Ltd, OnePath Life Limited, OnePath Funds Management Limited and OnePath General Insurance Pty Limited. An example of a breach included 1,422 superannuation fund members having \$28.7 million in contributions allocated to the incorrect superannuation account of the member for up to 12 months. ANZ has now returned these funds to the correct accounts and provided over \$400,000 compensation for lost earnings and/or incorrect fees. ANZ also agreed to appoint PricewaterhouseCoopers to undertake an independent review of its OnePath subsidiaries' compliance management framework.

## Policy advice

### Asia Region Funds Passport

During the year, ASIC continued to provide technical assistance to Treasury in developing and negotiating the Asia Region Funds Passport. In April 2016, Australia, Japan, Korea and New Zealand signed the Asia Region Funds Passport Memorandum of Co-operation and subsequently Thailand also signed. The passport is an international initiative that facilitates the cross-border offering of eligible collective investment schemes while ensuring investor protection in economies participating in the Passport. The Memorandum of Cooperation sets out the internationally agreed rules and cooperation mechanisms of the Passport and came into effect on 30 June 2016. Participating economies have up to 18 months to implement domestic arrangements. ASIC is now assisting Treasury to implement the domestic arrangements, ensuring Australia is in a position to take advantage of this initiative.

## Law reform in managed investment schemes

ASIC continues to assess the limitations of financial services licensing for responsible entities. In 2015–16, we continued to provide advice to Treasury and Government by identifying policy issues and recommending law reform options for the managed investments sector. A specific area of focus was technical assistance to Treasury about proposals for the introduction of Corporate Collective Investment Vehicles and Limited Partnership Collective Investment Vehicles.

We also contributed to Government and Parliamentary inquiries, such as the recent Senate Economics Reference Committee's inquiry into the structure and development of forestry managed investment schemes. The Committee published its final report on 14 March 2016.

## Law reform in superannuation

We continue to contribute to law reform initiatives from Government in superannuation, including aspects of the Stronger Super reforms, such as portfolio holdings disclosure and product dashboard. In December 2015, we released the results of the consumer testing undertaken by a consultant in relation to the choice product dashboard to coincide with Treasury's consultation on the proposed dashboard legislation.

We have also made a number of submissions (including to Treasury) on the objectives of superannuation, and contributed a submission to the Productivity Commission on the competitiveness and efficiency of superannuation.

## International cooperation

Innovation, developments in technology and international financial regulation mean financial markets throughout the world are increasingly integrated, competitive and complex – calling for coordinated international responses.

Our international cooperation work in 2015–16 included:

- ♦ making 362 international cooperation requests and receiving 398 requests from international financial regulators and law enforcement agencies on various topics, including investigations, compliance and surveillance, enforcement, policy research, general referrals, delegations, licensing or due diligence
- ♦ meeting with 17 delegations, including from emerging markets, to discuss consumer protection and market regulation
- ♦ entering into cooperation agreements with the United Kingdom's Financial Conduct Authority and the Monetary Authority of Singapore which will provide financial technology companies with more support (before, during and after authorisation) as they attempt to enter their respective markets (see 'Innovation Hub' on pages 80–81)
- ♦ jointly leading a new initiative to establish an Asia–Pacific Regional Supervisory College Forum. This initiative is designed to enhance supervisory cooperation and facilitate information sharing efforts in the Asia–Pacific region in relation to targeted financial groups that have regional systemic importance.

We also participated in forums with other regulators, for example participating in IOSCO committees dealing with the key emerging issues of digital disruption, innovative technologies being applied in financial markets ('fintech') and cyber resilience.



ASIC Chairman Greg Medcraft and Sopnendu Mohanty, Chief Fintech Officer, Monetary Authority of Singapore, with the cooperation agreement signed in June 2016.



## 2.1.4 Financial literacy

ASIC's aim is to strengthen the capacity of Australian consumers and investors to make informed financial decisions. We seek to achieve this through a combination of education initiatives, information and guidance, and stakeholder engagement.

ASIC's MoneySmart website promotes financial literacy in the Australian community, with online tools, calculators and publications that cover a diverse range of personal finance topics, ranging from calculating the real cost of buying and running a car, through to investment decision making and retirement planning. We also promote financial literacy in schools and further education with online resources for students and professional development for teachers through ASIC's MoneySmart Teaching program.

### Stakeholder engagement

ASIC liaises and partners with a range of organisations, at both the national and international level, as we strive to support the financial literacy of Australians.

### ASIC and the Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board provides independent and strategic guidance to Government and ASIC on financial literacy issues, and in particular on the implementation of Australia's National Financial Literacy Strategy, led and co-ordinated by ASIC.

### ASIC and the National Financial Literacy Strategy

ASIC leads the National Financial Literacy Strategy 2014–2017 which is a flexible framework to guide the action of all stakeholders with an interest in improving the financial literacy of Australians.

As well as delivering its own initiatives under the National Strategy, ASIC liaises with financial literacy stakeholders from across the government, business, community and education sectors, both within Australia and internationally.

In November 2015, we released the first Annual Highlights Report on activities delivered under the National Strategy, including the activities of partners such as the Departments of Human Services, Social Services, Prime Minister and Cabinet, Office for Women and the Australian Defence Force; state and territory education departments, individual schools and training organisations; and a wide range of community and financial services organisations.

### National Financial Literacy Stakeholder Forum 2015

In November 2015, we brought together 150 key stakeholders for a one-day National Financial Literacy Stakeholder Forum in Sydney. With a theme of 'Innovation', the Forum gave participants an opportunity to take stock of progress under the National Financial Literacy Strategy, to showcase best practice and hear from international and Australian experts.

### Research on financial literacy

ASIC has now completed four six-monthly waves of the Australian Financial Attitudes and Behaviour Tracker research, with the first wave being conducted in 2014. In December 2015 and June 2016, we released reports on the third and fourth waves of the research. Key insights from the research include:

- ♦ Attitudes towards finances have remained relatively consistent across first to fourth waves, with around 60% of people reporting they're confident about managing their money, while close to 33% find dealing with money stressful and overwhelming
- ♦ 75% of people report using a budget in the past six months, with the majority (60%) saying they stuck to it mostly or always
- ♦ 80% of people report saving some money within the past six months. However, close to 10% said they wouldn't be able to cover three months' living expenses if faced with a sudden loss of income.

## 2.1 Investor and consumer trust and confidence continued

- ♦ Understanding of the key investing concepts of 'diversification' and 'the risk/return trade-off' remains a challenge for many, with only 40% people saying they had heard of and understood diversification and 33% saying they had heard of and understood the risk/return trade-off.

### Education and guidance

We assist investors and consumers to make better financial decisions, including through providing trusted and impartial financial guidance and tools available on ASIC's MoneySmart website. In 2015–16, we produced and delivered 86 new financial literacy resources.<sup>1</sup>

#### ASIC's MoneySmart website

ASIC's MoneySmart website is a central source for trusted and impartial financial guidance and online tools on money matters.

There were over 6.1 million visits to ASIC's MoneySmart website in 2015–16. It attracts, on average, over 750,000 visits a month. Research shows that 31% of adult Australians in the survey sample are aware of ASIC's MoneySmart and 90% of users took action on their finances after visiting the website.

Our suite of responsive online tools and mobile apps is designed to prompt consumers to take action, and leverages the increased use of smartphones and tablets. Around 42% of the visits to ASIC's MoneySmart website now come from these devices.

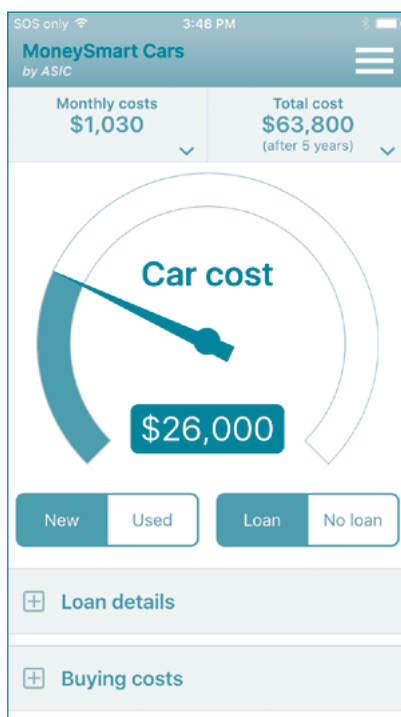
Our online calculators are designed to give consumers direction and motivate them to achieve their financial goals. The most popular calculators offered on ASIC's MoneySmart are the Budget Planner, the Mortgage Calculator and the Income Tax Calculator. In 2015–16, our online calculators were used, on average, 393,000 times per month.

#### 'How MoneySmart are you' campaign

In April and May 2016, ASIC conducted a national campaign to build awareness and increase usage of the resources and tools on ASIC's MoneySmart. The 'How MoneySmart Are You' campaign, featuring interactive videos and digital advertising, was designed to encourage Australians aged 25–55 to take positive financial action by using the budget planner, mortgage calculator, superannuation calculator and retirement planner on ASIC's MoneySmart.

#### ASIC's MoneySmart Cars app

The purchase of a new car is a major financial decision for many Australians. In June 2016, ASIC launched our MoneySmart Cars app to assist consumers to compare finance options and make sound decisions around purchasing a new car. The new mobile app is designed to help consumers work out the real cost of buying and running a car and to identify hidden costs and alternative ways to finance a car. The app also supports and complements ASIC's regulatory work relating to car finance and sale of add-on insurance products in car yards.



1. 'Financial literacy resources' have been defined to include any webpages, tools, calculators, infographics or videos that were released for the first time, or substantially revised or updated, in the last 12 months.

## Investing challenge

In January 2016, ASIC launched a new interactive tool that explains key investment concepts and product types to investors. This will help them to understand and manage investment decision making. ASIC's MoneySmart 'Investing Challenge' is designed to help investors develop new skills such as how to judge a good investment, how to diversify their portfolio and identify product risks. Investors choose a topic of interest and answer a series of short questions designed to get them thinking about and evaluating their knowledge of the topic.

## Interest-only mortgages – informing Australian consumers

In August 2015, ASIC released a report that found lenders were falling short of their responsible lending obligations when providing interest-only loans. To help borrowers better understand the longer term implications of interest-only loans, ASIC published new guidance on ASIC's MoneySmart website, including an interest-only loan calculator and infographic. The calculator

works out repayments before and after the interest-only period and the total cost of an interest-only loan compared to a principal and interest loan. The infographic shows the long-term cost of choosing an interest-only period of 10 to 15 years.

## Resources for consumers

ASIC has developed a range of resources designed to support the financial decision making of consumers who may be more vulnerable and those experiencing particular financial challenges.

In collaboration with the Department of Human Services, ASIC launched the *Rent vs Buy Calculator* to help people understand the real cost of consumer leasing. Since its launch in September 2015, an average of 5,000 people use the calculator each month.

In May 2016, ASIC launched a *Divorce and Separation Financial Checklist* and the *Asset Stocktake Calculator* to help people manage the financial impacts of divorce, separation or relationship breakdown.

Home > Tools & resources > Calculators & apps > Interest-only mortgage calculator

## Interest-only mortgage calculator

This calculator helps you work out:

- The repayments before and after the interest-only period
- The total cost of an interest-only mortgage
- How much more you will pay with an interest-only mortgage compared to a principal and interest loan

Estimated time: 2 mins

View all calculators

### Interest-only mortgage details

Amount borrowed:

\$500,000

Interest rate:

8.00%

Repayment frequency:

Monthly

Length of loan:

30 years

Interest-only period:

15 years

Fees:

\$10 Monthly

### Results

Interest-only mortgage:		Principal & Interest mortgage:	
Monthly repayments (15 years):	\$2,510	Monthly repayments (30 years):	\$3,008
Monthly repayments (15 years):	\$4,229		
Total cost:	\$1,213,071	Total cost:	\$1,082,791

You will pay **\$130,280** more with an interest-only mortgage over the life of the loan.  
After 15 years your monthly repayments will increase by \$1,719.

About this calculator - disclaimer & assumptions

## 2.1 Investor and consumer trust and confidence *continued*

### **ASIC's MoneySmart Teaching – building a financially literate future generation**

ASIC works collaboratively with state and territory Education Departments under a National Partnership Agreement to deliver ASIC's MoneySmart Teaching program. This national program is recognised internationally as a leader in supporting the teaching of financial literacy in the formal education sector.

The program builds the capability of teachers to teach financial literacy through targeted professional development and the provision of engaging classroom resources aligned to the Australian Curriculum. This work has been strengthened through a partnership with the Australian Curriculum and Assessment Authority and the Australian Taxation Office to map ASIC's MoneySmart Teaching resources to the latest version of the Australian Curriculum endorsed by Ministers in September 2015.

In 2015–16, over 50% of schools engaged with some aspect of the program. Since the program began in 2012, more than 20,500 teachers have received financial literacy professional development through ASIC's MoneySmart Teaching workshops and online modules.

Among the key resources developed for ASIC's MoneySmart Teaching program in 2015–16 was an online professional development module for primary school teachers on how to use real life money and financial concepts to engage students in mathematics. It shows how taking a broader approach to the design of learning for the Australian Mathematics Curriculum – by using financial literacy as the context – creates richer learning experiences for students.

### **International financial literacy education**

ASIC is a member of IOSCO's Committee on Retail Investors, supporting its policy work on retail investor education, financial literacy and investor protection. In 2015–16, we led the Committee's work on investment risk education, culminating in the publication of the final IOSCO report, *Sound Practices in Investment Risk Education*. The report explores how regulators can use education to help retail investors make more informed investment decisions, profiles initiatives that have worked well and identifies key themes and good practices.

In February 2016, we hosted 32 delegates from around the world for a meeting of IOSCO's Committee on Retail Investors. The meeting featured presentations by a range of academics and researchers, international regulators and financial services representatives on topics such as insights from behavioural economics, the implications of new financial technologies for investor education, investor engagement and emerging risks and the impact of cognitive decline on financial decision making by seniors.

ASIC also represents Australia on the Organisation for Economic Co-operation and Development (OECD) International Network on Financial Education (INFE). This network promotes and facilitates international cooperation between policy makers and other stakeholders on financial education issues worldwide. In 2015–16, ASIC contributed to the OECD/INFE Policy Handbook on National Strategies for Financial Education, published in November 2015. Australia is a featured case study in the handbook.

### **Financial Advisers Register**

The national register of financial advisers contains details of persons employed or authorised – directly or indirectly – by AFS licensees to provide personal advice on 'relevant financial products' to retail clients. It includes information about financial advisers' qualifications, training and professional memberships. From October 2015 all changes for financial advisers and authorised representatives can be notified online.

At 30 June 2016, there were over 23,000 financial advisers on the register and in 2015–16 there were over 790,000 searches of the register. The high volume of searches shows that investors are interested in accessing information to help them select a financial adviser appropriate to their needs.



**23,000+**  
financial advisers  
on the register



**790,000+**  
searches of  
the register



## Timeliness and cost of enforcement actions

ASIC recognises the importance of delivering timely enforcement outcomes to deter wrongdoing and promote investor and consumer trust and confidence in the financial system.

To support our commitment to transparency, for each of the last four years, we report on:

- ♦ the average time to complete the investigation phase of our enforcement activities
- ♦ the average time to achieve a criminal, civil or administrative decision in each year.

We measure the length of our criminal investigations from the date matters are first drawn to ASIC's attention to the date of referral to the DPP, and the length of civil and administrative investigations from the date matters are first drawn to ASIC's attention to the date proceedings are filed or matters are referred to an ASIC delegate or the Companies Auditors and Liquidators Disciplinary Board.

The average time to criminal and civil court decisions, and administrative decisions, is measured from the date the investigation phase is finalised. Note that this methodology is different to figures reported in previous ASIC annual reports.

The time involved in achieving enforcement outcomes can vary depending on many factors. As enforcement actions tend to run over several years, care needs to be taken in comparing one year to another.

For example, the table below shows that the average time for civil actions in which a judgment was achieved in 2015–16 was substantially less than in the preceding years. This is due to the relatively short period of time required to finalise a large number of proceedings where we sought orders to appoint liquidators to companies. The time taken to both complete the investigation and receive a court decision for criminal matters in 2015–16 has increased due to a number of complex matters that were contested by defendants.

### Average times associated with enforcement actions

	2015–16	2014–15	2013–14	2012–13	4-year average
<b>Criminal actions</b>					
Average time to complete investigation	24 mths	16 mths	18 mths	19 mths	19 mths
Average time to criminal court decision	31 mths	29 mths	22 mths	29 mths	27 mths
<b>Total</b>	<b>55 mths</b>	<b>45 mths</b>	<b>40 mths</b>	<b>48 mths</b>	<b>46 mths</b>
<b>Civil actions</b>					
Average time to complete investigation	12 mths	28 mths	20 mths	15 mths	19 mths
Average time to civil court decision	10 mths	25 mths	15 mths	25 mths	19 mths
<b>Total</b>	<b>22 mths</b>	<b>53 mths</b>	<b>35 mths</b>	<b>40 mths</b>	<b>38 mths</b>
<b>Administrative actions</b>					
Average time to complete investigation	20 mths	32 mths	33 mths	18 mths	27 mths
Average time to administrative decision	6 mths	13 mths	13 mths	10 mths	11 mths
<b>Total</b>	<b>26 mths</b>	<b>45 mths</b>	<b>46 mths</b>	<b>28 mths</b>	<b>38 mths</b>

Note: Times rounded to the nearest month.

## Remedial outcomes: Enforceable undertakings

In 2015–16, ASIC accepted 22 enforceable undertakings. Following acceptance of an enforceable undertaking, we worked with companies and independent experts to improve the culture and compliance practices of companies, resulting in improved compliance with the law and positive, long-lasting behavioural change. For example:

- ♦ In October 2015, we accepted an enforceable undertaking from Simply Energy Solutions Pty Ltd (SES). Between February 2014 and April 2015, SES marketed and sold solar panel systems at a price over and above the cash price for the goods. The enforceable undertaking requires SES to reduce the amount payable under existing contracts to the market value of the solar panel system, and allow the customer to continue to pay the market value of the solar panel systems by way of instalments. SES also agreed to provide training to its employees and officers on compliance with the National Credit Act and Regulations.
- ♦ In February 2016, we accepted an enforceable undertaking from ACE Insurance. Under the enforceable undertaking, ACE Insurance is required to appoint an independent expert to review its compliance systems, implement a remediation plan to compensate affected consumers and make a donation of \$1 million to financial counselling and financial literacy initiatives.
- ♦ In May 2016, we accepted an enforceable undertaking from HSBC Bank Australia Ltd (HSBC) that requires HSBC to review and remediate clients who received potentially deficient advice on retail structured products between January 2009 and March 2013. Under the enforceable undertaking, HSBC is required to implement a remediation plan to ensure that affected clients are reviewed and remediated in an efficient, honest and fair manner, and appoint an independent expert to report to ASIC on the adequacy of HSBC's review and remediation program. HSBC also agreed to develop and implement an assessment plan to determine whether

the problems identified in the advice on structured products extend to clients who were advised to invest in other types of products between January 2009 and March 2013, and if so, to ensure those other affected clients are fairly remediated.

- ♦ In November 2015, we accepted an enforceable undertaking from three J.P. Morgan entities in relation to breaches of disclosure requirements set out in the class order licensing relief for foreign financial service providers. Under the enforceable undertaking, J.P. Morgan has agreed to implement a remediation program, including appointing an independent expert to review the compliance framework relevant to the disclosure requirements.

In accordance with our policy introduced in February 2015, we continued to report publicly on compliance with undertakings given on or after 9 March 2015. Public reporting on compliance with enforceable undertakings improves our accountability for the regulatory outcomes we seek to achieve by accepting an enforceable undertaking.

In June and July 2016, we published two final reports on compliance with the enforceable undertakings given by:

- ♦ Barack Properties Pty Ltd (dated 18 March 2016)
- ♦ J.P. Morgan Securities plc, J.P. Morgan Securities (Asia Pacific) Ltd and J.P. Morgan Securities LLC (dated 15 November 2015).

We also published one interim report on compliance with the enforceable undertaking given by Jason Churchill and Churchill Consulting Services Pty Ltd dated 6 January 2016.

Our compliance reports are available on our enforceable undertaking register at [www.asic.gov.au/euregister](http://www.asic.gov.au/euregister). Further guidance on our approach to accepting undertakings and public reporting on compliance can be found in Regulatory Guide 100 *Enforceable undertakings*.





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## Culture and conduct in financial services and markets

Culture is a key driver of gatekeeper conduct. Culture can be seen in remuneration and incentive structures, demonstrating a commitment to good consumer outcomes, and in approaches to claims and complaints handling and breach reporting.

Our work in 2015–16 focused on improving culture of gatekeepers in our financial system which is central to investor trust and confidence.

For example:

- ♦ we undertook a review on culture, conduct and conflicts of interest in vertically integrated funds management businesses
- ♦ we are examining broader trends in the financial advice industry following our surveillances as part of the fee for no service and wealth management projects
- ♦ we continued to deliver our conduct risk message to domestic and international stakeholders. As at 30 June 2016, ASIC has presented its conduct risk message to approximately 3,000 bankers from 14 investment banks, as well as approximately another 500 staff at industry forums in order to raise awareness and standards on conduct in the industry
- ♦ we undertook proactive surveillances on 26 investment banks and market participants to better understand their appetite, attitude and approach to managing conduct risk. Our work on conduct risk has resulted in a number of positive behavioural changes by stakeholders. We continue to engage with our stakeholders on areas of concern
- ♦ we issued a supplementary questionnaire to gauge the level of implementation in Australia of internationally endorsed regulatory remuneration practices, including those from the European Banking Association, the UK Financial Conduct Authority and Prudential Regulation Authority, the Financial Stability Board and the Swiss Financial Market Supervisory Authority.

We are also developing culture indicators to inform our ongoing risk-based surveillance work.

Our focus on improving culture was also evidenced in the 2016 ASIC Annual Forum theme of 'Culture Shock', which explored the role of culture in driving conduct and what this might mean for how we adapt to changes like digital disruption and globalisation.

## 2.2 Fair and efficient markets

One of ASIC's objectives is ensuring fair and efficient markets.

Under the Portfolio Budget Statement 2015–16, our deliverables are designed to:

- ♦ supervise equities and derivatives markets and detect, understand and respond to market misconduct
- ♦ supervise market operators for compliance with statutory obligations
- ♦ promote good corporate governance
- ♦ hold people with a trusted role in the financial system (gatekeepers such as auditors, directors, market operators and participants) to account if they are not meeting their obligations.

Our success in achieving this objective is measured by the extent to which:

- ♦ participants in financial markets meet required standards
- ♦ issuers and their officers meet required standards
- ♦ financial markets are fair and efficient
- ♦ misconduct is detected, responded to and deterred.<sup>1</sup>

This objective focuses on financial markets and the important gatekeepers within Australia's financial system, such as brokers and other market participants. It also addresses the behaviour of corporations and directors who use equity and debt markets to fund their businesses, as well as gatekeepers such as auditors and liquidators.

Our *Corporate Plan 2015–16 to 2018–19* sets out a range of performance indicators in relation to our key activities for 2015–16. The following section of this annual performance statement sets out our performance against these indicators.

1. Portfolio Budget Statement 2015–16, Program 1.1.



## Key outcomes 2015–16

### Fair and efficient markets

Outcome	2015–16	2014–15	2013–14	2012–13
Stakeholder engagement				
Meetings with industry groups and other stakeholders <sup>1</sup>	903	876	487	345
Consultation papers published	12	7	4	16
Industry reports published	11	4	4	5
Guidance				
New or revised regulatory guides published	14	13	13	17
New or revised information sheets	7	10	29	13
Legislative instruments made, including amendments and repeals	65	20	24	21
Relief applications received <sup>2</sup>	1,531	1,576	1,913	2,023
Approved <sup>2</sup>	951	1,064	1,528	1,431
Refused <sup>2</sup>	56	106	85	186
Withdrawn <sup>2</sup>	346	268	300	406
In progress <sup>2</sup>	178	138		
Surveillance				
High-intensity surveillances completed	980 <sup>3</sup>	459	907	1,286
In 2015–16, proactive, risk-based surveillance focused on areas such as financial benchmarks, retail OTC derivative trading, fundraising disclosure, financial reporting, auditors and registered liquidators.				
Trading alerts produced as part of our real-time supervision of financial markets	44,224	37,763	36,346	40,368
Number of matters further inquiries were made into as a result of trading alerts	206	214	224	180

1. Data reflects reporting in given years on the basis of corporate structure and methodology at that time. In 2013–14, there was a change in methodology. As a result, meetings involving multiple ASIC teams have been counted against each team involved. Data does not include meetings held by Commissioners.
2. Data reflects point-in-time reporting in given years. Break-down of withdrawn and in-progress applications not available in 2013–14 or 2012–13.
3. Due to a change in methodology in 2015–16, additional surveillance activities, such as enquiries into potential market misconduct, have been included.

## 2.2 Fair and efficient markets continued

Outcome	2015–16	2014–15	2013–14	2012–13
<b>Enforcement</b>				
<b>Investigations</b>				
Investigations commenced	113	152	127	112
Investigations completed	96	143	125	94
<b>Criminal actions</b>				
Criminal litigation completed <sup>4</sup>	18	18	16	13
Criminal litigation completed successfully <sup>4</sup>	94%	94%	88%	85%
New criminal litigation commenced <sup>4</sup>	6	17	17	20
Number of people convicted	15	17	15	10
Custodial sentences (including fully suspended) <sup>5</sup>	15	13	10	6
Non-custodial sentences/fines <sup>5</sup>	–	4	5	4
Total dollar value of fines	\$115,000	\$40,000	\$80,000	\$105,000
<b>Civil actions</b>				
Civil litigation completed	18	11	16	11
Civil litigation completed successfully	100%	55% <sup>6</sup>	81%	100%
New civil litigation commenced	30	14	21	17
Total dollar value of civil penalties	–	–	\$1,200,000	\$140,000
<b>Administrative actions<sup>7</sup></b>				
Administrative actions completed	28	24	22	9
New administrative actions commenced	19	30	21	8
People disqualified or removed from directing companies	39	40	62	72
Action taken against auditors and liquidators	24	6	13	7
<b>Enforceable undertakings</b>				
Enforceable undertakings accepted	9	10	8	8

4. Excludes summary prosecutions for strict liability offences.

5. The reporting of this outcome in 2015–16 has changed compared to previous years (for 'number of imprisonments') to take account of custodial sentences that have been fully suspended. The figures for 'non-custodial sentences/fines' from 2012–13 to 2014–15 have also been adjusted because of this change.

6. Of the 11 proceedings completed in this category in 2014–15, four of the five unsuccessful actions against individual subjects relate to the matter of Mariner Corporation Limited, which involved litigation on an untested provision of the Corporations Act.

7. An administrative action is a decision by a delegate of ASIC or the Companies Auditors and Liquidators Disciplinary Board (CALDB) to exercise a statutory protective power. Examples of an administrative action are a decision to disqualify a person from managing corporations, prohibit a person from providing financial services, cancel or suspend an AFS licence, impose additional conditions on an AFS licence or cancel the registration of a person as an auditor or a liquidator.

Outcome	2015–16	2014–15	2013–14	2012–13
<b>Infringement notices</b>				
Number of infringement notices issued – Market integrity rules <sup>8</sup>	9	9	12	9
Dollar value of infringement notices – Market integrity rules <sup>8</sup>	\$984,000 <sup>9</sup>	\$541,000	\$1,015,000	\$452,000
Number of infringement notices issued – Continuous disclosure <sup>8</sup>	4	4	6	1
Dollar value of infringement notices – Continuous disclosure <sup>8</sup>	\$132,000	\$132,000	\$198,000	\$66,000
<b>Summary prosecutions</b>				
Summary prosecutions for strict liability offences	410	355	314	528
<b>Compensation</b>				
Compensation or remediation	–	\$943,418	\$2.7 million	–
<b>Policy advice</b>				
<i>In 2015–16, we made several submissions to Senate and Parliamentary Joint Committee inquiries. We also provided policy advice in areas, such as crowd-sourced equity funding and insolvency law reforms.</i>				

8. In 2015–16, ASIC changed the way we report ‘number of infringement notices issued’ and ‘dollar value of infringement notices’ to provide a break down between continuous disclosure and market integrity rule matters. The figures for 2012–13, 2013–14 and 2014–15 have been adjusted to reflect the change in our reporting.
9. The number of infringement notices issued in 2014–15 and 2015–16 did not change. The average value of the infringement notices issued was significantly higher (\$109,333) compared to 2014–15 (\$60,111).

## 2.2 Fair and efficient markets *continued*



### 2.2.1 Corporations (including emerging, mining and resources)

ASIC's work in this sector during 2015–16 focused on gatekeeper conduct. Poor conduct by gatekeepers, such as directors, can undermine investor trust and confidence in the market. Our work in this sector also focused on risks associated with financial innovation-driven complexity and globalisation.

#### Stakeholder engagement

In 2015–16, we held 81 meetings with stakeholders, including the Australian Institute of Company Directors, ASX, the Governance Institute of Australia, the Takeovers Panel, staff of the Foreign Investment Review Board, and the Australian Shareholders' Association. Key issues discussed included voting by show of hands or proxy, remuneration, electronic disclosure, culture and corporate governance and proxy advisers. We also held corporate finance meetings twice yearly in Sydney, Melbourne, Brisbane, Perth and Adelaide that were attended by over 600 corporate finance advisers.

We worked with other bodies to achieve effective regulation. For example, in 2015–16 we engaged with ASX on their listing rules in cases where a company proposes to list with only a small free float. This will help ensure that potential shareholders have better information about the company before deciding whether to invest.

#### Guidance

##### Consolidation of fundraising guidance

We have simplified our legislative instruments and regulatory guidance on fundraising. In March 2016, we consolidated seven regulatory guides about disclosure documents into one new regulatory guide. We also repealed five class orders which were no longer relevant and consolidated 26 existing class orders into 13 new legislative instruments.

##### Facilitating business

ASIC facilitates many complex transactions by providing relief, where appropriate, from the requirements of the Corporations Act.

ASIC facilitated the complex mechanics around National Australia Bank's demerger of CYBG Plc, a UK-based banking group. NAB sought to exit its investment by demerging 75% of CYBG Plc shares to NAB shareholders by scheme of arrangement and capital reduction, and selling the remaining 25% of CYBG Plc shares under an institutional offer. ASIC's relief facilitated a number of technical aspects of the demerger and IPO transaction, which also involved coordination with local and overseas regulators and securities exchanges.

We closely monitored the competition for control of Asciano Limited. In a landmark transaction, we provided relief to facilitate a successful \$9 billion joint takeover by two consortiums led by Qube Holdings Limited and Brookfield Infrastructure Partners Limited through a scheme of arrangement.

#### Improved guidance on forward-looking statements for mining companies

In April 2016, we released an information sheet to draw together and explain the existing rules and reference sources on forward-looking statements commonly made in the mining and resources industry relating to production targets and forecast financial information. This 'one-stop-shop' reference guide aims to help reduce business costs and risks of litigation or regulatory action. Further dialogue with industry on this information sheet is ongoing.

Discussions with industry and the ASX on forward-looking statements are ongoing.

#### Enhanced corporate governance website

To assist companies to understand their obligations and improve their practices, ASIC launched significantly enhanced corporate governance content on our website. The new corporate governance webpage brings together all of ASIC's speeches and published articles, as well as more traditional guidance through regulatory guides and information sheets.

## Reports on corporate finance regulation

We published two corporate finance reports in August 2015 and February 2016 highlighting key statistical information about corporate finance regulation for the half year. The reports aim to provide greater transparency of ASIC's role in the regulation of corporations in Australia. They note key trends and detail our work in the regulation of fundraising, mergers and acquisitions, corporate governance, and other general corporate finance areas.

## Surveillance

In 2015–16, ASIC completed 414 high-intensity surveillances to monitor how companies and their directors complied with their obligations under the Corporations Act. Our surveillance activities focused on improvements in disclosure or compliance with the law with respect to specific transactions.

In 315 surveillances, we detected and responded to a failure or failures by companies and their directors to comply with their conduct obligations. Examples of these and other surveillance activities, including the type of failures detected and our response to these failures (such as working with entities to improve disclosure and issuing stop orders) are set out below.

## Improving fundraising disclosure

In 2015–16, we reviewed 757 prospectuses and offer documents, which made up over 85% of all documents lodged with ASIC. We actively examined due diligence materials in a number of cases to ensure disclosure was not misleading. We required improved disclosure to be lodged in 19% of these documents, impacting around \$6.4 billion of fundraisings. We issued 58 interim stop orders, with most of these revoked when corrective disclosure was lodged, and made eight final stop orders to prevent fundraising where we had concerns.

Examples of where we responded to failures to comply with fundraising requirements include:

- ♦ Following a range of disclosure concerns raised by ASIC, Bitcoin Group Ltd, a digital currency miner, was required to lodge two replacement prospectuses and two supplementary prospectuses. We also required the company to remove misleading statements on Chinese language social media sites.
- ♦ AfterPay Holding Limited was one of many initial public offerings (IPOs) in the fintech space that came to market in 2015–16. We raised concerns around disclosure of the business model and issued an interim stop order. A replacement prospectus clarified our concerns and a successful \$25 million fund raising proceeded.
- ♦ We took action against Black Mountain Resources for their poor disclosure about convertible notes and failure to comply with accounting standards. As a result, Black Mountain will not be permitted to use reduced disclosure rules and will be required to issue a full prospectus if seeking to raise funds from retail investors.

## Due diligence practices in initial public offerings

In July 2016, we published a report outlining the findings of our review into the due diligence practices of issuers and directors in IPOs. Between November 2014 and January 2016, ASIC conducted systematic reviews of the due diligence practices of 12 IPO issuers, ranging from small and mid-sized to larger offers and a sample of offers from emerging market issuers. Our review found a close correlation between defective disclosure in a prospectus and poor due diligence. Common concerns generally identified among small to medium-size firms included variation in the quality of due diligence processes, a 'form over substance' approach and a lack of involvement by the directors of the issuer. Our report makes good practice recommendations for effective due diligence, including around director involvement in the due diligence process and engagement of appropriate professional and expert advisers.

## Monitoring takeovers

ASIC monitored 40 new takeover bids in 2015–16. Where necessary, we intervened to seek better disclosure or conduct to ensure companies' transactions and control transparency was appropriate and legal. We assessed the disclosure and terms of 54 proposed acquisitions under court-approved schemes of arrangement.

We took two applications to the Takeovers Panel on proceedings for Ainsworth Game Technology Limited and Condor Blanco Mines Limited, and made submissions on a further 16 matters before the Panel.

## 2.2 Fair and efficient markets *continued*

ASIC used our compulsory notice powers to support a Takeovers Panel application by Affinity Education Group Limited (Affinity). This resulted in an order that required alleged associates of acquirer G8 Education to dispose of a number of shares in Affinity.

### Corporate governance

We monitor the conduct of directors and other important gatekeepers. In 2015–16, we reviewed 316 related party transactions – particularly fundraising and control transactions – to assess conflicts of interest. We required re-lodgement of 7% of these notices and undertook additional surveillance on a further 5%.

We monitor trends in corporate governance by assessing issues arising out of Annual General Meetings, engaging with ASIC's Director Advisory Panel and assessing international developments.

### Improved disclosure for emerging market issuers listing on ASX

In 2015–16, we saw many emerging market issuers coming to terms with Australian standards of due diligence, disclosure and other listing requirements as they sought to list on the ASX. Our responses to these developments included:

- ♦ We required a replacement prospectus to be lodged to address disclosure concerns for Dongfang Modern Agriculture Holding Group Limited, an emerging market citrus producer seeking to raise \$5 million.
- ♦ King of Gold Group Co Ltd is a Chinese gold explorer that attempted to raise \$40 million through listing on the ASX. ASIC raised significant disclosure concerns including inconsistent statements in the Chinese legal due diligence report on the ownership of the mining licenses, incorrect translations of source documents, lack of historical financial information and unclear description of tenements in the independent geologist report. A final stop order prevented the fundraising from proceeding.

- ♦ Living Cities Development Group Limited (formerly Ferrowest) was a suspended Australian-focused mineral explorer which sought to become a China-based property developer and raise up to \$5.5 million. ASIC took stop order action to improve disclosure around its business model and financial disclosure.

- ♦ Mazu Alliance Ltd (Mazu) made a second attempt to re-list on the ASX, after ASIC issued a stop order on their first attempt earlier in the financial year. A replacement prospectus was required to address ASIC's concerns which included ownership and use of the land in China. Mazu was however unable to satisfy ASX requirements for readmission and was subsequently delisted.

## Enforcement

### Punitive outcomes

#### Continuous disclosure

Where senior officers of publicly listed companies fail to ensure that the published financial results of listed companies are true and accurate and do not mislead the market, investor trust and confidence in the market is undermined. For example, in May 2016, the former Managing Director and CEO of Sigma Pharmaceuticals Ltd, Elmo De Alwis, and former Chief Financial Officer, Mark Smith, were sentenced for charges in relation to falsifying books and giving false or misleading information to directors and auditors. They were sentenced to 12 months imprisonment and fined \$25,000.

#### Directors' duties

ASIC continues to take action to protect investors where directors fail to discharge their duties with care and diligence or fail to act in the best interests of the corporations they serve. For example:

- ♦ Former Kleenmaid director Gary Collyer Armstrong was sentenced to seven years in jail for his role in the collapse of the national whitegoods distributor. In August 2015, Mr Armstrong pleaded guilty to insolvent trading and fraudulently obtaining \$13 million from Westpac.



- ♦ In May 2016, the Federal Court in Adelaide disqualified three former directors of Astra Resources Limited from managing corporations. The Court found that Astra Resources raised more than \$6.5 million illegally from 281 investors during 2011 and 2012, in contravention of the fundraising provisions of the Corporations Act. The Court found that directors Dr Jaydeep Biswas, Ms Silvana De Cianni and Mr Barrie Meerkin failed to take reasonable steps to prevent these contraventions. Dr Biswas and Ms De Cianni were disqualified for 12 years and Mr Meerkin for nine years.

## Protective outcomes

### Continuous disclosure

Continuous disclosure is one of the key foundations of investor trust and confidence in the market. In 2015–16, ASIC took action to protect investors from companies that failed to meet continuous disclosure and other reporting requirements. For example, in May 2016, we obtained a winding up order against Continental Coal Limited (CCC) to protect the interests of shareholders, investors and creditors. The winding up application was made on the basis that CCC was not being properly managed and that the company had been involved in multiple contraventions of the corporations legislation, including failure to comply with continuous disclosure obligations, failure to lodge audited accounts and convene its annual general meeting, and insolvency. ASIC had earlier restricted CCC from issuing a reduced content prospectus until 26 February 2017.

## Remedial outcomes

### Continuous disclosure

We accept enforceable undertakings where companies fail to meet their continuous disclosure obligations. For example, in June 2016, ASIC entered into an enforceable undertaking with Rhinomed Ltd following the company's failure to disclose market information that would have reasonably had a material impact on its share price. This followed separate, previous continuous disclosure failures by the company. Under this enforceable undertaking, an independent expert will identify deficiencies in Rhinomed Ltd's continuous disclosure policies and procedures, and then review the company's rectification of these deficiencies. Rhinomed Ltd also paid an infringement notice in relation to its failure.<sup>1</sup>

### Policy advice

#### Fundraising reforms

We provided advice to Government regarding crowd-sourced equity funding. The proposed reforms are aimed at providing small unlisted public companies with easier access to fundraising through innovative platforms.

ASIC continued to examine policy interest surrounding fundraising for cooperatives and mutuals. This included appearing before the Senate Economics Reference Committee inquiry into cooperatives, mutuals and member owned firms and advising Treasury on their response to the committee's report.

We also continued to liaise with Treasury regarding progress on reforms to improve the effectiveness of the simple corporate bond regime.

1. Compliance with an infringement notices is not an admission of guilt or liability. Rhinomed Ltd is not taken to have contravened s798H(1) of the Corporations Act.

## 2.2 Fair and efficient markets continued



### 2.2.2 Insolvency practitioners

ASIC's work in this sector is focused on gatekeeper conduct by insolvency practitioners (registered liquidators). Poor conduct by registered liquidators, including their failure to detect and report inappropriate conduct of principals, can undermine investor and creditor trust and confidence in the market.

#### Stakeholder engagement

##### Liaison with registered liquidators

In 2015–16, we held 51 meetings with stakeholders. This included the Australian Restructuring Insolvency and Turnaround Association (ARITA), the main organisation representing insolvency practitioners (including registered liquidators).

We hold biannual regional meetings in each state (as well as the Northern Territory and ACT) with registered liquidators and other stakeholders in the insolvency sector.

We also engaged with our stakeholders by writing articles for industry publications. We authored three articles which appeared in the *Australian Insolvency Journal* (the quarterly journal of ARITA), as well as co-authoring an article for *Inpractice* (the monthly journal of CPA Australia).

##### Powers to appoint liquidators

We used our wind-up powers to appoint liquidators to abandoned companies and help employees access their entitlements under the Fair Entitlements Guarantee. In 2015–16, we exercised our powers to appoint liquidators to 31 abandoned companies that owed 68 employees more than \$1.8 million in entitlements.

##### Work with liquidators when companies fail

A particular focus of our engagement with registered liquidators in 2015–16 has been when companies fail, particularly through our administration of the Assetless Administration Fund, the Liquidator Assistance Program and enforcement action against directors and others based on registered liquidator reports to ASIC.

During the year, we approved over 260 Assetless Administration Fund applications of the 700 assessed, and assisted liquidators to obtain books and records or reports as to affairs in over 400 external administrations.

##### Report on supervision of registered liquidators

We published our fifth annual report, covering the 2015 calendar year, about our supervision of registered liquidators.

Our report sets out the work ASIC undertook in promoting higher standards and sanctioning poor performing registered liquidators. This promotes competence and independence and militates against improper gain.

Reports of alleged misconduct about registered liquidators decreased from 446 in 2013 and 384 in 2014 to 364 in the 2015 calendar year. ASIC's ongoing educational work with registered liquidators to improve their communication with creditors contributed to the decrease. The overall downward trend in reports of alleged misconduct about registered liquidators is encouraging.

##### Educating creditors

Part of ASIC's response to reports of misconduct is to educate the person (usually a creditor) about the applicable law or practice, including providing information about the standard insolvency process. Approximately 72% of reports of misconduct about registered liquidators involved such circumstances.

#### Guidance

##### External administration

In 2015–16, we reissued an information sheet that provides practical guidance to assist registered liquidators to understand what forms need to be lodged and published in an external administration.

## Surveillance

In 2015–16, ASIC completed 27 high intensity surveillances of insolvency practitioners involving issues of independence, competence or improper gain. We also completed 216 reviews of registered liquidators' compliance with reporting and publishing requirements.

In 20 surveillances, we detected and responded to a failure or failures by registered liquidators to comply with their conduct obligations. Examples of these surveillance activities, including the types of failures to comply with conduct obligations detected and our response to those failures, are set out below.

### Pre-insolvency advice

The pre-insolvency advice market is a growing and largely unregulated, unlicensed market. Not all pre-insolvency advice is bad or improper. However, we are concerned that some advisers may aid and abet directors in breaching their duties and promote illegal phoenix activity that undermines market confidence and reduces the assets that might otherwise be available for creditors in a formal external administration.

We have sought to better understand these advisers and their business models using market intelligence from registered liquidators. We have also assisted registered liquidators through the Liquidator Assistance Program and the Assetless Administration Fund. This helps the liquidator recover assets for the creditors' benefit. Liquidators are required to report fully to ASIC which, in turn, helps our investigations and legal action.

We conduct investigations into corporate failures where we are concerned about the activities of pre-insolvency advisers and the liquidators involved.

We work closely with other regulators, including the Australian Financial Security Authority, the Department of Employment, the Fair Work Ombudsman and the ATO. ASIC participates in the Phoenix Taskforce and the Serious Financial Crime Taskforce. The taskforces facilitate information sharing that assists ASIC to identify illegal phoenix activity.

## Compliance with reporting and publishing requirements

ASIC completed 216 surveillances of registered liquidators' compliance with reporting and publishing requirements. The key objective of this work is to further build confidence in the insolvency market and our regulation of it through compliance. Non-compliance with simple obligations can reflect more serious problems with insolvency practices.

Our surveillances detected three instances where registered liquidators did not comply with statutory lodgement and publication obligations which are designed to allow creditors and others to participate in the insolvency process. In response, we accepted voluntary undertakings from the three registered liquidators. Each liquidator and their advisers worked with us to rectify the issue to the extent possible and pay all relevant fees required by law. They also undertook to implement firm-wide training to promote a better compliance culture.

### Reactive surveillance reviews

In 2015–16, ASIC conducted 69 reactive surveillances following reports of alleged misconduct focusing on practitioner independence, competence and remuneration. These surveillances resulted in registered liquidators improving their behaviour. For example:

- ♦ ASIC detected that a registered liquidator had failed to adequately investigate and document companies' affairs and provide adequate details to creditors. In response, ASIC accepted a voluntary undertaking requiring the liquidator to engage an independent quality reviewer to review a series of his external administrations.
- ♦ ASIC detected that a registered liquidator had failed to comply with the requirement to provide an initial estimate of remuneration to creditors. In response, the liquidator agreed to provide ASIC with a copy of their next three initial creditor circulars in a voluntary administration to allow us to verify that they have complied with the requirement.

## 2.2 Fair and efficient markets continued

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### Enforcement

#### Protective outcomes

We take strong action to ensure liquidators meet their obligations to creditors. In 2015–16, for example:

- ♦ We accepted an enforceable undertaking from registered liquidator, Anthony Christopher Matthews, of accounting firm, Anthony Matthews & Associates. ASIC had reviewed Mr Matthews's conduct as voluntary administrator of Sapphire (SA) Pty Ltd (formerly trading as River City Grain Co.) and formed the view that he had failed to meet the duty to creditors to adequately investigate and document investigations and report alleged offences to ASIC. The enforceable undertaking prevents Mr Matthews from accepting any new appointments for two months and requires Mr Matthews to appoint an independent expert at his own cost to review his insolvency practice.
- ♦ We successfully obtained an order from the Supreme Court of Victoria that the appointment of Mr Gideon Rathner as voluntary administrator of Planet Platinum Ltd on 4 May 2015 was invalid, void and of no effect. The court found that the only reason the directors had appointed Mr Rathner as an administrator was for the improper purpose of preventing ASIC from having a provisional liquidator appointed to the company, and not because they had formed a view that it was insolvent or likely to become insolvent.
- ♦ We filed an application for the court's inquiry into the conduct of a Melbourne-based registered liquidator. We also filed an application with the CALDB to cancel the registration of a NSW registered liquidator.

Directors of failed companies are required to assist liquidators. In 2015–16, we prosecuted over 400 directors for failing to assist registered liquidators.

### Policy advice

#### Insolvency law reform

We continued to assist the Government on policy issues, particularly in the development of the *Insolvency Law Reform Act 2016* and its innovation agenda.

ASIC made a submission to the Productivity Commission's inquiry into business set up, transfer and closure. ASIC's submission supported reforms to promote a rescue culture for financially distressed companies that have some prospect of rehabilitation, including safe harbour reforms and reforms to the operation of *ipso facto* clauses. The Australian Government has adopted these proposals to improve Australia's insolvency laws as part of the National Innovation and Science Agenda.



## 2.2.3 Financial reporting and audit

ASIC's work in this sector is focused on gatekeeper conduct by directors and auditors. Poor gatekeepers conduct (including failing to identify, address and report inappropriate conduct of principals) can undermine investor trust and confidence in the market.

### Stakeholder engagement

In 2015–16, we held 140 meetings with domestic stakeholders with a focus on improving financial reporting and audit quality. We maintain strong relationships with Australia's three largest accounting bodies – CPA Australia, Chartered Accountants Australia and New Zealand, and the Institute of Public Accountants. We also liaise with other stakeholders including accounting firms, the Group of 100, the Australian Institute of Company Directors and user groups.

### Guidance

#### Registration of company auditors

In 2015–16, we released a revised regulatory guide on the registration of company auditors. The revised guide simplifies and improves the registration process for prospective auditors, including approval of a new competency standard for satisfying practical experience requirements, and updating the professional indemnity insurance requirements for authorised audit companies and newly registered company auditors. The changes to the registration process will reduce red tape and ensure appropriate standards for new company auditors are met.

### Digital financial reporting

ASIC accepts digital financial reports for lodgement in place of paper or PDF reports. These reports can be displayed in a web browser and can be structured using hyperlinks. In June 2016, we published a video to assist companies to simplify their financial reports and encourage digital financial reporting.

### Financial reporting quiz

ASIC continues to host an on-line quiz to help directors test their knowledge of financial reporting and direct them to additional resources that may assist further. The quiz was developed with the largest Australian accounting bodies and the Australian Institute of Company Directors. During 2015–16, 931 directors completed the quiz.

### Surveillance

#### Financial reporting surveillance and audit

In 2015–16, we completed 461 surveillances (149 of which were high-intensity) to monitor compliance with financial reporting and audit requirements.

In 90 surveillances we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures detected and our response to these failures are set out below.

#### Financial reporting surveillance

In 2015–16, we reviewed over 350 financial reports of listed entities and other public interest entities. Our enquiries continue to result in material changes to 4% of financial reports reviewed. As a result of our surveillances, 12 entities recognised asset impairments totalling \$1.7 billion following ASIC inquiries. Other changes relating to accounting treatments – such as addressing premature recognition of revenue – totalled \$151.0 million.

## 2.2 Fair and efficient markets continued

In response to our inquiries Slater and Gordon Limited (S+G) reduced asset values in its financial report for the half year ended 31 December 2015 and re-classified a portion of its work in progress (WIP) and disbursement assets as non-current in its financial report for the year ended 30 June 2015. We made inquiries of S+G in relation to its financial report for the year ended 30 June 2014 and subsequently raised questions in relation to the financial report for the year ended 30 June 2015. Our inquiries mainly concerned the recoverable amount of goodwill attributable to the company's Australian and UK businesses, the recognition of fee revenue and related WIP, provisioning against debtors and disbursement assets, and the basis for classifying WIP and disbursement assets as being current.

### Audit inspection program

Auditors play a vital role underpinning investor trust and confidence in the market. We work with directors, audit committees and auditors to improve audit quality.

On 15 December 2015, we released a report of the results of our audit firm risk-based inspections for the 18 months to 30 June 2015. ASIC reviewed a total of 463 key audit areas across 111 audit files at firms of different sizes. We found that in 19% of audit areas, auditors did not obtain reasonable assurance the financial report as a whole was free of material misstatement. This compares with 20% for ASIC's report covering the previous 18 months ending in December 2013. Our findings are similar to those in other countries.

In our view, our inspections show that audit firms must continue to improve the sufficiency and appropriateness of audit evidence obtained by the auditor, the level of auditors' professional scepticism, and appropriate use of the work of experts and other auditors.

## Enforcement

### Protective outcomes

We take action to cancel, suspend or impose conditions on the registration of an auditor where breaches of the Corporations Act and Australian auditing or accounting standards are identified. In 2015–16, for example:

- ♦ We imposed conditions on the registration of company auditor, George Georgiou. In response to ASIC concerns about his audits of two ASX listed entities, Mr Georgiou voluntarily agreed to conditions on his auditor registration. Those conditions include successfully completing at least 30 hours of professional audit-related training at his own expense within 12 months, and engaging a registered company auditor to review three of his company audits for the year ended 30 June 2016.
- ♦ We disqualified four SMSF auditors following referrals from the ATO for breaches including signing audit reports despite not being a registered company auditor, providing misleading statements, deficient audit work, and breach of independence requirements.

## Policy advice

### International engagement

We work with firms internationally through the International Forum of Independent Audit Regulators (IFIAR) to improve audit quality. We also work with other IFIAR members on initiatives, such as improved information sharing, auditing standards and enforcement. In 2015–16, IFIAR approved a Multilateral Memorandum of Understanding Concerning Co-Operation in the Exchange of Information for Audit Oversight (MMoU) and 22 members are expected to sign the MMoU in December 2016. ASIC is leading this MMoU work.

We also work with other securities regulators through IOSCO to improve financial reporting and audit quality. Activities include input on accounting, auditing and ethical standards, interactions with standard setters, accounting firms and other stakeholders, and guidance and policy development. We lead IOSCO initiatives on information sharing about the interpretation and regulation of accounting standards.



## 2.2.4 Financial market infrastructure

ASIC's work in this sector is focused on poor gatekeeper conduct in markets. Culture and incentives that drive poor conduct can undermine investor trust and confidence in the market. This can lead to compromised outcomes for firms and markets, with flow-through impacts for investors including retail investors.

Our work also focused on cyber resilience. The increasing incidence, complexity and reach of cyber attacks can undermine businesses and destabilise our markets, eroding investor and consumer trust in the financial system and the wider economy.

### Stakeholder engagement

In 2015–16, we held 310 meetings with a range of financial market infrastructure stakeholders including infrastructure operators, such as Chicago Mercantile Exchange Inc and the Depository Trust and Clearing Corporation. We also engaged with key industry associations, such as the Australian Financial Markets Association and the International Swaps and Derivatives Association.

We engaged with industry and overseas regulators to better understand trends and developments. We hold central roles in international bodies and working groups that shape international regulation in financial market infrastructure and financial markets generally.

The bank bill swap rate (BBSW) is a critical short-term interest rate benchmark for borrowers and investors. We worked with members of the Council of Financial Regulators (CFR) and industry stakeholders on options to reform the methodology for calculation of the BBSW. CFR released a discussion paper and proposal on the evolution of the BBSW methodology in February 2016. In March 2016, ASIC consulted with RBA and APRA on proposed regulatory reforms for financial benchmarks in Australia. The regulators have also worked with the Australian Financial Markets Association on proposed changes to the BBSW methodology.

### Cyber resilience

We undertook a number of educational initiatives with stakeholders to promote good cyber practices. ASIC Commissioners and senior executives delivered messages on cyber resilience at events, such as the Australian Institute of Company Directors conference. We also authored a number of articles which were published in *Stockbrokers Monthly* magazine.

### Guidance

#### ASX/Chi-X cyber resilience report

We published a report with a point-in-time assessment of the cyber resilience of ASX Group and Chi-X Australia Pty Ltd. The report also contained a number of 'good practices' used by financial services entities operating in Australia identified through in-depth information sharing discussions. These 'good practices' enabled ASIC to make relative comparisons between peer entities and against ASX Group and Chi-X Australia resilience profiles to inform the assessment process. Our report also provides a list of key questions directors or board members should ask about their cyber resilience. Since its release in March 2016, the report has been downloaded almost 500 times and widely cited in online publications, and continues to influence industry practices.

#### Delegation of ministerial powers to ASIC

On 10 April 2016, the Government delegated to ASIC specified powers relating to market and clearing and settlement facilities, including powers to issue, suspend or cancel a licence, as well as powers relating to operating rule arrangements and compensation arrangements. The delegation means that ASIC Commissioners and senior executives can exercise those powers in accordance with guidelines issued by the responsible Minister. The objective of this delegation is to reduce red tape and better facilitate innovation and competition by enabling industry to bring services and products to market quickly.



## 2.2 Fair and efficient markets *continued*

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Ten matters have been determined under delegation in 2015–16, including two market licence exemption variations and eight operating rule changes. The median timeframe for delegate decisions has been 3.5 days from formal lodgement of the application. Details of matters determined under delegation are published quarterly on our website.

### **Surveillance**

ASIC's surveillance of financial market infrastructure focuses on thematic reviews targeted at strategic risks, rather than specific surveillances in response to suspected breaches.

### **Dark liquidity and high-frequency trading**

In 2015–16, ASIC conducted a review of high-frequency trading and dark liquidity in our equities and futures markets. Our review report included a number of findings which led to actions designed to improve market practices. For instance, we found that there was a trend in Australia and overseas toward exchange and crossing system operators seeking to preference some market users over others for dark trading, which undermines fair and non-discriminatory trading. We confirmed that these arrangements may be inconsistent with operators' existing obligations. We have not seen any proposals of this nature since.

### **ASX assessment report**

We published an assessment report of ASX's listing standards and administration. We concluded that up to the time of publication, ASX had met its statutory obligations in relation to its listing standards. In reaching this conclusion, we were informed by our own surveillance of ASX's equities market and our ongoing oversight of ASX and its surveillance practices. We also engaged extensively with ASX and regulators in the United Kingdom, United States, Canada, Singapore, Hong Kong and New Zealand.

The report noted that administration by ASX of its listing standards had largely served Australian businesses and investors well. The report also highlighted important changes in financial markets driven by globalisation developments, competition, technology and information management, and shifting business cycles. ASX has implemented wide-ranging changes to governance, administration and resourcing of

ASX listing standards. ASX has also consulted on changes to its listing rules designed to maintain the quality of the ASX market and to ensure it remains internationally competitive.

This report also sets clear standards and expectations of the listing function in Australia's financial markets to ensure that they are fair and efficient, thereby underpinning investor trust and confidence.

### **Financial benchmarks**

In July 2015, we released a report on financial benchmarks. The report highlights the importance of financial benchmarks in the Australian economy and outlines the consequences if benchmarks are not robust and reliable. It refers to the investigations ASIC is undertaking into benchmark-related conduct, and makes a number of forward-looking recommendations that dealers, wealth managers and other clients of dealers and administrators of benchmarks should adopt to avoid conduct issues.

### **Policy advice**

#### **Post-trade market structure reforms**

In 2015–16, we worked closely with the CFR and the ACCC to advise the Government on competition in the clearing of Australian cash equities. As a result, in March 2016, the Government endorsed the CFR's recommendations to implement a flexible legislative framework comprising rule-making and arbitration powers to facilitate safe and effective competition in clearing, and to deal with the continued monopoly provision of cash equity clearing and settlement services until competition emerges.

#### **Global OTC reforms**

Delivering on its G20 commitments in response to the 2008 financial crisis, Australia has implemented rules that commenced in April 2016 requiring mandatory central clearing of interest rate derivatives denominated in US dollars, Euros, Pound sterling, Japanese Yen (G4 currencies) and Australian dollars.

The final stage of implementing the ASIC OTC derivative transaction reporting – reporting by smaller financial entities on OTC derivatives transactions – commenced in 2015–16.





## 2.2.5 Market and participant supervision

ASIC's work in this sector is focused on real-time surveillance and monitoring of Australia's financial markets, and the conduct of market participants. Culture and incentives that drive poor conduct (including in wholesale markets) can undermine investor trust and confidence in the market. This may lead to compromised outcomes for firms and markets, with flow-through impacts on retail markets.

### Stakeholder engagement

In 2015–16, we held 218 meetings with market participants. As part of our early engagement process, we regularly meet with market participants to raise our concerns. We maintain a dialogue with industry as part of our risk assessment and compliance liaison.

We also engaged with market participants to achieve positive behavioural change where we detect market misconduct, including unusual trading patterns. In 2015–16, we gave 15 presentations to industry on ASIC's Market Analytics and Intelligence (MAI) surveillance system which we use to analyse trade data for patterns and relationships.

### Market Entity Compliance System

In July 2015, ASIC rolled out its Market Entity Compliance System (MECS) to market entities (market participants, market operators, clearing and settlement facility operators and derivative trade repositories). MECS is an online regulatory compliance portal that helps market entities comply with their regulatory obligations. Reports from these entities indicate that the new system has made the process for lodging, reviewing and tracking ASIC forms and notices simpler and more efficient. MECS is an example of ASIC using technology to assist market entities in complying with the law. Currently, around 400 individual users from 150 market entities are registered to use MECS and over 1,000 applications and notifications have been submitted through the system.

### Surveillance

In 2015–16, ASIC produced 44,224 trading alerts on ASIC's MAI system and conducted inquiries into 206 matters.

In 2015–16, we also conducted a range of surveillances (276 of which were high-intensity). This includes enquiries undertaken by the Market and Participant Supervision compliance and surveillance teams.

In 121 surveillances, we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures identified and our response to those failures (such as, by working with individual market participants to improve their practices) are set out below.

### Morgans Financial Limited

Following breach notifications and surveillance alerts, we initiated a compliance review on Morgans Financial Limited (Morgans), which detected concerns about its supervisory and risk management framework. In response to our review, we agreed to voluntary licence conditions for an independent expert to conduct a review of the supervisory and risk management framework, with a particular focus on the adequacy of Morgans' compliance framework. Morgans is now implementing the expert's recommendations, which affect a broad range of their supervisory arrangements, including their monitoring systems, financial advice and corporate advisory processes.

### ASX 24 quarterly roll markets

In 2015–16, ASIC identified ongoing order activity issues in the ASX 24 quarterly roll markets for some contracts. We were concerned that a small number of market participants and clients may be seeking to 'crowd out' other participants and clients. This conduct was leading to higher costs for other participants and their clients. In response, we contacted the market participants involved to discuss our concerns and saw a significant improvement in overall activity in the ASX 24 quarterly roll markets.

## 2.2 Fair and efficient markets *continued*

### Australian Real Estate Investment Trust (A-REIT) index futures contracts

Following movement of equity sector futures contracts from the ASX exchange to the ASX 24 in November 2014, we identified that some participants were facilitating large off-market block transactions in A-REIT index futures contracts that were not allowed within the ASX 24 market integrity rules.

In response to our review, we contacted the market participants involved to discuss our concerns and requested that the ASX issue a notice to the market to clarify the rules around block trading of these futures contracts. We also adopted a limited no action position which allowed the ASX 24 to consult with the market and introduce changes to the contracts as well as procedures around pre-negotiation of the A-REIT equity sector futures contracts in the quarterly roll market. We subsequently saw a significant improvement in compliance with the market integrity rules.

### Enforcement

#### Punitive outcomes

ASIC has continued to strengthen our approach to responding to market misconduct. Among other outcomes, we have secured the longest insider trading sentence ever handed down in Australia, being eight years and three months. We have also secured a number of imprisonment terms for people found guilty of engaging in market misconduct, issued infringement notices for breaches of the market integrity rules, and accepted enforceable undertakings to address concerns about misuse of confidential client information.

### Insider trading

Insider trading is a crime which is increasingly likely to be detected. ASIC continues to investigate and successfully prosecute those engaging in this form of market misconduct. For example:

- ♦ Former Hanlong Mining managing director, Hui Xiao, was sentenced to a total of eight years and three months imprisonment on insider trading charges, with a non-parole period of five years and six months. Mr Xiao pleaded guilty to two charges of insider trading, and formally admitted to a third charge, involving a total of 102 illegal trades in financial products related to Sundance Resources Limited and Bannerman Resources Limited in July 2011.

Mr Xiao received Australia's highest sentence for insider trading following his failure to return to Australia in November 2011, in contravention of a court order, and subsequent extradition to Australia from Hong Kong in October 2014. ASIC and the Australian Federal Police also took action against Mr Xiao under the *Proceeds of Crime Act 2002* (Cth) to recoup the profits made by Mr Xiao from the illegal trades.

- ♦ Michael Hull was sentenced to 17 months imprisonment after pleading guilty to insider trading charges. Mr Hull is to be released after serving seven months, upon giving security by way of recognisance to be of good behaviour for 18 months from his release. Mr Hull had previously pleaded guilty to trading in the shares of Mac Services Limited, Giralia Resources NL and Jabiru Metals Limited while in possession of inside information between 8 September 2010 and 9 February 2011. Mr Hull admitted that he received the inside information from a close friend who was employed in the investment banking department of a global financial services company which worked on major corporate transactions involving those companies.

- ♦ Oliver Curtis, former investment banker, was sentenced to two years imprisonment after being found guilty of conspiring to commit insider trading. Mr Curtis is currently appealing his conviction.

### Market manipulation

Market manipulation undermines investor trust and confidence in the market. We take this conduct seriously and will vigorously pursue those parties suspected of engaging in this misconduct. For example:

- ♦ Nigel Heath was convicted and sentenced to 18 months imprisonment after pleading guilty to two market manipulation charges. Mr Heath carried out a number of transactions involving financial products relating to Petsec Energy Limited and other shares and CFDs that had the effect of artificially increasing the price for trading in these on the ASX between February 2012 and October 2013.
- ♦ Robert Dulhunty was sentenced to 18 months imprisonment for conspiring to manipulate the share price of Healthzone Limited, of which he was a former director.
- ♦ In March, April and June 2016, we commenced civil penalty proceedings against the Australian and New Zealand Banking Group Limited (ANZ), Westpac Ltd and National Australia Bank (NAB) respectively for unconscionable conduct and for market manipulation in setting the BBSW in periods between March 2010 and December 2012. On 27 September 2013, the Australian Financial Markets Association changed the method by which the BBSW is calculated. The conduct that the proceedings relate to occurred before the change in methodology. ASIC alleges that ANZ, Westpac and NAB each traded in a manner that was unconscionable in the bank bill market with the intention of creating an artificial price for bank bills and consequently of moving the BBSW higher or lower. ASIC alleges that ANZ, Westpac and NAB were seeking to maximise their profits or minimise their losses to the detriment of those holding opposite positions to the banks.

### Markets Disciplinary Panel infringement notices

The Markets Disciplinary Panel (MDP) is a peer review body that exercises ASIC's power to issue infringement notices or accept enforceable undertakings for alleged breaches of the market integrity rules.

In 2015–16, the MDP issued nine infringement notices<sup>1</sup>, which imposed a total of \$984,000 in these matters (see pages 181–182).

These included:

- ♦ Australian Investment Exchange Limited, for allegedly failing to have in place automated filters or Market Vetting Filters as appropriate for all Authorised Persons, and processes to detect Authorised Persons trading without appropriate automated filters. This interfered with the efficiency of the market and resulted in the market not being fair and orderly. Australian Investment Exchange Limited paid a \$130,000 penalty.
- ♦ Macquarie Securities (Australia) Limited (MSAL), for allegedly approving two employees who were not designated trading representatives (DTR) for access to the Automated Order Processing (AOP) system while also giving these employees access to the manual trading application, which resulted in a non-DTR submitting trading messages into the trading platform which did not comply with the AOP requirements. MSAL paid a \$110,000 penalty.

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

## 2.2 Fair and efficient markets *continued*

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### Protective outcomes

#### Market manipulation

We continue to pursue those involved in perpetrating market misconduct to protect our financial markets. For example, in December 2015, we banned Tony Davidof, a former financial adviser, from providing financial services for three years. Our investigation found that Mr Davidof had engaged in manipulation of the price of MINI warrants issued by Credit Suisse, which are a type of derivative product traded on the ASX. We found that, in 2013, Mr Davidof took part in back-to-back buy and sell trades of MINI warrants on the ASX with a former employee of Credit Suisse after the pair had pre-arranged the price, volume and approximate timing of the trade. This behaviour was likely to have the effect of creating an artificial price for trading in the affected products on the ASX.

### Remedial outcomes

In 2015–16, we accepted enforceable undertakings from market participants in relation to concerns about misuse of confidential client information. For example:

- ♦ ASIC accepted enforceable undertakings from Philip King and Regal Funds Management (Regal). Mr King is a director of Regal. Regal short-sold a large number of Ten Network Holdings Ltd (TEN) shares after receiving an email from Angus Aitken, a Sydney institutional stockbroker, resulting in a profit of approximately \$80,000. Mr King and Regal agreed to implement various training and compliance measures, and Mr King further agreed to make a voluntary contribution of \$80,000 to Financial Literacy Australia Limited.
- ♦ In December 2015, we accepted enforceable undertakings from Angus Aitken and his then employer Bell Potter Securities over concerns about the way Mr Aitken handled and disclosed information about an institutional client's possible selling intentions in securities of TEN. ASIC was concerned that Mr Aitken knew, or ought to have known, that this information was, or was likely to be, confidential client information. Under the enforceable undertakings, Mr Aitken agreed to undertake various training and compliance measures, and Bell Potter agreed to implement various compliance measures. Mr Aitken further agreed to make a voluntary contribution of \$80,000 to Financial Literacy Australia Limited.



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## Market Integrity Group

In 2015–16 ASIC's Market Integrity Group teams – Market and Participant Supervision, Financial Market Infrastructure, Investment Banks and Market Integrity Enforcement – undertook a number of joint projects to promote fair and efficient markets.

### Cyber resilience

Our cyber risk taskforce (financial markets) proactively collaborates with industry, regulators and Government to identify practices to deal with cyber threats and technological advances. We also engage in real-time market monitoring to identify potential cyber attacks, for example, by detecting anomalous trading patterns that may be the result of a cyber attack. As an example of our work in this area, in 2015–16 we took action to retain proceeds of crime in relation to suspected hacking of clients' accounts at multiple broking firms. We have also issued questionnaires to investment banks and market participants to obtain an understanding of the industry's resilience to cyber risks and to raise awareness.

### Culture and conduct in markets

In 2015–16 our Market Integrity Group contributed to our focus on culture and conduct in markets. We engaged with domestic and international stakeholders, including around 3,000 bankers from 14 investment banks and another 500 staff at industry forums, to raise awareness and standards on conduct in the industry. Our Market Integrity Group's teams undertook proactive surveillances on 26 investment banks and market participants, which has resulted in a number of positive behavioural changes by stakeholders. We also issued a supplementary questionnaire to gauge the level of implementation in Australia of internationally endorsed regulatory remuneration practices (see further detail on page 55).

### Managing confidential information and conflicts of interest

During 2015–16, our Market Integrity Group teams undertook a surveillance on the management of confidential information and conflicts of interest by the research and corporate advisory functions within investment banks and other market participants. This surveillance focused on the handling of confidential information and management of conflicts of interest, in particular the independence of research, staff trading and share allocations. The project involved a thematic review of policies, procedures and practices, as well as meetings with overseas regulators, a number of investment banks, independent corporate advisors and independent research houses. Our surveillance reviewed a significant IPO for which most investment banks active in this market 'pitched', a small IPO, a placement and a block trade. Through this surveillance and other recent work, we have identified a number of areas of concern which have been addressed in a public report and are subject to further regulatory action in 2016–17. We intend to consult on new guidance in 2016–17.

## 2.2 Fair and efficient markets continued

In October 2015, ASIC released a report on high-frequency trading and dark liquidity. The report summarised industry practice and set out ASIC's expectations regarding the structure and conduct of principal trading and facilitation activities. Market participants have subsequently made changes to the structure of their principal trading and facilitation activities to ensure that confidential information is adequately protected, such as:

- ♦ moving the seating locations of principal traders away from agency traders and others with access to client order flow
- ♦ principal traders ceasing to undertake agency business (i.e. removing dual roles)
- ♦ changes to technological systems
- ♦ non-attendance by principal traders at meetings where client orders are discussed.

We consolidated these messages about the importance of protecting confidential information through articles in publications such as ASIC's *Market Integrity Update* and the AFMA Newsletter.

### Market cleanliness

During 2015–16, ASIC undertook a study measuring Australian equity market cleanliness with a focus on possible insider trading and information leakage ahead of material, price-sensitive announcements (MPSA). The report, released in August 2016, found a general improvement in investor trust and confidence in the market. This was demonstrated by the decrease in anomalous trading ahead of MPSAs in the five years before and after the transfer of market supervision to ASIC (i.e. between 1 November 2005 and 31 October 2015).



Greg Yanco, Senior Executive Leader, Market and Participant Supervision, addressing the Australia FIX Conference in September 2015.



## 2.2.6 Investment banks

ASIC's work in this sector is focused on the conduct of investment banks and other market intermediaries (e.g. retail OTC derivative providers). Culture and incentives that drive poor conduct (including in wholesale markets) can undermine investor trust and confidence in the market. This can lead to compromised outcomes for firms and markets, with flow-through impacts on retail markets.

### Stakeholder engagement

In 2015–16, we held 103 meetings with stakeholders on issues, such as the structure and resourcing of their compliance function, the importance of prompt and full reporting of breaches of financial services laws, and commercial developments across their corporate advisory, capital markets and fixed income, currency and commodity businesses.

### Asia-Pacific Regional Supervisory College

ASIC jointly led, along with the Hong Kong Securities and Futures Commission, a new initiative to establish an Asia-Pacific Regional Supervisory College Forum (RSC). The RSC is aimed at enhancing supervisory cooperation and facilitating information-sharing efforts in the Asia-Pacific region in relation to investment banks with a significant presence across regional markets. The RSC's first session was held in February 2016.

### Guidance

#### Retail OTC derivatives

We published a report in June 2016 highlighting serious compliance failures in the retail OTC derivatives industry. We expect industry to take note of our findings and proactively remediate any areas requiring improvement. This will ensure the industry has adequate and enduring compliance measures to fulfil its regulatory obligations.

### Binary options

Binary options are a high-risk, unpredictable investment option. In January 2016, we published guidance on MoneySmart to help investors understand the risks involved when deciding to invest in binary options.

### Surveillance

In 2015–16, ASIC completed 114 high intensity surveillances to monitor how investment banks (seven surveillances), retail OTC derivative providers (100 surveillances) and credit rating agencies (seven surveillances) complied with their obligations. In relation to the seven high intensity surveillances of investment banks, in six of these surveillances we detected and responded to a failure, or failures, to comply with conduct obligations. Examples of these and other surveillance activities, including the types of failures identified and our response to these failures, are set out below.

### Managing confidential information

We achieved a number of regulatory outcomes following our surveillance of the management of confidential information and conflicts of interest by the research and corporate advisory functions within investment banks and other market participants. For example, in December 2015, UBS agreed voluntarily to change various internal research analyst policies and processes. This followed an ASIC investigation into the handling of confidential information received by a UBS research analyst from Newcrest Mining Ltd in mid-2013 and concerns with the management of conflicts of interest related to research on the privatisation of NSW electricity infrastructure from 17 March 2015.



## 2.2 Fair and efficient markets *continued*

### Retail OTC derivatives – licensed providers

Retail OTC derivatives are generally considered high-risk financial products for retail investors because of the highly leveraged and principal-to-principal nature of the trading (which contributes to counterparty risk). There has been a material increase in aggressive marketing by issuers of retail OTC derivatives – particularly through cold calling and unsolicited emails – increasing the exposure of these types of products to segments of the Australian population that may not understand the associated risks.

We undertook a risk-based review of 55 of the approximately 65 non-market participant AFS licensees that issue OTC derivatives to retail investors in Australia. Our thematic review focused on seven key compliance risks, including the licensees' financial resources, handling of client money, changes of corporate control, poor disclosure, supervision of authorised representatives, and financial reporting obligations. Over 70% of AFS licensees we reviewed were found to have issues associated with three or more of the seven key compliance risks.

In response to our review, ASIC obtained over 150 regulatory outcomes across 55 AFS licensees (and other associated parties, such as authorised representatives), including AFS licence cancellations and suspensions, rectification of non-compliant behaviour, updating and correction of information, referrals to other Australian and international regulators, and the issue of infringement notices for misleading conduct.

### Retail OTC derivatives – unlicensed providers

During 2015–16, we reviewed 45 entities, primarily binary option providers, who we believed were marketing their services in such a way that misled investors into believing they are operating lawfully under Australian regulation. In response to our review, over 75% of these entities made changes to their website or advertisements, or took steps to block or inform potential Australian investors. In addition, we issued public warning notices in relation to 10 entities that ignored numerous attempts at contact, and appeared to continue the representation that they were able to offer their financial services in Australia.

### Enforcement

#### Protective outcomes

##### Retail OTC derivatives

As a result of our surveillance of issuers of retail OTC derivatives, we achieved a number of enforcement outcomes. For example:

- ♦ In 2015–16, we cancelled the AFS licence of LSG Group Pty Ltd (formerly known as NZ Global Financial Trading Pty Ltd, Easy Capital Global Pty Ltd and AIFA Global Pty Ltd) and suspended the AFS licence of Australian Capital Markets Advisory Services Pty Ltd.
- ♦ In 2015–16, we also issued public warning notices in relation to a number of issuers of retail OTC derivatives, including GOptions, Porterfinance, Boss Capital, MaxOptions, Bloombex Options, Citrades, RBOptions, and OptionsXO, Top Ten Binary Brokers, Market City International, and Brokers500.

#### Remedial outcomes

##### Foreign financial service providers

We take action against foreign financial service providers (FFSPs) where they fail to comply with the disclosure and reporting requirements set out under class order licensing relief. For example, in November 2015, three J.P. Morgan entities entered into an enforceable undertaking with ASIC in relation to breaches of disclosure requirements set out in the class order licensing relief. As part of the enforceable undertaking, J.P. Morgan has agreed to implement a remediation program, including appointing an independent expert to review its compliance framework relevant to the disclosure requirements.

Following the announcement of the J.P. Morgan enforceable undertaking, we have observed a shift in industry awareness of the regulatory obligations that apply to FFSPs, particularly the disclosure and reporting requirements set out under class order licensing relief. The lift in compliance awareness and standards also appears to be linked in part to ASIC's messaging on the need to comply with the FFSP disclosure and reporting obligations.



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## Policy advice

### IBOR review/benchmarks

ASIC co-led a follow-up review of the implementation of the IOSCO Principles for Financial Benchmarks. This provides a set of good practices for the sector by the administrators of the key global interest rate benchmarks Euribor, Libor and Tibor. This review found that the administrators had made significant progress in implementing the principles, but that some gaps remained. The review made clear recommendations to the administrators to improve their implementation of the principles and is an example of IOSCO – and members like ASIC – working with industry leaders to improve practices.

### Shadow banking

We participated in work led by RBA on implementing the recommendations of the Financial Stability Board in relation to securities financing, securities lending and repurchase agreements. This work has involved developing an understanding of prevailing market practices and consideration of reform options.

## Innovation Hub

ASIC established its Innovation Hub in March 2015 to help fintech start-up businesses navigate the regulatory framework that we administer. Our Innovation Hub contributes to our strategic goals of promoting investor and consumer trust and confidence and fair and efficient markets. ASIC views the work of its Innovation Hub as essential to understanding the implications of developments in the financial sector as well as facilitating the provision of more consumer-focused and more efficient financial services. The Innovation Hub comprises of five elements:

- ♦ stakeholder engagement
- ♦ informal assistance and guidance from ASIC to eligible businesses
- ♦ a dedicated Innovation Hub website
- ♦ coordination of all ASIC's innovation-related work
- ♦ an external advisory body (i.e. the Digital Finance Advisory Committee).

### Stakeholder engagement

We have held over 120 meetings with industry and other stakeholders, and we presented at seven events targeted at the financial services start-up community. In total, we have worked with 93 new, innovative businesses.

### Informal assistance and guidance to eligible businesses

#### Individual guidance and assistance with licence or relief applications

ASIC senior staff have provided informal guidance to 67 entities that have requested assistance from ASIC and met our basic eligibility criteria. This guidance helps businesses consider the important regulatory issues early, and may assist recipients to prepare their licence or relief applications. The most common business models we have seen are digital advice, marketplace lending and payments/remittance. Many of these businesses have now progressed to obtaining licences from us.

We have granted 21 AFS and credit licences to potentially innovative operations.

### Industry-wide guidance and policy proposals

In addition to providing individual assistance, we have also prepared industry-wide guidance for more common business models. We released an information sheet on marketplace lending in March 2016, as well as guidance on digital advice in August 2016.

We have reflected on the particular challenges facing new financial services businesses, and identified three proposals that could help to facilitate innovation in financial services. We published a consultation paper in June 2016 on our proposals to:

- ♦ provide examples of how ASIC assesses the organisational competence of a potential licensee
- ♦ modify ASIC's policy on organisational competence to allow some limited-in-scale, heavily automated businesses to rely, in part, on compliance sign-off from a professional third party to meet their competence requirements
- ♦ implement a limited industry-wide licensing exemption to allow start-ups to test certain financial services for six months (the 'regulatory sandbox' exemption).

### Innovation Hub website

ASIC has established a dedicated Innovation Hub website which provides tailored information and access to informal assistance intended to streamline the licensing process for innovative fintech startups. In 2015–16, there were 9,445 visits to the Innovation Hub webpages.

### Coordination and cooperation

ASIC has established an Innovation Hub co-ordination team comprised of subject-matter experts from various teams to carry out its work in this space. Internal working groups have also been established on digital advice, marketplace lending, equity crowdfunding and blockchain. We have

established a network with Treasury and other domestic regulators including the RBA, APRA, AUSTRAC and ACCC.

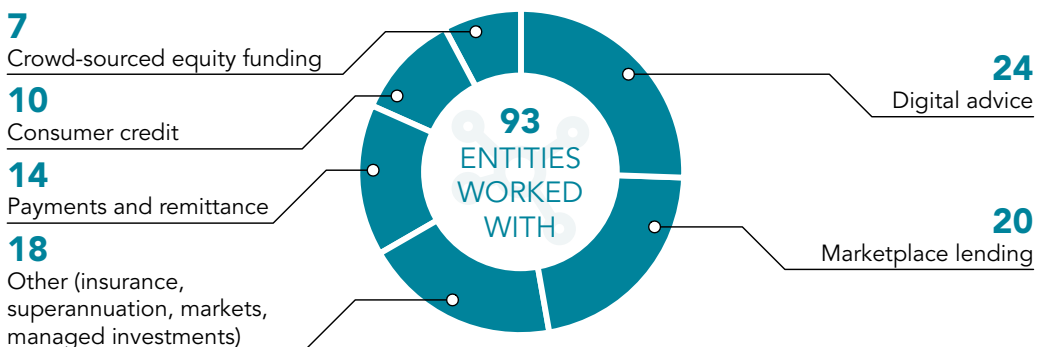
We also met regularly with overseas regulators to discuss developments in their jurisdictions and how they are approaching innovation. Following on from these meetings, we have signed cooperation agreements with the United Kingdom's Financial Conduct Authority and the Monetary Authority of Singapore, under which each regulator will refer to one another those innovative businesses seeking to enter the other's market. The regulators provide support to innovative businesses

before, during and after authorisation to help reduce regulatory uncertainty and time to market.

### Digital Finance Advisory Committee

The Digital Finance Advisory Committee was established in 2015 to assist ASIC to support innovation in financial services and markets. In 2015–16, we met with our Digital Finance Advisory Committee four times. They have provided feedback to improve how we engage with the sector and have suggested enhancements to our Innovation Hub webpage (see page 183).

### ASIC's Innovation Hub – outcomes<sup>1</sup>



### ASIC's Innovation Hub online



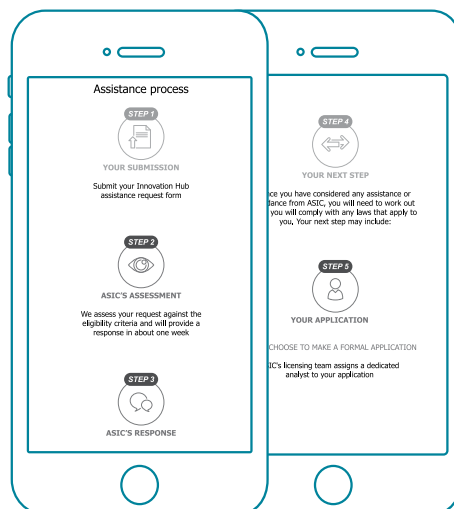
**67**  
Entities requested and received informal assistance



**120+**  
Meetings with stakeholders



**21**  
AFS/credit licences granted



1. Innovation Hub outcomes since its establishment in March 2015 to June 2016.

## 2.3

### Efficient registration services



ASIC oversees company registration and notifications, the AFS licensing and credit licensing regimes, business names registration, and the registration of company auditors, SMSF auditors, liquidators and financial advisers.

One of ASIC's objectives is to provide efficient registration services. An efficient registration system fosters commercial dealings by enabling parties to verify the existence and status of entities with which they do business.

Our activities in relation to this objective are designed to:

- ♦ provide stakeholders with modern, efficient, accurate and cost effective corporate registers
- ♦ improve public access to information about registered and licensed entities
- ♦ reduce costs and red tape for business by making it easier to transact with ASIC
- ♦ administer the law to enhance commercial certainty and reduce business costs.

Our success in achieving this objective is measured by the extent to which:

- ♦ registration is efficient, accurate and cost effective for business
- ♦ business complies with ongoing registration obligations
- ♦ the public has easy access to information in ASIC registers
- ♦ misconduct is detected, responded to and deterred.<sup>1</sup>

The following section of this annual performance statement sets out our performance in providing efficient registration services.

1. Portfolio Budget Statement 2015–16, Program 1.1.



## Key outcomes 2015–16

### Efficient registration services

Outcome	2015–16	2014–15	2013–14	2012–13
Total companies registered	2.37 million	2.25 million	2.12 million	2.01 million
New companies registered	246,051 <sup>1</sup>	235,182 <sup>1</sup>	212,573	192,211
Total business names registered	2.07 million	2.15 million	1.99 million	1.74 million
New business names registered	337,413	327,687	299,988	274,349
Estimated savings in fees to register or renew business names	\$41.7 million	\$41.4 million	\$40.2 million	\$38 million
Calls and online inquiries responded to by our Customer Contact Centre	861,767	888,843	1,080,690 <sup>2</sup>	881,064
Registry lodgements	2.8 million	2.7 million	2.4 million	2.4 million
Percentage of registry lodgements online	90%	87%	86.1%	84%
Number of searches of ASIC registers	90.7 million	86.2 million	76.2 million	68.0 million

1. Successful and completed registrations.

2. Includes new online business name inquiry channels.

## 2.3 Efficient registration services *continued*

### 2.3.1 Registry business

ASIC's registry business – the companies register, Business Names Register and other corporate and professional registers – forms a critical part of Australia's economic infrastructure and is essential to the efficient operation of Australia's economy.

The ASIC Registry is a quality certified organisation under *ISO 9001 Quality Standard in Information Management*. We were the first government organisation internationally to achieve certification under this standard. Maintaining certification is part of our commitment to continually improve our services to meet customer needs, cut red tape and deliver benefits to our customers.

### 2.3.2 Overall registry activity

#### Doing business online is easier and cheaper

Our vision is to provide simple online customer-centric services that add value to the Australian economy.

Many of our registers – including the Business Names Register, the register of SMSF auditors, and the Financial Advisers Register – are fully online. Customers can choose to lodge online for most notifications to the other ASIC registers including the companies register. More of our customers are choosing to lodge online (90% of all lodgements were online in 2015–16) and making use of the convenience of doing business with the ASIC registry outside standard business hours.

To enable efficient registration services we are linking more services provided by government organisations for our customers. Information services available to customers now include all of our free registry datasets available for downloading in bulk online at [www.data.gov.au](http://www.data.gov.au). Our increased use of this whole of government service this year, which is based on open data principles, demonstrates our commitment to supporting innovation and responding to current trends in data consumption. ASIC registry datasets are in high demand and rank in the top ten on [data.gov.au](http://data.gov.au). The companies register is frequently one of the top five viewed datasets.

#### Registry lodgement

More businesses than ever before are transacting with us online.

In 2015–16, 90% of all 2.8 million registry lodgements with ASIC were submitted online, up from 87% in 2014–15 (a 3% increase).

In 2015–16, we continued our work with companies and their agents to increase online lodgement to the companies register. Online lodgement of common 'changes to company details' has increased significantly to 99% of lodgements now online. Online lodgement of other company notifications – including changes of company name, changes of registered agent, and applications for voluntary de-registration – has also increased.

In total, 87.6% of lodgements to our companies register were submitted online, up from 84.7% in 2014–15 (a 2.9% increase).

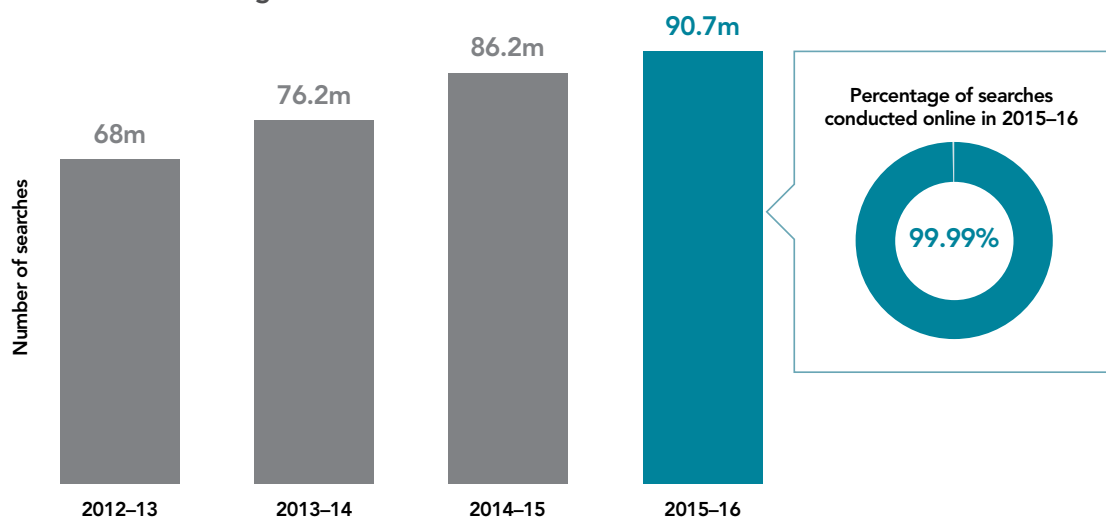
#### Searching online

In 2015–16, there were 90.7 million searches of ASIC registers – an increase of 4.5 million searches from 2014–15 – with 99.99% of searches requested online.

The two registers most searched were the companies register (52.3 million searches, down 5% from 2014–15), and the Business Names Register (33.5 million Business Names Register searches, an increase of 21% from 2014–15).



## Searches of ASIC registers



There were 4.9 million searches of ASIC's professional registers, a 57% increase from 2014-15. The Financial Advisers Register, established on 31 March 2015, contributed to the increase, with over 790,000 searches in 2015-16. This year we also saw an increase in 'professional role' searches.

Most searches of the ASIC registers are provided free of charge. In 2015-16, a fee was paid for 4.7 million or 5% of all searches. ASIC collected \$59.8 million in search fees for the Commonwealth.

Our *NZAUConnect* app allows consumers in Australia and New Zealand to quickly and easily find details on almost 5 million registered organisations using their smartphones. In 2015-16, more than 164,000 searches of the Australian registers were accessed using *NZAUConnect*.

### Social media and online help

ASIC uses Facebook, Twitter and YouTube social media channels to engage with customers online. In 2015-16, our ASIC Connect Facebook followers increased to 6,436 (an increase of 33% from 2014-15) and our ASIC Connect Twitter followers increased to 13,167 (a 25% increase from 2014-15).

In 2015-16 we improved the look and feel of our online profiles with a new contemporary design, resulting in increased engagement from our

followers. We have also developed a web chat capability, to be progressively introduced to our various customer groups in the coming year.

### Efficient customer contact

The ASIC website is the primary source of information for ASIC's registry customers. Our website makes it easier for customers to access commonly used transactions and information about our registers. In 2015-16 there were over 16 million visits to [www.asic.gov.au](http://www.asic.gov.au)

Our Customer Contact Centre also provides a valuable service to Australians as we respond to their inquiries. In 2015-16, we responded to 861,767 calls and online inquiries. Over half (51%) of all inquiries to the Customer Contact Centre related to companies and a third (33%) were about business names.

In 2015-16 we enhanced our support for new registry customers interacting online, particularly for customers who need additional support to register or lodge online. We have also strengthened the link between our social media and Customer Contact Centre officers to enhance consistency in the experience our customers receive across the service channels we offer.

## 2.3 Efficient registration services continued

### Inquiries to Customer Contact Centre, by type

Topic	Number of inquiries	Percentage of inquiries handled by the Customer Contact Centre
Companies <sup>1</sup>	437,986	51%
Business names	284,597	33%
Other <sup>2</sup>	95,613	11%
AFS licences	13,063	2%
Consumer or investor matters	8,818	1%
Online complaints	9,625	1%
Credit licences	6,342	< 1%
SMSF auditors	2,300	< 1%
Auditors	2,054	< 1%
Liquidators	672	< 1%
Managed investment schemes	697	< 1%
<b>Total</b>	<b>861,767</b>	<b>100%</b>

1. All company-related inquiries, including registration, annual reviews, lodgements, fee payments and changes to company details.
2. Includes all other call types not specified in the table, including calls about unclaimed money, matters that do not relate to ASIC and inquiries not allocated by type.

### 2.3.3 Specific register activity

#### Companies register

A record 2.37 million companies are now registered with ASIC (a 5.7% increase from 2014–15).

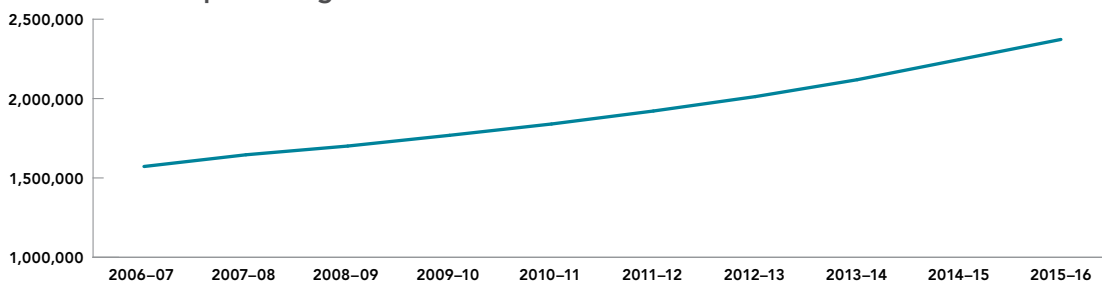
This continues the trend of increasing numbers of companies over the past decade, from 1.48 million companies in 2005–06.

In 2015–16, we registered 246,051 new companies. This reflects an increase of 4.6% from 2014–15, and steady increases over the last five years.

Company deregistration continues to increase, with 123,050 companies deregistered in 2015–16, either voluntarily or by ASIC. This is an increase of 9.2% from 2014–15.

During 2015–16, the number of companies that entered external administration decreased by around 7.3%. A total of 9,848 companies entered external administration during 2015–16, compared to 9,177 in 2014–15.

## Number of companies registered with ASIC



### Business names register

There are 2.07 million business names on the ASIC register (a decrease of 3.9% from 2014–15).

In 2015–16, we registered 337,413 new business names (an increase of 3% from 2014–15).

In 2015–16, we cancelled 394,075 business names (a significant increase of 193% from 2014–15). The increase has resulted from our introduction of the routine cancellation of business names for failure to pay the renewal fee. The benefits of this activity include a more accurate and current register of business names, and the availability of more names for registration by business start-ups.

Reforms commencing on 1 July 2016 introduced a new requirement for a business to have an ABN to be eligible to register a business name on Norfolk Island.

### SMSF auditor register

SMSF auditor registration has been mandatory since July 2013 following a transition period in the first half of that year. At 30 June 2016, there were 6,671 registered SMSF auditors, although one registered auditor has been suspended. During 2015–16, we also registered 196 SMSF auditors and deregistered 197 SMSF auditors.

### Limited AFS licence available to accountants

The three-year transitional period available to recognise accountants who provide SMSF advice expired on 30 June 2016.

We issued public warnings in August 2015, and again in June 2016, about the consequences of not applying for and obtaining a limited AFS licence by 1 July 2016. We warned that applications not received by 1 March 2016 ran the risk of not being approved by the 30 June deadline and that applicants would not be able to provide SMSF advice after that date until they were granted a licence or they became an authorised representative of a licensee.

Between the commencement of the transitional period, on 1 July 2013, and 30 June 2016, ASIC received 1,146 applications for a limited AFS licence, with 38% of these received in the last month of the transitional period. As at 1 July 2016, 612 of these applications remained to be assessed.

### ASIC's published notices website

ASIC's published notices website continues to provide easy access to almost all notices on external administration and company deregistration, reducing costs for business.

In 2015–16, 14,192 registered users published 31,053 notices on the website.

ASIC published 128,272 notices of intention to deregister a company on the website.

Stakeholder visits to the website reached 1,096,490 in 2015–16, up from about 902,667 in 2014–15.

## 2.4 Unclaimed money and managing property vested in ASIC

As set out in Program 1.2 of the Portfolio Budget Statement 2015–16, ASIC is responsible for the administration of unclaimed money from banking and deposit taking institutions and life insurance institutions.

Our success in providing an accurate register of unclaimed money and special accounts administered by ASIC is measured by the extent to which we ensure that:

- ♦ refunds of unclaimed money are paid to successful claimants promptly
- ♦ payments of money from special accounts are paid out promptly in accordance with the specified purposes or appropriate legislation.

### 2.4.1 Unclaimed money

ASIC reunites people with their unclaimed money. We maintain 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 to our Unclaimed Money team.

In 2015–16, ASIC received \$46.4 million in unclaimed money, considerably less than the \$209.6 million we received in 2014–15. This was due to the changes in the Banking Act and Life Insurance Act which returned the period of account inactivity for money to be deemed unclaimed back to seven years, formerly three years.

We paid out a total of \$124.4 million in claims in 2015–16, compared with \$158.4 million in the previous year. We paid claimants interest – \$3.9 million of the \$124.4 million – on unclaimed money for periods from 1 July 2013 onwards, at a rate of 2.5% for 2013–14, 2.93% for 2014–15 and 1.33% for 2015–16.<sup>1</sup>

We process claims within 28 days of receiving all necessary claim documentation. In 2015–16, ASIC processed banking and life insurance unclaimed money claims in an average of 11 days and company unclaimed money in an average of 17 days.<sup>2</sup>

#### Amount paid to owners of unclaimed money, 2015–16

Claims by type	2015–16 (\$)			2014–15 (\$) <sup>1</sup>
	Principal	Interest	Total	
Company	31,219,035	1,234,500	32,453,535	30,966,536
Banking	79,366,239	2,409,676	81,775,915	117,093,768
Life insurance	9,738,078	285,725	10,023,803	10,341,148
Deregistered company trust money	145,729	Not applicable	145,729	41,108
<b>Total</b>	<b>120,469,081</b>	<b>3,929,901</b>	<b>124,398,982</b>	<b>158,442,560</b>

1. Includes principal and interest.

1. Rates as advised on ASIC's MoneySmart website [www.moneysmart.gov.au/tools-and-resources/-/find-unclaimed-money/interest-paid-on-unclaimed-money](http://www.moneysmart.gov.au/tools-and-resources/-/find-unclaimed-money/interest-paid-on-unclaimed-money).

2. For company unclaimed money, an owner makes a claim to ASIC directly and we assess whether the claimant is the owner of the money.

## 2.4.2 Managing property vested in ASIC

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

ASIC accounts for any proceeds on realisation of the property 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 will be treated like any other unclaimed money for which ASIC is responsible.

The number of new matters received in 2015–16 increased to 1,382. The number of matters finalised increased to 1,377. The following table shows vested properties of deregistered companies by number of cases.

### Vested properties of deregistered companies (by number of cases), 2015–16

	2015–16	2014–15
Total new matters	1,382	1,237
Total finalised matters	1,377	1,242
Property disposals		
Transferred	195	141
Sold	28	5
No longer vested <sup>1</sup>	866	658
Other <sup>2</sup>	68	84
Total property disposals	1,157	888

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.

### Assets of deregistered companies vesting in ASIC

Section 601AD of the Corporations Act provides that, on deregistration of a company, all of the company's property vests in ASIC. We account for any proceeds on realisation of those assets in accordance with our statutory duties.

ASIC generally only deals with vested property once an application is made by a third party for ASIC to exercise its powers under s601AE or s601AF of the Corporations Act. ASIC does not consider it practical to value any identified vested property and consequently such property is not recorded or disclosed in these financial statements.

## 2.5 Assessing misconduct and other reports

### 2.5.1 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 detect, understand and respond to misconduct.

We record and assess every report of alleged misconduct that we receive and aim to acknowledge receipt of every report within three business days. We make a range of preliminary inquiries and conduct an initial assessment to see if the misconduct alleged suggests a breach of a law that we administer.

Where we do not have enough evidence to commence a formal investigation, or surveillance of the matter may not be a priority for the use of ASIC's resources, we contact the person who reported the matter to us and explain why we have come to that decision. We keep the information on our databases, and review this information if further reports are made, or more evidence becomes available.

We have been working to improve public understanding of our jurisdiction and the matters that ASIC can deal with, to simplify reporting processes, and to ensure we can respond promptly and consistently to those who lodge reports with us.

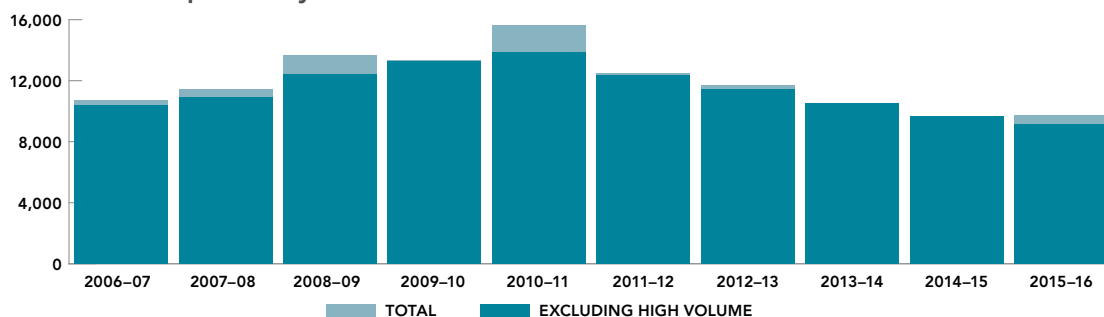
We continue to publish information sheets to explain our role in response to concerns that are frequently reported to us. We now have 23 information sheets which were read online more than 40,000 times in 2015–16. We also released a further four YouTube video clips, bringing the number of clips to 16, which more than 11,000 stakeholders watched in 2015–16.

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

In 2015–16, ASIC dealt with 9,751 reports of alleged misconduct, 1% more than in 2014–15. Excluding high-volume matters shows the continuing decline in the number of reports which has been evident since a peak in 2010–11.

In 2015–16 we received more misconduct reports in the corporate governance area and slightly fewer reports about market integrity and registry integrity. There was little change from the previous year in the relative proportions of matters relating to financial services. Within this area, however, there was a reduction in the number of reports about credit issues, with an increase in the number of reports raising the general obligations of licensees.

Misconduct reports – by trend



## Misconduct reports – by category

Category	2015–16	2014–15
<b>Corporations and corporate governance</b>		
Failure to provide books and records or a report as to affairs to an insolvency practitioner	13%	12%
Insolvency matters	7%	7%
Contractual issues (includes concerns about non-provision of goods and services, quality of goods and services)	3%	3%
Insolvency practitioner misconduct	3%	3%
Other (e.g. directors' duties, internal disputes)	17%	16%
<b>Subtotal</b>	<b>43%</b>	<b>41%</b>
<b>Financial services and retail investors</b>		
Credit	11%	14%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	5%	6%
Managed investment schemes	2%	2%
Superannuation	2%	3%
Potential scam	1%	2%
Other (e.g. insurance, advice, breach of licence conditions, misleading or deceptive conduct, unconscionable conduct)	22%	16%
<b>Subtotal</b>	<b>43%</b>	<b>43%</b>
Market integrity – including insider trading, continuous disclosure, misleading statements, or market manipulation	6%	7%
Registry integrity – including incorrect address recorded on ASIC's register, lodging false documents with ASIC and issues with business names	6%	7%
Other issues	2%	2%
<b>Total</b>	<b>100%</b>	<b>100%</b>



## 2.5 Assessing misconduct and other reports continued

### Misconduct reports – by outcome<sup>1</sup>

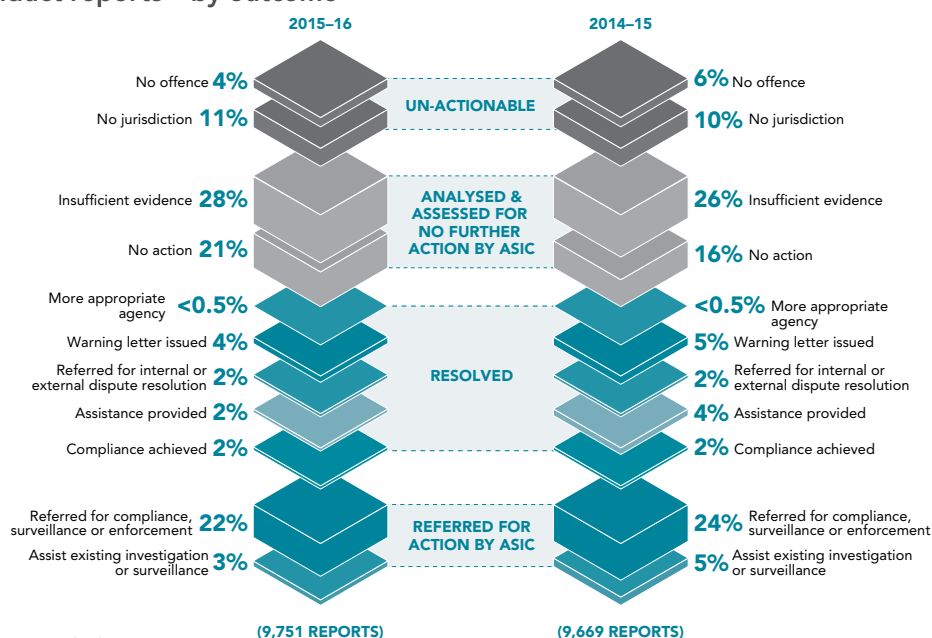
Category	2015–16	2014–15
Total misconduct reports finalised	9,751	9,669
<b>Outcome</b>		
Referred for compliance, surveillance or investigation <sup>2</sup>	25%	29%
Resolved <sup>3</sup>	11%	13%
Analysed and assessed for no further action <sup>4</sup>	49%	42%
No jurisdiction <sup>5</sup>	11%	10%
No breach or offences	4%	6%
<b>Total</b>	<b>100%</b>	<b>100%</b>

Note: Data rounded.

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

The figure below provides a more detailed view of how we handle reports of misconduct.

### Misconduct reports – by outcome



Note: Data rounded.

## 2.5.2 Breach reports from licensees and auditors

We use breach reports from licensees and auditors to detect and respond to misconduct.

The Corporations Act requires AFS licensees to tell ASIC in writing within 10 business days about any significant breach (or likely breach) of their obligations. Failure to report a significant breach (or likely breach) in itself can be a significant breach.

As part of their breach report, we expect licensees to advise us about how they identified the breach, how long it lasted, what steps they have taken to rectify the breach and what steps they have taken or will take to ensure compliance in the future.

When we assess the breach report, we consider the steps the licensee has taken and may decide that no action is required.

ASIC also receives breach reports from auditors, where they have reasonable grounds to suspect a breach of the Corporations Act by the company they are appointed to audit.<sup>1</sup>

In 2015–16 we dealt with 482 auditor breach reports and 1,172 breach reports about managed investment schemes and AFS licensees. This is in line with the numbers in 2014–15.

### Breach reports – by type and outcome

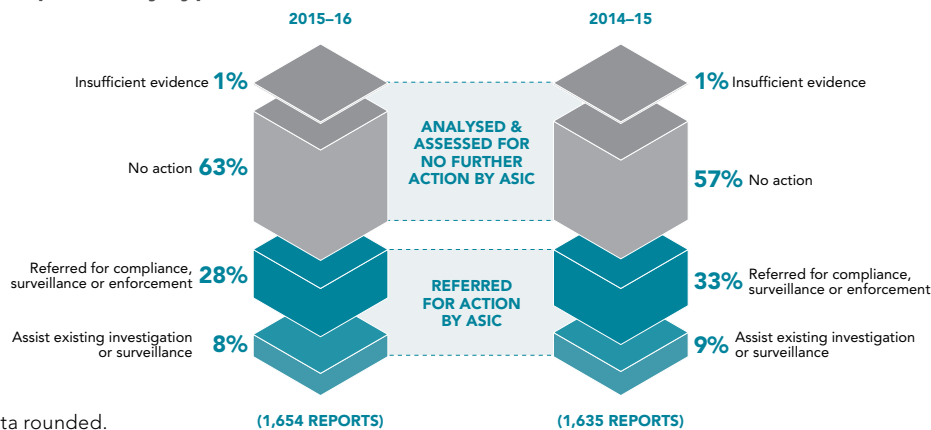
	2015–16	2014–15
<b>Type</b>		
Auditor breach reports	482	498
Breach reports about AFS licensees and managed investment schemes	1,172	1,137
<b>Total breach reports finalised</b>	<b>1,654</b>	<b>1,635</b>
<b>Outcome</b>		
Referred for compliance, investigation or surveillance	36%	42%
Analysed and assessed for no further action	64%	58%
<b>Total</b>	<b>100%</b>	<b>100%</b>

Note: Data rounded.

1. For more information about the matters that require an auditor to report a breach of the law to ASIC, see s311 of the Corporations Act.

## 2.5 Assessing misconduct and other reports continued

### Breach reports – by type and outcome



Note: Data rounded.

### 2.5.3 Statutory reports from liquidators, administrators and receivers

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

External administrators generally lodge an initial report electronically.

We determine whether to request a supplementary report based on the assessment of the initial report. In many cases, the initial report does not report misconduct and does not require further assessment. Where a supplementary report is requested it will typically set out the results of the external administrator's inquiries and the evidence to support the alleged offences. In most cases, we can determine whether to commence a formal investigation on the basis of a supplementary report.

The number of reports we received from external administrators increased in 2015-16, although we received fewer supplementary reports. In 2015-16, a total of 19% of these reports were referred for compliance, investigation or surveillance, compared with 17% in 2014-15.

As per previous years, half of the cases identified as 'analysed and assessed for no further action' were due to insufficient evidence to warrant commencing a formal investigation. ASIC requested a further report from the external administrator in nearly one fifth of such cases.

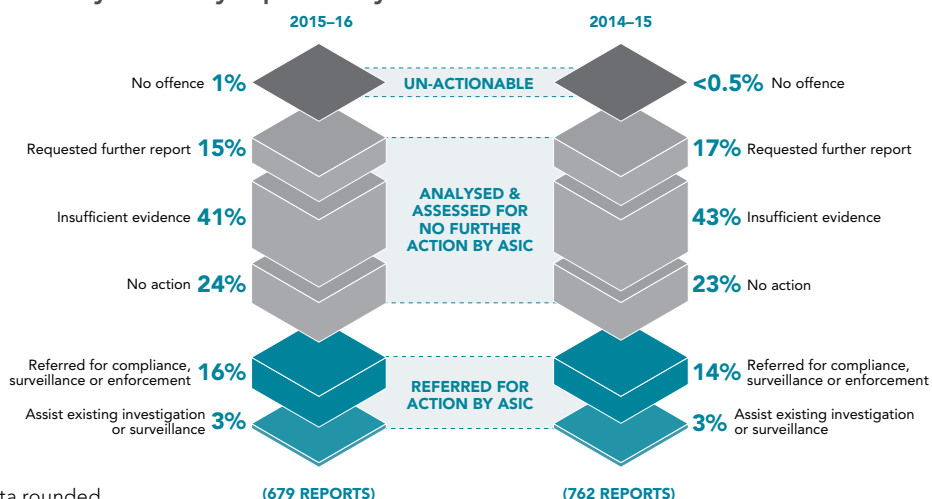
## Statutory reports – by type and outcome

	2015–16	2014–15
<b>Initial reports from liquidators, administrators and receivers</b>		
Reports alleging misconduct	8,258 <sup>1</sup>	6,892
Reports not alleging misconduct	1,693	1,796
<b>Initial reports – outcomes</b>		
Supplementary reports requested	11%	10%
Analysed and assessed for no further action	89%	90%
<b>Total</b>	<b>100%</b>	<b>100%</b>
<b>Supplementary reports requested and received by ASIC</b>		
Supplementary reports alleging misconduct	679	762
<b>Supplementary reports – outcomes</b>		
Referred for compliance, investigation or surveillance	19%	17%
Analysed and assessed for no further action	80%	83%
Identified no offences	1%	<0.5%
<b>Total</b>	<b>100%</b>	<b>100%</b>
<b>Total statutory reports finalised (initial + supplementary)</b>	<b>10,630</b>	<b>9,450</b>

Note: Data rounded.

- The increase in the number of reports lodged in 2015-16 is primarily driven by the increase in the underlying number of insolvency appointments over the period. We also note that the percentage of reports lodged alleging misconduct continued its upward trend over the last few years. ASIC reports annually on the detail contained in external administrators reports and trends in the underlying data. For further detail, see ASIC Report 456 *Insolvency statistics: External administrators reports (July 2014–2015)*.

## Supplementary statutory reports – by outcome



Note: Data rounded.

## 2.5 Assessing misconduct and other reports *continued*

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### 2.5.4 Whistleblower matters

ASIC receives, assesses and where appropriate, investigates disclosures from employee whistleblowers. ASIC values the information we receive from whistleblowers whose often unique placement within companies means that they have witnessed, and can provide evidence of, misconduct. We assess all reports and information that we receive, though not every matter brought to our attention requires regulatory action. Any inquiries we make will primarily focus on breaches that have been disclosed as opposed to what statutory protections are available to the whistleblower.

ASIC has established the Office of the Whistleblower (led by Warren Day, Senior Executive Leader, Assessment & Intelligence and Regional Commissioner for Victoria) to ensure that ASIC records and actions whistleblower matters appropriately. The Office is made up of ASIC staff across each of our operational teams.

We have published guidance for whistleblowers which sets out how we deal with information from whistleblowers, as well as provides guidance on the lawful protection available to them. We also released two YouTube videos on 17 May 2016 called 'ASIC and whistleblowers' and 'The Corporations Act and whistleblowers'.

In 2015–16, ASIC dealt with 146 disclosures by whistleblowers. Around 70% of these matters related to corporations and corporate governance. We also dealt with matters related to credit and financial services (20%), markets (9%) and other issues (1%).

Following preliminary inquiries, approximately 80% of disclosures by whistleblowers were assessed as requiring no further action by ASIC. This was often due to insufficient evidence. In some cases, another agency, law enforcement body or third party (e.g. a liquidator) was better placed to appropriately deal with the underlying issues or was already taking action. Around 10% of matters were referred for compliance, surveillance or investigation.

### 2.5.5 Serious Financial Crime Taskforce

ASIC is a member of the Serious Financial Crime Taskforce, along with the ATO, ACC, AFP, Attorney-General's Department, AUSTRAC, CDPP and Australian Customs and Border Protection Services.

Through modest funding, ASIC contributed to the taskforce's understanding of high-impact financial crime methodologies in both Australia and overseas by recruiting three specialist staff to look for linkages between ASIC's regulated population and the broader financial crime environment.

## 2.6 Performance against ASIC's service and operational standards

### 2.6.1 ASIC Service Charter results

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

#### ASIC Service Charter performance

Service	Service Charter target	2015–16
<b>When you contact us</b>		
General phone queries	We aim to answer telephone queries on the spot ( <i>target: 80%</i> )	91.1% of calls answered on the spot
General email queries	We aim to reply to email queries <sup>1</sup> within three business days ( <i>target: 90%</i> )	99.8% replied to in three business days
<b>When you access our registers</b>		
Searching company, business name or other data online	We aim to ensure our online search service is available in standard business hours ( <i>target: 99.5%</i> )	99.9% available in standard business hours
Lodging company, business name or other data online	We aim to ensure you can lodge registration forms and other information online in standard business hours ( <i>target: 99.5%</i> )	99.9% lodged in standard business hours
<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 ( <i>target: 90%</i> ) <sup>2</sup>	97.8% registered within one business day
Registering a company via paper application	We aim to register the company within two business days of receiving a complete application ( <i>target: 90%</i> )	98.4% registered within two business days
Registering a business name via paper application	We aim to register the business name within seven business days of receiving a complete application ( <i>target: 90%</i> )	100.0% registered within seven business days
Updating company, business name or other ASIC register information online	We aim to enter critical information and status changes to the company and business name registers within one business day ( <i>target: 90%</i> )	99.5% updated within one business day
Updating company, business name or other ASIC register information via paper application	We aim to enter critical information and status changes to company and business name registers within five business days ( <i>target: 90%</i> )	95.8% updated within five business days
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application ( <i>target: 80%</i> ) <sup>4</sup>	56% registered within 28 days <sup>3</sup>

1. Email queries lodged via the 'Ask us a question' webmail facility on ASIC's website.

2. Includes all applications received, regardless of whether applications are approved or a company registered.

3. Performance against this measure was impacted by the transition period for registration of SMSF auditors.

4. Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review.

## 2.6 Performance against ASIC's service and operational standards *continued*

Service	Service Charter target	2015–16
Registering as a liquidator	We aim to decide whether to register a liquidator or official liquidator within 28 days (target: 80%) <sup>4</sup>	93% of liquidator applications decided within 28 days. 100% of official liquidator applications decided within 28 days
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 (target: 100%)	100% registered within 14 days
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an AFS licence within 60 days (target: 70%) and within 120 days (target: 90%) <sup>5</sup>	52% of licences granted within 60 days. 62% of licence variations decided in 60 days. <sup>6</sup> 82% of licences granted within 120 days. 79% of licence variations decided in 120 days. <sup>6</sup>
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 60 days (target: 70%) and within 120 days (target: 90%) <sup>5</sup>	80% of licences granted within 60 days. 90% of licence variations decided in 60 days. 89% of licences granted within 120 days. 93% of licence variations decided in 120 days
Applying for relief	If you lodge an application for relief from the Corporations Act that does not raise new policy issues, we aim to give an in-principle decision within 28 days of receiving all necessary information and fees (target: 70%) and within 90 days (target: 90%) <sup>7</sup>	78% of in-principle decisions made within 28 days. 94% of in-principle decisions made within 90 days
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information (target: 70%)	68% finalised within 28 days
<b>When you have complaints about us</b>		
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 (target 70%)	92% resolved within 28 days

- Applications beyond the 60-day target are generally complex ones, requiring considerable additional work although a greater regulatory focus on problematic applications has affected this.
- Performance against this measure was impacted by ASIC's resourcing and a greater focus on regulatory concerns in applications and the increase in licence applications as a result of the expiry in June 2016 of the transition period for accountants' limited licences. These licence applications will continue to impact these measures in 2016–17. We are reviewing our service charter in terms of sustainable target levels with current resources.
- This result includes applications, including those where we did not initially receive all the information we needed to make a decision.



## 2.6.2 ASIC Complaint Management Framework results

In September 2015, ASIC implemented a new Complaint Management Framework which allows us to effectively manage complaints about our services, actions, decisions or staff. We value the public's right to complain and are committed to treating complaints seriously, promptly, fairly and genuinely.

Our Complaint Management Policy is published on the ASIC website, along with instructions on how to submit a complaint to ASIC online and what to expect when you lodge a complaint. A dedicated 1300 Complaint line has also been established to assist stakeholders.

Our Service Charter measure is to resolve 70% of all complaints within 28 days. In 2015–16, we resolved 92% of complaints in 28 days (see section 2.6.1 above).

Of the 557 complaints received in 2015–16, 404 complaints (73%) related to our registry function. These complaints were about topics, such as fees, register maintenance, online services and access to information. The remaining 153 complaints (27%) related to ASIC's regulatory function and focused on our decisions and actions. These complaints related to matters including dissatisfaction with our decision in response to a report of misconduct, the outcome of an enforcement action, or timeliness of ASIC's regulatory processes.

We finalised 537 complaints in 2015–16:

- ◆ In 192 cases (36% of complaints finalised), we resolved the complaint by, for example,

amending incorrect information on our website, waiving an incorrectly charged fee, updating information on our registers and providing further information to the complainant. We also changed our previous decision, including, for example, decisions relating to fee waivers and refunds, business name registration and cancellation decisions and applications for unclaimed monies. Where we identified instances of poor or inappropriate service by ASIC staff, we have provided feedback and training, including reinforcing adherence to ASIC's policies and procedures, to the staff member.

- ◆ In 248 cases (46% of complaints finalised), the complaint was unsubstantiated or our decision was confirmed. These related to matters, for example, where allegations of ASIC officer misconduct or of poor service or long wait times were found after further investigation to be not proven, an alleged breach of privacy about information, such as name and date of birth which ASIC is required by law to disclose in relevant circumstances, or where we found that we had followed the relevant legislation or ASIC policy in making our decision.
- ◆ In 97 cases (18% of complaints finalised), we were unable to take further action. This may have been for a number of reasons, including where the complaint was withdrawn by the complainant, the complainant did not respond to a request for further information, the matter did not involve a complaint about ASIC or the matter was outside ASIC's jurisdiction.

### ASIC Complaint Management Framework performance

Complaints Scorecard	1 Sept 2015– 30 June 2016
Complaints received	557
Complaints finalised	537
– Complaints substantiated	192
– Complaints unsubstantiated	248
– No further action required	97
Complaints on hand (1 July 2016)	20
Complaints resolved within 28 days (target 70%)	92%

Note: Data rounded

## 2.6 Performance against ASIC's service and operational standards continued

### 2.6.3 ASIC's licensing and professional registration activities

ASIC assesses applications for AFS licensees and credit licences as part of our role as regulator of the financial services industry. We also maintain a number of professional registers, including registers of liquidators, company auditors and SMSF auditors.

#### ASIC's licensing and professional registration activities

Application	Applications Received	Applications Finalised	Applications On Hand	Applications Issued / Approved
Australian Financial Services (AFS) licence (excluding limited licences)	504	468	178	287
Limited AFS licence	995	398	612	228
Variation of AFS licence	638	630	213	416
Cancellation of AFS licence	184	215	43	204
Australian credit licence	456	388	155	248
Variation of Australian credit licence	197	168	57	135
Cancellation of Australian credit licence	379	348	58	310
Liquidators	22	35	4	28
Official Liquidators	25	40	3	36
Registered Company Auditors	118	189	9	124
Authorised Audit Company	19	32	3	22
SMSF Auditors	174	315	10	196
<b>Total 2015–16</b>	<b>3,711</b>	<b>3,226</b>	<b>1,345</b>	<b>2,234</b>
Total 2014–15	3,832	3,692	961	2,706

## 2.7 Regional activities

### Regional commissioners



**Christian Mikula<sup>1</sup>**  
Australian  
Capital  
Territory



**Michael Saadat<sup>2</sup>**  
New South  
Wales



**Duncan Poulson**  
Northern  
Territory



**John Weaver<sup>3</sup>**  
Queensland



**Melissa Smith**  
South  
Australia



**Chris Green**  
Tasmania



**Warren Day**  
Victoria



**Natalie Durr<sup>4</sup>**  
Western  
Australia

**Our regional commissioners act as ASIC's local ambassadors, engaging with business and local communities through regular stakeholder liaison meetings and promoting ASIC initiatives.**

In 2015–16, our regional commissioners led a range of initiatives in each state and territory. They supported financial literacy initiatives by attending Field Days and holding MoneySmart workshops, held industry and local stakeholder liaison meetings, and supported events to raise funds for local charities.

Some examples of this work are detailed below.

### Australian Capital Territory

- ♦ Provided student workshops at the University of Canberra, the Australian Catholic University and the Canberra Institute of Technology and worked with numerous ACT schools to build teacher capability and support financial literacy education in the classroom.

### New South Wales

- ♦ Hosted a number of regional liaison meetings across the investment banks, retail derivatives, market participants, corporate finance and liquidators stakeholder populations.

### Northern Territory

- ♦ Ran a number of workshops and presentations during the year, including a 'How can I start my own business?' forum for Adult Migrant Education Program students, involving ten Territory and Australian Government agencies, and a MoneySmart community information session on superannuation.

1. Peter Cuzner was the Regional Commissioner for the Australian Capital Territory until February 2016.
2. Chris Van-Homrigh was the Regional Commissioner for New South Wales in 2015–16.
3. Brett Bassett was the Regional Commissioner for Queensland until May 2016.
4. Jane Gouvernet was the Regional Commissioner for Western Australia in 2015–16.

## 2.7 Regional activities *continued*



*ASIC engaged NT Indigenous creative agency Sea Eagle Productions to produce videos of Financial Capability Workers sharing their 'top money tips'.*

### Queensland

- ♦ Attended the annual Business Professionals Week in Townsville, and held several events in conjunction with the Australian Small Business Commissioner, Mark Brennan. Topics covered included ASIC's work to combat illegal phoenix activity and ongoing assistance provided to small businesses.
- ♦ Attended events with the Governance Institute of Australia to promote the importance of an effective governance framework.

### South Australia

- ♦ Shared tips about safer investing, money and small business at Field Days in three regions of South Australia – Lucindale, Paskeville and Riverland.
- ♦ Hosted (October 2015) 100 members of the South Australian business community at our biennial stakeholder function. ASIC Chairman Greg Medcraft addressed the audience about technological innovation in financial markets.

### Tasmania

- ♦ Hosted Tasmanian insolvency practitioners and lawyers at a national bi-monthly insolvency discussion.
- ♦ Hosted liaison meetings in North and North West Tasmania to discuss local issues, strengthen local networks and provide an update on ASIC's strategic objectives.
- ♦ Promoted ASIC's MoneySmart financial literacy work at the 2015 'Living Well in Retirement Expo' in Hobart, and gave a presentation on money management at a COTA Australia 'Taking Control' information session.

### Victoria

- ♦ Supported ASIC licensing, insolvency, business advisory and corporate finance liaison meetings in Victoria throughout the year, and consulted with debenture offeror groups in Victoria regarding the challenges facing their market.

### Western Australia

- ♦ Held regular regional liaison meetings, and two 'special' meetings, focusing on conduct risk, and culture, and ASIC's approach to licensing, including key market and policy issues.



# 3

## PEOPLE, COMMUNITY AND THE ENVIRONMENT

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## 3.1 ASIC's people

### 3.1.1 Workforce planning

In 2015–16, we identified the capabilities required for our regulatory business over the next five years, with a more immediate focus on developing stronger analytical and data skills. We also identified future capability requirements in our Strategy Group, Chief Legal Office and Information Technology teams.

The ASIC talent program has focused on developing the leadership skills of high potential employees. The Commission reviews succession and talent plans every six months. We also continued to run programs for our current leadership in core leadership and management skills.

### 3.1.2 Work health and safety

ASIC focused on early intervention strategies in respect of our work health and safety program. These and our proactive in-house case management have meant the rate of claims has continued to fall, with zero compensable injuries recorded in 2015–16.

In 2015–16 our activities were designed to reduce risk and promote the personal health and wellbeing of staff. Key initiatives included the ASIC Corporate Walking challenge in which 550 staff participated and the October 'Mental Health' Month which focused on promoting psychological well-being. We offer other initiatives that support staff well-being including flu vaccinations and health related product discounts. The winter health promotion resulted

in approximately 900 vaccinations administered in April 2016 and the Active Workplaces promotion was introduced in June 2016.

### 3.1.3 Learning and development

#### Learning initiatives and professional networks

In 2015–16 we delivered 217 learning initiatives (including educational courses) on compliance, professional and technical, leadership, behavioural and business topics.

ASIC's learning frameworks are a key component of our approach to building capability. The frameworks are implemented through our Professional Networks and Communities of Practice. We use our Learning Management System to monitor the capability development of team members. Our Legal Coaching Program includes the capabilities from the Legal Framework which form the basis of the coaching plans for lawyers.

In 2015–16, we developed the Data Analyst Learning Framework and established a Professional Network.

On-the-job learning and information sharing continued to be a key area of focus for ASIC in 2015–16. The People and Development team created a Team Learning Champion Blog and Discussion Forum for teams to collaborate and share learning initiatives (including educational courses) and needs across the organisation.

#### Learning initiatives

Category	Initiatives delivered	Number of completions
Compliance	14	10,069
Professional and technical	87	5,831
Leadership	4	116
Behavioural	16	555
Business	96	2,431
<b>Total 2015–16</b>	<b>217</b>	<b>19,002</b>
Total 2014–15	243	20,262

We are currently exploring other collaborative tools to provide ways for ASIC teams to build relationships and make their work more visible. The introduction of SharePoint (content management software) in 2016 has provided teams with a range of tools that support a collaborative workplace and shared approach to learning. The move to Sharepoint has been supported by ASIC's 'share everything you can' approach which aims to limit the practical impediments to the sharing of information across ASIC. For example, SharePoint provides a 'follow' feature which promotes sharing of work across teams. A number of our Professional Networks and Communities of Practice are also using discussion forums and blogs to promote greater collaboration, as are teams and individuals, to continue to openly share more of our work.

### 3.1.4 Staff benefits

We continued to provide professional learning and other benefits for staff in 2015–16, such as:

- ♦ up to 15.4% superannuation contribution
- ♦ annual performance bonus paid to ASIC 4 and executive level employees (see 2015–16 performance payments on page 106)
- ♦ reward and recognition programs, including individual and team awards
- ♦ flexible working arrangements, including flex time for ASIC 1 to ASIC 4 employees

- ♦ study assistance and payment of relevant professional association membership for ongoing employees
- ♦ opportunities for in-house CLE and CPD training.

### 3.1.5 Staff engagement

The 2016 Australian Public Service (APS) Employee Census was conducted in May and June 2016 with 58% of employees taking part. The results showed we have maintained our strong results in job and agency engagement, leadership and commitment.

### 3.1.6 Enterprise Agreement

The ASIC Enterprise Agreement 2016–2019 was endorsed by the majority of staff in April 2016. The three-year agreement delivers a 2% per annum salary increase.

### 3.1.7 Removal of ASIC from the Public Service Act

The Government agreed to the ASIC Capability Review's recommendation that we should be removed from the Public Service Act. We are working with Treasury to implement the legislative changes required to remove ASIC from the Public Service Act.

## Industrial arrangements for ASIC staff, as at 30 June 2016

Classification	ASIC Act s120(3)	AWA <sup>1</sup>	EA <sup>2</sup>	Total
ASIC 1			30	30
ASIC 2			312	312
ASIC 3			254	254
ASIC 4			327	327
Exec 1			396	396
Exec 2			433	433
SES	15	13	10	38
ASIC Act	36			36
<b>Total</b>	<b>51</b>	<b>13</b>	<b>1,762</b>	<b>1,826</b>

1. Australian Workplace Agreement.

2. Enterprise Agreement.

## 3.1 ASIC's people continued

### Performance payments, 2015–16, by classification<sup>1</sup>

Classification	No. of recipients	Aggregate	Minimum	Maximum	Average
ASIC 4	287	\$933,460	\$555	\$21,530	\$3,252
Exec 1	403	\$2,230,062	\$910	\$17,770	\$5,534
Exec 2	520	\$4,397,842	\$797	\$20,926	\$8,457
SES	45	\$746,287	\$7,087	\$30,023	\$16,584
<b>Total</b>	<b>1,255</b>	<b>\$8,307,651</b>			

1. Includes payments for the 2014–15 performance year which were paid in 2015–16, plus any pro-rata payments for the 2015–16 performance year for staff that left ASIC in 2015–16.

### ASIC employees, by location<sup>1,2,3</sup>

Classification	Vic.		NSW		Qld		WA		
	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15	
Chairman			1	1					
Deputy Chairman			1	1					
Member	1	1	2	2					
SES	12	12	29	29	1	1	2	2	
Exec 2	144	142	209	225	36	38	28	26	
Exec 1	100	107	180	183	31	34	23	30	
ASIC 4	124	135	103	115	35	38	17	21	
ASIC 3	97	104	89	53	27	20	9	8	
ASIC 2	144	148	15	14	14	9	5	5	
ASIC 1	30	23	1	1		1		1	
ASIC Act	6		24		3		1		
<b>Total</b>	<b>657</b>	<b>671</b>	<b>654</b>	<b>625</b>	<b>146</b>	<b>142</b>	<b>85</b>	<b>94</b>	

1. Net average number over 12 months on net FTE basis (i.e. excluding FTEs working on capital projects).  
2. Includes staff at the Superannuation Complaints Tribunal and the Companies Auditors and Liquidators Disciplinary Board.  
3. Excludes contractors and secondees from other agencies.

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



## Salary ranges per annum, 2015–16

Grade	Minimum per annum	Maximum per annum
ASIC 1	\$42,409	\$47,809
ASIC 2	\$49,321	\$60,187
ASIC 3	\$62,867	\$73,504
ASIC 4	\$75,225	\$86,863
Exec 1	\$98,583	\$116,313
Exec 2	\$111,677	\$159,618
SES	\$163,478	\$300,226

	SA		ACT		Tas.		NT		Total	
	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15
									1	1
									1	1
									3	3
		1							44	45
	5	7	7	5	6	7			436	451
	12	12	3	1	2	3	1	1	351	371
	18	18	4	2	2	1			304	330
	8	9		1	1	2			230	198
	15	6	1			2			193	185
									31	26
									34	
	58	53	15	10	11	14	1	1	1,627	1,609

## 3.1 ASIC's people continued

Combined totals for Commissioners, employees under ASIC Act and under Public Service Act, by gender<sup>1,2,3</sup>

Classification	Ongoing full-time				Ongoing part-time				
	Female		Male		Female		Male		
	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15	2015–16	2014–15	
Appointee									
Chairman									
Deputy Chairman									
Member									
ASIC Act	1		2	3	1	1			
SES									
Other ASIC Act employees	1		2	3	1	1			
Public Service Act	577	558	595	583	183	184	21	16	
SES	6	7	11	11	3	3	1	1	
Exec 2	125	127	216	218	60	57	12	9	
Exec 1	104	105	165	177	48	46	4	2	
ASIC 4	138	158	112	111	26	28	2	2	
ASIC 3	103	91	61	44	13	13			
ASIC 2	91	65	28	21	29	34	2	2	
ASIC 1	10	5	2	1	4	3	1		
TOTAL	578	559	597	586	183	184	21	16	

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

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

3. Excludes contractors and secondees from other agencies.

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

	Non-ongoing full-time				Non-ongoing part-time				Total	
	Female		Male		Female		Male			
	2015-16	2014-15	2015-16	2014-15	2015-16	2014-15	2015-16	2014-15	2015-16	2014-15
	1	1	4	4					5	5
			1	1					1	1
			1	1					1	1
	1	1	2	2					3	3
	19	16	32	32	2	3	1		58	54
	7	6	16	16	1	1			23	23
	12	10	16	15	1	2	1		34	31
	98	116	63	70	24	19	5	4	1,565	1,550
									21	21
	5	4	15	13	3	1			436	429
	16	17	11	10	3	2		1	351	361
	18	21	7	10	2	1			304	330
	29	27	22	20	2	1		1	230	198
	26	40	8	15	7	8	3		193	185
	6	7	1	2	8	6	1	1	31	26
	118	133	99	106	26	22	5	4	1,627	1,609

## 3.2 Diversity at ASIC

ASIC is committed to a diverse workplace where all our people, our stakeholders and our communities are treated with fairness and respect.

### 3.2.1 Diversity Council

ASIC’s Diversity Council provides leadership on all ASIC’s diversity activities. Its priorities are:

- driving the achievement of gender targets
- embedding diversity of thought in the way we do business and make decisions
- developing relationships with other agencies, diversity-related groups and the corporate sector to build our expertise and network.

### 3.2.2 Women in ASIC

A significant part of our diversity strategy is supporting women in leadership and senior positions.

We continue to implement strategies to meet our voluntary calendar-year targets for women in leadership roles, as set out below. In 2015–16, we progressed further against these targets. We continued to meet our 50% target at Executive Level 1. At Executive Level 2, female representation has increased to 49%. The previously static figure at SES Level has increased to 40%.

We also continue to support the development of women in senior roles through a number of mentoring programs: Women in Law Enforcement Strategy, known as WILES (four SES mentors, and four executive level female mentees) and Women in Banking and Finance (four SES mentors, one executive level mentor, and five executive level female mentees).

We have piloted a mentoring program for Executive Level 1 women, which gives mentees the opportunity to reflect on their development needs, seek advice and guidance on matters that are important to them, and actively work with mentors to achieve their goals. In 2015–16, a total of 46 mentor–mentee partnerships were matched under the program.

The International Women’s Day event was celebrated in March 2016 with former Queensland Premier Anna Bligh as ASIC’s special guest speaker. The event closed with the announcement of the 2016 Women in Leadership award which was presented to Joanne Harper, who demonstrated outstanding leadership.

In 2016, we also implemented a number of other initiatives which raised the profile of our current female workforce. We launched the Mentoring Program with several mentees and mentors eager to participate. We also re-launched the ‘Keeping You Connected’ events, which are designed to provide employees on extended leave with an update on policies and current issues.

Our women of the future were celebrated in ASIC’s inaugural launch of the ‘Bring Your Daughters to Work Day’ event in October 2015.

### 3.2.3 Multicultural Access and Equity Plan

ASIC recognises we can engage with communities from culturally and linguistically diverse (CALD) backgrounds to help improve access and equity to ASIC’s services. We have successfully reached the conclusion of our Multicultural Access and Equity Plan 2013–15, and as per government requirements have reported on our progress.

#### Targets for women in leadership

	Actual, as at 30 June 2016	Actual, as at 30 June 2015	2017 target	2016 target	2015 target
SES	39.53%	36.36%	50%	50%	50%
Exec 2	48.94%	46.93%	50%	50%	50%
Exec 1	51.06%	52.58%	50%	50%	50%

Key achievements include prioritising calls to our Customer Contact Centre from callers using the Translating and Interpreting Service, which has reduced call waiting times for these callers and their interpreters.

We continue to enhance staff training to raise cultural awareness and understanding. We implemented a cultural awareness learning module with 90% of employees having now completed this module.

Through our business plans, we continue to review multicultural access and equity initiatives and embed them in our work.

We have finalised ASIC's Access and Equity Plan for 2017 to guide further initiatives aimed at responding to the needs of Australians from CALD backgrounds. Our focus will be on further developing staff skills and awareness of cultural competence, embedding access and equity initiatives into our business plans and continuing to deliver on the Telephone and Interpreter Service program of work.

### 3.2.4 Disability reporting mechanism

Since 1994, non-corporate Commonwealth entities have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–2008, reporting on the employer role was transferred to 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). From 2010–11, entities have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been superseded by the National Disability Strategy 2010–2020, which sets out a 10-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high-level, two-yearly report will track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. The first of these progress reports was published in 2014, and can be found at [www.dss.gov.au](http://www.dss.gov.au).

### 3.2.5 Accessibility

In November 2015, ASIC established the Accessibility Committee to ensure our workplace and services are accessible to people with a disability.

We aim to eliminate barriers, support disability awareness initiatives and encourage training and career development opportunities for people with a disability.

During Diversity Week the Accessibility Committee launched its first Accessibility Action Plan. The Accessibility Committee also arranged for Professor Ron McCallum AO to speak to ASIC staff. Professor McCallum is a prominent advocate for people with disabilities and gave an inspiring speech. A video recording and transcript of his speech was made available to staff.

### 3.2.6 Rainbow Network

ASIC's Rainbow Network was established in 2015 to raise awareness of LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) issues and to support staff. Throughout the year the Rainbow Network has focused on expanding its membership. Through our partnership with Pride in Diversity, we have also delivered an online training module to ASIC staff focusing on LGBTI awareness in the workplace.



Professor Ron McCallum AO, with ASIC Accessibility Committee member Liana Ignatius-Holub.

## 3.3 ASIC in the community

ASIC in the Community is an engagement program that provides staff with a range of opportunities to make a positive impact on the communities in which we live and work, including:

- ♦ workplace giving
- ♦ fundraising
- ♦ volunteering and pro bono opportunities.

### 3.3.1 Community impact

ASIC in the Community's impact is measured by adding funds donated through workplace giving, the value of staff hours volunteered and the total funds raised through events. In 2015–16, ASIC staff contributed \$167,130 to the community.

#### Workplace giving

ASIC's workplace giving program provides a steady income stream for charities through simple and tax effective donations.

In 2015–16, 9% of ASIC employees participated in workplace giving. A total of \$101,659 worth of donations was distributed across 40 charities. The top three charities supported were:

- ♦ The Smith Family
- ♦ World Vision
- ♦ Médecins Sans Frontières.

#### Fundraising at ASIC

ASIC in the Community facilitates national fundraising events in all of our offices. In 2015–16, we raised \$26,256 through these events. Some highlights included:

- ♦ the ASIC Graduate Group in 2015 raised \$12,195 for StreetSmart Australia
- ♦ Australia's Biggest Morning Tea raised \$2,057 for the Cancer Council
- ♦ ASIC's national Movember campaign raised \$5,000 for men's health.

#### Volunteering

In 2015–16, the total value of our volunteering was \$39,215. ASIC staff volunteered in a range of activities, including:

- ♦ regular visits to the Sacred Heart Mission in St Kilda, Melbourne, where staff helped to provide free, hot nutritious meals to those in need
- ♦ The Smith Family's youth mentoring program, which is available in all states
- ♦ regular attendance at the Exodus Loaves and Fishes restaurant in Sydney, serving hot, free meals to disadvantaged people.

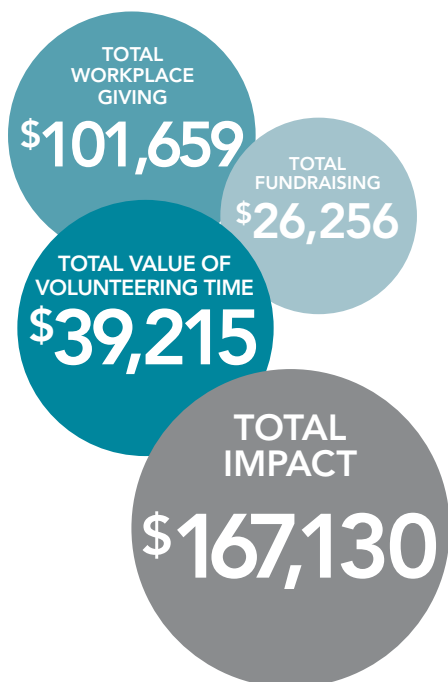
#### Pro bono work

In 2015–16, 38 of ASIC's lawyers volunteered in the National Children's and Youth Law Centre (NCYLC) Cyber Project, together with King & Wood Mallesons and Telstra. The project provides free legal advice in response to emails from children and young people. The work of NCYLC was recognised in September 2015 by an award from the National Association for Prevention of Child Abuse and Neglect.

### 3.3.2 Graduate Group Charity Projects

Each year, ASIC recruits a number of talented people through its graduate program. These graduates are enthusiastic participants in ASIC in the Community, and undertake a specific charity project over six months of their first year.

In 2016, the ASIC Graduate Group is actively fundraising for the Indigenous Literacy Foundation.



### 3.3.3 National Speakers Program

ASIC in the Community organises a number of National Speakers events throughout the year for staff.

These events provide an opportunity for our people to hear about the impact of their community contributions, and to learn more about various initiatives, such as ASIC's Reconciliation Action Plan.

Highlights of the National Speakers Program in 2015–16 included:

- ◆ May Yousif, a Smith Family Learning for Life Ambassador, spoke on the Smith Family's mission to change young people's futures through education
- ◆ Fred Chaney AO, a longstanding advocate for the rights of Indigenous Australians, spoke at our annual NAIDOC Week event
- ◆ Glen Miller from the Indigenous Literacy Foundation spoke at ASIC's Reconciliation Day event.

### 3.3.4 Harmony Day 2016

In 2016, ASIC in the Community organised the first national Harmony Day. The event recognised the cultural and ethnic diversity of all Australians through the sharing and celebration of food prepared by participating staff.



*Members of the Adelaide Financial Services Enforcement team volunteered at the Variety Children's Christmas party. The event was a party for 1,850 children who are sick, disadvantaged or have special needs.*



*The National Children's Youth Law Centre Cyber Project team, including ASIC lawyer Thomas Hough (at right), receiving an award from the Governor-General, Sir Peter Cosgrove.*



## 3.4 Indigenous awareness and action at ASIC

ASIC is committed to providing services to Aboriginal and Torres Strait Islander consumers in a way that is equitable, responsive and relevant to their needs.

### 3.4.1 Reconciliation Action Plan

ASIC recognises we can help close the gap on Indigenous disadvantage and build on our diverse workforce. We are doing this by creating partnerships with Aboriginal and Torres Strait Islander consumers and communities.

ASIC's commitment to reconciliation goals is outlined in our third Reconciliation Action Plan. One of the plan's goals is to increase employment opportunities for Aboriginal and Torres Strait Islander peoples. At 30 June 2016, we employed 13 employees who identify as Indigenous (11 ongoing and two non-ongoing). This is approximately an 18% increase from 2014–15.

We are participating in the 2016 APS Graduate and Traineeship Programs and also have an Indigenous cadet who is completing a university degree while working at ASIC.

The Jawun secondment program continues to be a valuable experience for employees. The Jawun Indigenous Corporate Partnership forms relationships with companies, Indigenous leaders and communities by seconding employees from across corporate Australia to help with specific projects.

Other employment initiatives include specific recruitment policies to attract Indigenous candidates. ASIC will look to match the APS target of 2.5% Indigenous employment by 2018.


### 3.4.2 Engagement with Indigenous consumers and investors

Indigenous consumers are particularly vulnerable to exploitation, and ASIC continues to deliver an Indigenous Outreach Program (IOP) to ensure problems are detected at an early stage, and that investigations occur in a culturally appropriate way.



*Nathan Boyle, of ASIC's Indigenous Outreach team, consulting with community members in Yarrabah, North Queensland.*





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Factors that disadvantage some Indigenous consumers when dealing with financial services providers include low financial literacy, limited English (which may be a second or third language), and geographical factors, such as distance from services and limited local infrastructure. Our IOP works to address these issues through various streams of work, which include:

- ♦ outreach – working with Indigenous communities and financial counsellors on targeted issues relevant to these communities
- ♦ financial literacy work – the development and distribution of financial literacy materials for Indigenous consumers
- ♦ compliance work – gathering intelligence about financial services providers engaging in misconduct that impacts on Indigenous consumers, and taking regulatory action where appropriate
- ♦ industry liaison – working with key industry bodies to encourage the provision of appropriate products and services to the Indigenous community.

ASIC is seen as a leader in Indigenous consumer protection and we regularly take action that aims to prevent misconduct that disadvantages Indigenous consumers.

### 3.4.3 Other initiatives

In delivering on our 2015–16 Reconciliation Action Plan objectives, ASIC has demonstrated our ongoing commitment to Indigenous people and reconciliation. In 2015–16, we:

- ♦ supported staff secondments to the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara Women's Council in Alice Springs and Nyamba Buru Yawuru in the Kimberley, as part of our Jawun Indigenous Corporate Partnership
- ♦ developed three innovative animations targeted towards regional and remote Indigenous consumers. The animations focused on motor vehicle financing, consumer leases and book up (informal credit)
- ♦ grew our networks in the Indigenous recruitment space to help us in meeting our Indigenous employment target
- ♦ developed an Indigenous employee mentoring program to be piloted in 2016–17
- ♦ engaged a broad range of ASIC staff through events to celebrate both Reconciliation and NAIDOC weeks
- ♦ provided sponsorship towards supporting the NAIDOC National Indigenous Forum 'Knowledge – Strong Voices – Power'
- ♦ facilitated four pilot cultural awareness and information sessions across Sydney, Melbourne and Traralgon. These sessions included information about culture, history and communicating with Indigenous peoples through all areas of ASIC's work, and information about ASIC's IOP.

# 3.5 Ecologically sustainable development and environmental performance

In 2015–16, ASIC continued to improve its environmental performance through ongoing and new opportunities identified in our Environmental Management Improvement Plan 2015–17, as approved and endorsed by the ASIC Property and Environmental Management Board (APEMB). The progress and results of this work are monitored and reviewed by APEMB on a twice-yearly basis and are subsequently disseminated to all staff.

We have continued to engage with our staff on environmental initiatives and performance through intranet messages, signage, posters and induction content.

We work in accordance with all required Government policy, including:

- ♦ the Energy Efficiency in Government Operations Policy (EEGO Policy) which aims to improve the energy efficiency and reduce the whole of life cost and impact of government operations
- ♦ the Australian Government ICT Sustainability Plan 2010–15 (Sustainability Plan) which aims to assist government agencies to utilise ICT resources more effectively and reduce the environmental impact of their ICT operations.

## 3.5.1 Key statistics

### ASIC energy consumption

Descriptor	2015–16	% change from 2014–15	2014–15	2013–14
Light and power – ASIC tenancies (kWh)	2,991,850	–2.0%	3,051,459	3,868,746
MJ per person	6,037	1.9%	5,941	7,038
Light and power – ASIC computer centres (kWh)	965,215	–2.9%	994,354	1,109,868
MJ per m <sup>2</sup>	7,874	2.4%	7,687	8,023
Greenhouse gas emissions (tonnes CO <sub>2</sub> -e) – attributed to all light & power	4,123	–3.3%	4,264	5,328
Gas (MJ) – Traralgon office only	2,569,234	–12.9%	2,949,558	2,684,423

Note: Data rounded.

Energy consumption includes sub-tenanted areas which are not separately metered.

We reduced our electricity consumption by almost 2.5% in 2015–16. This contributes to the overall downward trend of 32% less energy consumed from 2010–11 to 2015–16.

In 2015–16 our electricity consumption was 6,037 MJ per person, which exceeds the EEGO Policy required target of 7,500 MJ or less per person. ASIC has met this target for the last five years, with a 23% reduction over that period.

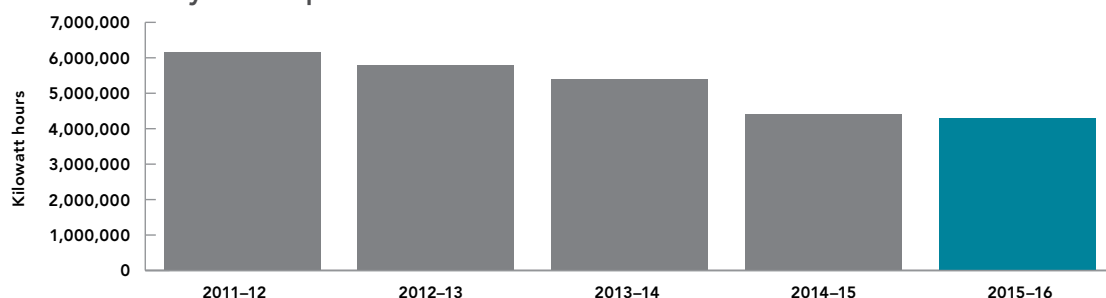
## 3.5.2 Environmental performance in detail

### Energy efficiency

Current and ongoing energy efficiencies to minimise our environmental impacts include:

- ♦ a 44% reduction in consumption in Perth following the relocation to more energy-efficient premises in 2015
- ♦ retaining some servers offsite, reducing onsite server room size, energy consumption and heating/cooling requirements
- ♦ using energy-efficient compact fluorescent tubes and LED lighting in suitable areas
- ♦ using motion sensors to control lighting in infrequently used areas.

## Total electricity consumption for all sites



## Waste

Current and ongoing initiatives to minimise the volume of ASIC waste sent to landfill and to support waste avoidance and recovery, include:

- ♦ meeting the Sustainability Plan's requirement to implement the use of 100% post-consumer recycled office paper in all offices
- ♦ print jobs not accessed by security cards in an allocated timeframe being automatically purged
- ♦ a mandated default setting of double sided printing for all staff
- ♦ continuing programs for staff to assist them to work more digitally

- ♦ the use of recycling stations in kitchen areas. All paper and cardboard waste is recycled, with classified waste paper securely shredded and re-used
- ♦ recycling fluorescent lighting tubes and lamps, batteries, toner cartridges and mobile phones. We continue to recycle redundant IT equipment through Greenbox Australia, which provides a zero-landfill service.

Our landlords do not separately measure tenancy waste volumes and we continue to work with them towards achieving waste volume breakdown for each office. The following table sets out how our waste reductions were measured.

## ASIC waste reductions

Descriptor	2015-16	% change from 2014-15	2014-15	2013-14
Office paper purchased by full time equivalent (A4 reams/FTE)	11	-8.3%	12	13
Percentage of office paper purchased with recycled content	99.81%	1%	98.81%	99.9%
Secure paper waste recycled (tonnes)	34	-18.5%	41.7	38.7
Toner cartridges recycled (kgs)	1,048	-9%	961	1,070
IT equipment recycled or re-used (tonnes)	6.5	-47.2%	12.3	24.9

Note: Data rounded.

## Water

ASIC tenancies are not metered separately for water consumption. Our landlords have implemented water-saving initiatives like flow restrictors, use of grey water and rainwater capture. We also use water-efficient appliances in our offices.

Our Brisbane office building increased its NABERS water rating to 4.5 stars in 2016.

## Information technology

Current and ongoing IT initiatives to minimise environmental impacts include:

- ♦ exploring cloud options which would result in a reduction in data centre infrastructure and energy consumption
- ♦ centralisation of servers from regional offices to offsite data centres, with an energy saving of almost 20%

## 3.5 Ecologically sustainable development and environmental performance continued

- ♦ retiring older storage equipment in data centres for newer more energy-efficient devices
- ♦ migration to energy-efficient blade and virtual servers
- ♦ use of power-saving modes for ICT equipment when not in use.

### Travel

ASIC has retained nine fleet vehicles, and we continue to promote the use of public transport where possible for work-related travel. ASIC staff are encouraged to use the GoGet car share service where available.

We continue to promote the use of teleconferencing and video conferencing as preferred alternatives to air travel. This provides an environmentally beneficial solution for meetings and training.

### Property

In compliance with the Commonwealth Property Management Framework, ASIC continues to improve space efficiency and to reduce our environmental footprint. In 2015–16, we reduced our total property portfolio by approximately 2.5% by subletting a further 949m<sup>2</sup> of space in our Melbourne and Brisbane offices.

ASIC has endorsed the implementation of an Activity Based Working (ABW) prototype in its Sydney office, with a trial commencing in October 2016. This will bring greater flexibility of where and how people work, resulting in increased energy efficiency, reduced space requirements and minimal paper dependency.

We have collaborated with building management in all offices to participate in environmental initiatives such as Earth Hour.

### ASIC travel statistics

Descriptor	2015–16 <sup>1</sup>	% change from 2014–15	2014–15	2013–14
Total number of fleet vehicles	9	0%	9	10
Average Green Vehicle Rating of fleet	15	0%	15	14
Total distance travelled by fleet vehicles (kms)	104,814	–4.3%	109,489 <sup>2</sup>	164,396 <sup>2</sup>
Total fuel purchased by fleet vehicles (litres)	8,352	–1.6%	8,485	12,241
Transport energy (GJ)	225	–10%	250 <sup>2</sup>	264 <sup>2</sup>
Average fuel consumption of fleet vehicles (litres/100 kilometres)	7.97	2.8%	7.75	7.45
Total direct greenhouse emissions of fleet (tonnes CO <sub>2</sub> -e)	20.76	–5.8%	22.03	34.84
Total distance travelled using GoGet car share (kms)	2,367	–34.5%	3,613	1,848
Total distance of air flights (kms)	11,045,043 <sup>3</sup>	8.0% <sup>3</sup>	10,222,171	9,771,296
Total number of video conferencing calls	7,377	10.7%	6,661	7,473
Average hours per video conference call	1.3	0%	1.3	1.3

Note: Data rounded.

1. The fleet travel data is for the period 1 April to 31 March in each year.
2. Previously reported data has changed due to amendments to data supplied.
3. In 2015–16, the total distance of air flights comprised an 8.4% decrease in international travel and 14.5% increase in domestic travel compared with 2014–15. The increase in domestic travel reflects the increased activity in ASIC, particularly in surveillance and enforcement.



# 4

## FINANCIAL STATEMENTS

# Financial Statements

FOR THE YEAR ENDED 30 JUNE 2016

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# Independent Auditor's Report



## INDEPENDENT AUDITOR'S REPORT

### To the Minister for Revenue and Financial Services

I have audited the accompanying annual financial statements of the Australian Securities and Investments Commission for the year ended 30 June 2016, which comprise:

- 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 comprising a summary of significant accounting policies and other explanatory information.

### *Opinion*

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

- (a) comply with Australian Accounting Standards and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Australian Securities and Investments Commission as at 30 June 2016 and its financial performance and cash flows for the year then ended.

### *Accountable Authority's Responsibility for the Financial Statements*

The Chairman of the Australian Securities and Investments Commission is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards and the rules made under that Act and is also responsible for such internal control as the Australian Securities and Investments Commission determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

GPO Box 707 CANBERRA ACT 2601  
19 National Circuit BARTON ACT  
Phone (02) 6203 7300 Fax (02) 6203 7777

# Independent Auditor's Report

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## ***Auditor's Responsibility***

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

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Accountable Authority of the entity, as well as evaluating the overall presentation of the financial statements.

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

## ***Independence***

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

Australian National Audit Office



Jocelyn Ashford  
Senior Executive Director

Delegate of the Auditor-General

Canberra

2 September 2016



## Statement by the Accountable Authority and Chief Financial Officer

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In our opinion, the attached financial statements for the year ended 30 June 2016 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.

  
G. J. Medcraft  
Chairman  
02 September 2016

  
E. L. Hodgson  
Chief Financial Officer  
02 September 2016

# Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2016

	Notes	2016 \$'000	2015 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	1.1A	198,521	198,197
Suppliers	1.1B	128,065	115,115
Depreciation and amortisation	3.2A	44,373	41,373
Finance costs – unwinding of restoration provision		70	(568)
Write-down and impairment of assets	1.1C	194	176
<b>Total expenses</b>		<b>371,223</b>	<b>354,293</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
Rendering of services		1,992	1,609
Royalties		185	189
Resources received free of charge – Auditors' remuneration		360	353
Other revenue	1.2A	2,663	2,693
<b>Total own-source revenue</b>		<b>5,200</b>	<b>4,844</b>
<b>Net Cost of Services</b>		<b>366,023</b>	<b>349,449</b>
<b>Total revenue from Government</b>	1.2B	<b>311,427</b>	<b>322,465</b>
<b>Deficit</b>		<b>(54,596)</b>	<b>(26,984)</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Items not subject to subsequent reclassification to net cost of services</b>			
Changes in asset revaluation reserve		10,772	(1)
<b>Total comprehensive loss</b>		<b>(43,824)</b>	<b>(26,985)</b>

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

# Statement of Financial Position

AS AT 30 JUNE 2016

	Notes	2016 \$'000	2015 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	3.1A	1,506	9,232
Trade and other receivables	3.1B	130,606	149,866
<b>Total financial assets</b>		<b>132,112</b>	<b>159,098</b>
<b>Non-financial assets</b>			
Leasehold improvements	3.2A	40,706	36,208
Plant and equipment	3.2A	18,795	22,854
Computer software	3.2A	81,683	92,781
Other non-financial assets	3.2B	9,392	9,931
<b>Total non-financial assets</b>		<b>150,576</b>	<b>161,774</b>
<b>Total assets</b>		<b>282,688</b>	<b>320,872</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	3.3A	33,430	37,159
Other payables	3.3B	39,342	48,781
<b>Total payables</b>		<b>72,772</b>	<b>85,940</b>
<b>Provisions</b>			
Employee provisions	6.1	59,602	60,000
Other provisions	3.4A	10,630	15,855
<b>Total provisions</b>		<b>70,232</b>	<b>75,855</b>
<b>Total liabilities</b>		<b>143,004</b>	<b>161,795</b>
<b>Net assets</b>		<b>139,684</b>	<b>159,077</b>
<b>EQUITY</b>			
Contributed equity		314,305	289,874
Reserves		17,137	6,365
Accumulated deficit		(191,758)	(137,162)
<b>Total equity</b>		<b>139,684</b>	<b>159,077</b>

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

# Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2016

	2016 \$'000	2015 \$'000
<b>CONTRIBUTED EQUITY</b>		
<b>Opening balance</b>	<b>289,874</b>	262,681
<b>Transactions with owners</b>		
<b>Contributions by owners</b>		
Equity injections – Appropriations	5,300	11,978
Departmental capital budget	19,131	15,215
<b>Total transactions with owners</b>	<b>24,431</b>	27,193
<b>Closing balance as at 30 June</b>	<b>314,305</b>	289,874
<b>RETAINED EARNINGS</b>		
<b>Opening balance</b>		
Balance carried forward from previous period	(137,152)	(154,638)
Prior period adjustment	–	44,470
<b>Adjusted opening balance</b>	<b>(137,152)</b>	(110,168)
<b>Comprehensive income</b>		
Deficit for the period	(54,596)	(26,984)
<b>Total comprehensive loss</b>	<b>(54,596)</b>	(26,984)
<b>Closing balance as at 30 June</b>	<b>(191,748)</b>	(137,152)
<b>ASSET REVALUATION RESERVE</b>		
<b>Opening balance</b>	<b>6,365</b>	6,366
<b>Comprehensive income</b>		
Other comprehensive income	10,772	(1)
<b>Total comprehensive income</b>	<b>10,772</b>	(1)
<b>Closing balance as at 30 June</b>	<b>17,137</b>	6,365
<b>TOTAL EQUITY</b>		
<b>Opening balance</b>		
Balance carried forward from previous period	159,087	114,409
Prior period adjustment	–	44,470
<b>Adjusted opening balance</b>	<b>159,087</b>	158,879
<b>Comprehensive income</b>		
Other comprehensive income	10,772	(1)
Deficit for the period	(54,596)	(26,984)
<b>Total comprehensive loss</b>	<b>(43,824)</b>	(26,985)
<b>Transactions with owners</b>		
<b>Contributions by owners</b>		
Equity injections – Appropriations	5,300	11,978
Departmental capital budget	19,131	15,215
<b>Total transactions with owners</b>	<b>24,431</b>	27,193
<b>Closing balance as at 30 June</b>	<b>139,694</b>	159,087

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

# Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2016

	Notes	2016 \$'000	2015 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		337,277	324,215
Services		2,177	3,322
Net GST received		12,754	13,062
Other cash received		3,034	2,787
<b>Total cash received</b>		<b>355,242</b>	<b>343,386</b>
<b>Cash used</b>			
Employees		204,558	215,403
Suppliers		151,282	117,030
Transfers to the Official Public Account		5,210	6,109
<b>Total cash used</b>		<b>(361,050)</b>	<b>(338,542)</b>
<b>Net cash from/(used by) operating activities</b>	5.4A	<b>(5,808)</b>	<b>4,844</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of leasehold improvements, plant and equipment and intangibles		24,051	36,435
<b>Net cash (used by) investing activities</b>		<b>(24,051)</b>	<b>(36,435)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity		22,133	25,694
<b>Net cash from financing activities</b>		<b>22,133</b>	<b>25,694</b>
<b>Net increase/(decrease) in cash held</b>		<b>(7,726)</b>	<b>(5,897)</b>
Cash and cash equivalents at the beginning of the reporting period		9,232	15,129
<b>Cash and cash equivalents at the end of the reporting period</b>	3.1A	<b>1,506</b>	<b>9,232</b>

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

# Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2016

	Notes	2016 \$'000	2015 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Grants	2.1A	3,192	3,067
Write-down and impairment of assets	2.1B	49,470	45,343
Other	2.1C	100,806	142,495
<b>Total expenses</b>		<b>153,468</b>	190,905
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Fees and fines	2.2A	876,225	823,579
<b>Total taxation revenue</b>		<b>876,225</b>	823,579
<b>Non-taxation revenue</b>			
Unclaimed monies	2.2B	45,942	209,371
<b>Total non-taxation revenue</b>		<b>45,942</b>	209,371
<b>Total revenue</b>		<b>922,167</b>	1,032,950
<b>Net contribution by services</b>		<b>768,699</b>	842,045

# Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2016

	Notes	2016 \$'000	2015 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	4.1A	2,065	2,157
Taxation receivables	4.1B, 4.1C	130,857	123,917
<b>Total assets administered on behalf of Government</b>		<b>132,922</b>	126,074
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers and other payables	4.2A	25,313	19,920
Other provisions	4.2B	391,734	417,691
<b>Total liabilities administered on behalf of Government</b>		<b>417,047</b>	437,611
<b>Net liabilities</b>		<b>(284,125)</b>	(311,537)

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

# Administered Reconciliation Schedule

AS AT 30 JUNE 2016

	2016 \$'000	2015 \$'000
<b>Opening assets less liabilities as at 1 July</b>	<b>(311,537)</b>	<b>(339,940)</b>
<b>Net contribution by services:</b>		
Administered income	<b>922,167</b>	1,032,950
Administered expenses	<b>(153,468)</b>	(190,905)
	<b>768,699</b>	842,045
<b>Administered transfers (to)/from the Australian Government</b>		
Appropriation transfers from Official Public Account:		
Special (unlimited) and ordinary appropriations		
Appropriation Act No. 1	<b>5,748</b>	5,749
Banking Act unclaimed monies	<b>82,159</b>	116,816
Life Insurance Act unclaimed monies	<b>9,992</b>	10,367
Section 77 PGPA Act	<b>37,559</b>	39,575
Total of Appropriation transfers from Official Public Account	<b>135,458</b>	172,507
Administered transfers to Official Public Account	<b>(876,745)</b>	(986,149)
<b>Closing assets less liabilities as at 30 June</b>	<b>(284,125)</b>	<b>(311,537)</b>

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

# Administered Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2016

	Notes	2016 \$'000	2015 \$'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		824,243	766,641
Corporation Act unclaimed monies		37,760	46,769
Banking Act unclaimed monies		6,164	145,442
Life Insurance Act unclaimed monies		2,018	17,159
Net GST received		–	589
<b>Total cash received</b>		<b>870,185</b>	<b>976,600</b>
<b>Cash used</b>			
Refunds paid to:			
Company shareholders		32,453	30,967
Deposit-taking institution account holders		81,776	117,093
Life insurance policy holders		10,024	10,342
Promotion expenses for MoneySmart Initiatives		1,876	3,374
Grants		2,623	2,902
Net GST paid		239	–
<b>Total cash (used)</b>		<b>(128,991)</b>	<b>(164,678)</b>
<b>Net cash from operating activities</b>	5.4B	<b>741,194</b>	<b>811,922</b>
Cash and cash equivalents at the beginning of the reporting period			
		2,157	3,876
<b>Cash from Official Public Account for:</b>			
Appropriations		135,459	172,508
		<b>137,616</b>	<b>176,384</b>
<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		830,803	776,779
Corporations Act unclaimed monies		37,759	46,769
Banking Act unclaimed monies		6,165	145,442
Life Insurance Act unclaimed monies		2,018	17,159
		<b>(876,745)</b>	<b>(986,149)</b>
<b>Cash and cash equivalents at the end of the reporting period</b>			
	4.1A	<b>2,065</b>	<b>2,157</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 2016

## 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 *Superannuation Industry (Supervision) Act 1993*. 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 and the Statement of Financial Position:

*To allow markets to allocate capital efficiently to fund the real economy by promoting investor and financial consumer trust and confidence, facilitating fair, orderly and transparent markets and delivering efficient and accessible registration.*

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

### Basis of preparation of the financial statements

The financial statements are general purpose financial statements and are required by s42 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) for reporting periods ending on or after 1 July 2015; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Administered revenues, expenses, assets, liabilities and cash flows are reported in the Administered Schedule of Comprehensive Income; Administered Schedule of Assets and Liabilities; Administered Cash Flow Statement; and Administered Reconciliation Schedule. These schedules and related notes are accounted for on the same basis and using the same policies as for ASIC items.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## Overview continued

### Prior period adjustment

ASIC receives departmental appropriation to support its enforcement activities through the Enforcement Special Account (ESA). In 2015–16 ASIC made a prior period adjustment relating to the recognition of revenue from Government for enforcement activities. In prior years, ASIC recognised revenue from Government when enforcement activity expenditure met the criteria set out in the Finance Minister's ESA Determination. Revenue from Government is now recognised when the appropriation is legally available to ASIC, as is required by the Australian Accounting Standards and the FRR.

	Notes	2015	Adjustment	2015 (Restated)
<b>Departmental schedule of comprehensive income</b>				
Income				
Revenue from Government	1.2B	311,942	10,523	322,465
Total revenue from Government		311,942	10,523	322,465
(Deficit)		(37,507)	10,523	(26,984)
<b>Statement of Financial Position</b>				
Financial assets				
Trade and other receivables	3.1B	94,883	54,983	149,866
Total financial assets		104,115	54,983	159,098
Total assets		265,889	54,983	320,872
Net assets		104,094	54,983	159,077
<b>Statement of Changes in Equity</b>				
Retained earnings		(192,145)	54,983	(137,162)

### New Australian Accounting Standards

#### Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

The following new accounting standards, amendments to standards and interpretations were issued prior to the signing of the Statement by the Accountable Authority and Chief Financial Officer, were applicable to the current reporting period, but have not had a material financial impact on ASIC:

- ♦ AASB 2013-9 *Amendments to Australian Accounting Standards – Conceptual Framework, Materiality and Financial Instruments*;
- ♦ AASB 2014-8 *Amendments to Australian Accounting Standards arising from AASB 9 (December 2014) — Application of AASB 9 (December 2009) and AASB 9 (December 2010)*;
- ♦ AASB 2015-3 *Amendments to Australian Accounting Standards arising from the Withdrawal of AASB 1031 Materiality*; and
- ♦ AASB 1048 *Interpretation of Standards*.

#### Future Australian Accounting Standard requirements

The following new, amending standards or interpretations were issued by the AASB prior to the signing of the Statement by the Accountable Authority and Chief Financial Officer. All other new/ revised, amending standards or interpretations that were issued prior to the sign-off date and are applicable to current reporting period did not have a material effect, and are not expected to have a future material effect on the entity's financial statements.<sup>1</sup>

1. ASIC's expected initial application date is when the accounting standard becomes operative at the beginning of the reporting period.

## Overview continued

Standard/ Interpretation	Application date for the entity <sup>1</sup>	Nature of impending change/s in accounting policy and likely impact on initial application
AASB 2014-1 <i>Amendments to Australian Accounting Standards — Part D</i>	1 July 2016	Part D amends AASB 1 <i>First-time Adoption of Australian Accounting Standards</i> , reflecting the issuing of AASB 14 <i>Regulatory Deferral Accounts</i> .
AASB 124 <i>Related Parties</i>	1 July 2016	ASIC will apply AASB 124 <i>Related Party Disclosures</i> in 2016–17. This Standard requires the disclosure of significant transactions with related parties. Related parties include key managers of the entity, relevant Ministers, and other Australian Government entities.
AASB 9 <i>Financial Instruments</i>	1 July 2018	ASIC expects to apply AASB 9 <i>Financial Instruments</i> in 2018–19. This Standard will require most financial assets to be measured at fair value, except for those that are held only for the collection of the principal and interest. Also, wherever there has been a significant increase in credit risk, the Standard will require an expense to be recognised for all expected losses over the life of financial assets. In other cases, an expense will be recognised for losses expected in the year after reporting date.
AASB 15 <i>Revenue from Contracts with Customers</i>	1 July 2019	ASIC expects to apply AASB 15 <i>Revenue from Contracts with Customers</i> in 2018–19. The Standard requires revenue from such contracts to be recognised as the entity transfers identifiable goods and services to the customer.
AASB 16 <i>Leases</i>	1 July 2019	ASIC expects to apply AASB 16 <i>Leases</i> from 2019–20. This Standard will require the net present value of payments under most operating leases to be recognised as assets and liabilities. Currently ASIC has \$179m in operating lease commitments.

### Taxation

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

### Events after the reporting period

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

### 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.

1. ASIC's expected initial application date is when the accounting standard becomes operative at the beginning of the reporting period.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 1. Departmental financial performance

This section analyses the financial performance of ASIC for the year ended 30 June 2016

### 1.1 Expenses

	2016 \$'000	2015 \$'000
<b>1.1A: Employee benefits</b>		
Wages and salaries	149,419	149,953
Superannuation <sup>1</sup>		
Defined-benefit schemes	12,615	11,498
Defined-contribution schemes	17,135	16,355
Leave and other entitlements	19,352	18,098
Separation and redundancies <sup>2</sup>	–	2,293
<b>Total employee benefits</b>	<b>198,521</b>	<b>198,197</b>

1. Contributions to defined-benefit superannuation schemes are at rates calculated to cover existing and emerging obligations. The employer contribution rate for the Commonwealth Superannuation Scheme was 14.6% (2015: 14.6%), the Public Sector Superannuation Plan was 17% (2015: 16%), the PSS Accumulation Scheme was 15.4% (2015: 15.4%), and the superannuation productivity benefit was approximately 2.0% to 3.0% (2015: 2.0% to 3.0%). The contribution is calculated based on the relevant salary for super at the time the contributions are made.
2. 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.

#### Accounting policy

Accounting policies for employee-related expenses are detailed in the People and relationships section.

## 1. Departmental financial performance continued

	2016 \$'000	2015 \$'000
<b>1.1B: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
Legal and forensic costs	25,923	10,275
Office computer and software expenses	23,228	24,429
Consultants and specialist services	20,338	19,486
Property-related outgoings	7,466	6,987
Information costs	6,476	6,047
Travel	4,644	4,337
Learning and development	2,671	3,488
Postage and freight	2,525	2,437
Security	2,329	2,515
Communications	2,207	2,251
Recruitment	1,283	1,242
Other goods and services	5,389	5,654
<b>Total goods and services supplied or rendered</b>	<b>104,479</b>	<b>89,148</b>
Goods supplied	2,833	2,851
Services rendered	101,646	86,297
<b>Total goods and services supplied or rendered</b>	<b>104,479</b>	<b>89,148</b>
<b>Other suppliers</b>		
Operating lease rentals from external entities:		
Minimum lease payments	22,256	23,623
Workers compensation premiums	1,101	2,145
Fringe benefits tax	229	199
<b>Total other suppliers</b>	<b>23,586</b>	<b>25,967</b>
<b>Total suppliers</b>	<b>128,065</b>	<b>115,115</b>
<b>Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:</b>		
Within 1 year	31,602	29,580
Between 1 to 5 years	97,497	115,720
More than 5 years	50,317	54,316
<b>Total operating lease commitments (GST inclusive)</b>	<b>179,416</b>	<b>199,616</b>

### Leasing commitments

ASIC, in its capacity as lessor, sublets premises in Brisbane, Sydney and Melbourne.

#### Accounting policy

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

All borrowing costs are expensed as incurred.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 1. Departmental financial performance continued

	Notes	2016 \$'000	2015 \$'000
<b>1.1C: Write-down and impairment of assets</b>			
Impairment of financial instruments		20	10
Write-off of leasehold improvements		23	35
Write-off of plant & equipment		149	131
Write-off of software		2	–
<b>Total write-down and impairment of assets</b>		<b>194</b>	<b>176</b>

## 1.2 Own-source revenue

### 1.2A: Other revenue

Operating sublease rent and property recoveries		1,167	1,016
Cost recoveries <sup>1</sup>		750	428
Professional and witness fees		39	24
Other		707	1,225
<b>Total other revenues</b>		<b>2,663</b>	<b>2,693</b>

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

### Accounting policy

#### 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.

#### Resources received free of charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of these resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

### 1.2B: Revenue from Government

Appropriations:

Departmental appropriations		284,507	295,465
Departmental special appropriations	5.2	26,920	27,000
<b>Total revenue from Government</b>		<b>311,427</b>	<b>322,465</b>

### 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.

## 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

	2016 \$'000	2015 \$'000
<b>2.1A: Grants</b>		
Rendering of services		
Insolvency practitioners <sup>1</sup>	3,192	3,067
<b>Total grants</b>	<b>3,192</b>	<b>3,067</b>

1. ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.

#### Accounting policy

ASIC administers a number of grant and subsidy schemes on behalf of the Government. Grant and subsidy 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.

#### 2.1B: Write-down and impairment of assets

Impairment of receivables	46,702	42,935
Waiver of fees and charges owing	2,768	2,408
<b>Total write-down and impairment of assets</b>	<b>49,470</b>	<b>45,343</b>

#### 2.1C: Other expenses

Claims – Bank and deposit taking institution account holders	54,852	112,688
Claims – Life Insurance policy holders	7,840	8,461
Claims – <i>Corporations Act 2001</i>	35,604	19,096
Promotional costs for MoneySmart initiatives	2,510	2,250
<b>Total other expenses</b>	<b>100,806</b>	<b>142,495</b>

#### Accounting policy

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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 2. Income and expenses administered on behalf of Government

continued

### 2.2 Administered – income

	2016 \$'000	2015 \$'000
<b>Taxation revenue</b>		
<b><u>2.2A: Fees and fines</u></b>		
Fees	768,244	725,904
Fines	107,981	97,675
<b>Total fees and fines</b>	<b>876,225</b>	<b>823,579</b>

#### Accounting policy

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

Administered taxation revenue is generated from fees and fines under the *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. Collectability of debts is reviewed at balance date. Impairment allowances are recognised when collection of the debt is no longer probable.

#### Non-taxation revenue

##### **2.2B: Non-taxation revenue**

<i>Corporations Act 2001</i> unclaimed monies	37,759	46,769
<i>Banking Act 1959</i> unclaimed monies	6,165	145,443
<i>Life Insurance Act 1995</i> unclaimed monies	2,018	17,159
<b>Total non-taxation revenue</b>	<b>45,942</b>	<b>209,371</b>

#### Accounting policy

ASIC receives non-taxation revenue for unclaimed monies 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.



### 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

	2016 \$'000	2015 \$'000
<b>3.1A: Cash and cash equivalents</b>		
Cash on hand or on deposit	1,506	9,232
<b>Total cash and cash equivalents</b>	<b>1,506</b>	<b>9,232</b>

#### Accounting policy

Cash is recognised at its nominal amount. Cash and cash equivalents include:

- ♦ deposits on demand in bank accounts; and
- ♦ cash in special accounts.

#### 3.1B: Trade and other receivables

##### Goods and services receivables:

Goods and services	677	837
<b>Total goods and services receivables</b>	<b>677</b>	<b>837</b>

##### Appropriations receivables:

Appropriations receivables	127,691	146,032
<b>Total appropriations receivables</b>	<b>127,691</b>	<b>146,032</b>

##### Other receivables:

GST receivable from the Australian Taxation Office	2,364	3,130
<b>Total other receivables</b>	<b>2,364</b>	<b>3,130</b>
<b>Total trade and other receivables (gross)</b>	<b>130,732</b>	<b>149,999</b>

Less impairment allowance	125	133
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<b>Total trade and other receivables (net)</b>	<b>130,607</b>	<b>149,866</b>
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##### Trade and other receivables are expected to be recovered:

No more than 12 months	130,607	149,866
<b>Total trade and other receivables (net)</b>	<b>130,607</b>	<b>149,866</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 3. Departmental financial position continued

	2016 \$'000	2015 \$'000
<b>Trade and other receivables (gross) are aged as follows:</b>		
Not overdue	130,672	149,597
Overdue by:		
0 to 30 days	2	258
31 to 60 days	30	11
61 to 90 days	–	–
More than 90 days	28	133
<b>Total trade and other receivables (gross)</b>	<b>130,732</b>	<b>149,999</b>

Appropriations receivables includes \$44.195m (2015: \$62.127m) in ESA receivables. The ESA is a contingency fund subject to certain conditions, ASIC draws down on the ESA account from the OPA only if the conditions for accessing the ESA are satisfied.

### The impairment allowance account is aged as follows:

Overdue by:		
More than 90 days	125	133
<b>Total impairment allowance account</b>	<b>125</b>	<b>133</b>

Credit terms for goods and services were within 30 days (2015: 30 days).

### 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.

### Reconciliation of the movement in the impairment allowance account

Opening balance	133	171
Amounts recovered and reversed	14	(31)
Increase recognised in net surplus/(deficit)	(22)	(7)
<b>Closing balance</b>	<b>125</b>	<b>133</b>

### Accounting policy

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. Departmental financial position continued

#### 3.2 Non-financial assets

##### 3.2A: Reconciliation of the opening and closing balances of leasehold improvements, plant & equipment and intangibles

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
<b>As at 30 June 2016</b>					
<b>As at 1 July 2015</b>					
Gross book value	73,214	58,037	212,547	57,581	401,379
Accumulated depreciation/amortisation and impairment	(37,006)	(35,183)	(152,168)	(25,179)	(249,536)
<b>Total as at 1 July 2015</b>	<b>36,208</b>	<b>22,854</b>	<b>60,379</b>	<b>32,402</b>	<b>151,843</b>
Additions:					
by purchase	1,146	2,621	-	178	3,945
internally developed	-	-	19,171	-	19,171
<b>Total additions</b>	<b>1,146</b>	<b>2,621</b>	<b>19,171</b>	<b>178</b>	<b>23,116</b>
Revaluations and impairments recognised in operating result	10,316	456	-	-	10,772
Depreciation/amortisation expense	(6,941)	(6,987)	(27,727)	(2,718)	(44,373)
Write-offs recognised in the operating result	(23)	(149)	-	(2)	(174)
<b>Total as at 30 June 2016</b>	<b>40,706</b>	<b>18,795</b>	<b>51,823</b>	<b>29,860</b>	<b>141,184</b>
<b>Total as at 30 June 2016 represented by:</b>					
Gross book value	89,577	53,740	223,981	56,840	432,794
Accumulated depreciation/amortisation	(48,871)	(34,945)	(172,158)	(26,980)	(291,610)
<b>Total as at 30 June 2016</b>	<b>40,706</b>	<b>18,795</b>	<b>51,823</b>	<b>29,860</b>	<b>141,184</b>

The carrying value of leasehold improvements, plant & equipment and computer software were reviewed at 30 June 2016. No indicators of impairment were found.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 3. Departmental financial position continued

As at 30 June 2015	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2014					
Gross book value	80,384	58,793	190,495	57,053	386,725
Accumulated depreciation/amortisation and impairment	(38,962)	(35,524)	(126,458)	(22,919)	(223,863)
Total as at 1 July 2014	41,422	23,269	64,037	34,134	162,862
Additions:					
by purchase	1,902	5,754	–	535	8,191
internally developed	–	–	22,329	–	22,329
Total additions	1,902	5,754	22,329	535	30,520
Revaluations and impairments recognised in operating result	–	(1)	–	–	(1)
Depreciation/amortisation expense	(7,081)	(6,038)	(25,987)	(2,267)	(41,373)
Write-offs recognised in the operating result	(35)	(130)	–	–	(165)
Total as at 30 June 2015	36,208	22,854	60,379	32,402	151,843
Total as at 30 June 2015 represented by:					
Gross book value	73,214	58,037	212,547	57,581	401,379
Accumulated depreciation/amortisation	(37,006)	(35,183)	(152,168)	(25,179)	(249,536)
Total as at 30 June 2015	36,208	22,854	60,379	32,402	151,843

The carrying value of leasehold improvements, plant & equipment and computer software were reviewed at 30 June 2015. No indicators of impairment were found.

### 3. Departmental financial position continued

#### 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 \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. 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.

#### Revaluations

Following initial recognition at cost, leasehold improvements and 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 2016.

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:

	2016	2015
Leasehold improvements	<b>Residual lease term</b>	Residual lease term
Plant and equipment	<b>2 to 80 years</b>	2 to 80 years

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 3. Departmental financial position continued

### Accounting policy

#### Impairment

All assets were assessed for impairment at 30 June 2016. 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 depreciated replacement cost.

#### Derecognition

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

#### 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 software is 2 to 10 years (2015: 2 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2016.

#### 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 is assessed at market value or depreciated replacement cost as determined by an independent valuer and is subject to management assessment between formal valuations.

	2016 \$'000	2015 \$'000
<b>3.2B: Other non-financial assets</b>		
Prepayments	9,357	9,415
Rent-free asset	35	516
	<b>9,392</b>	<b>9,931</b>
<b>Other non-financial assets are expected to be recovered in:</b>		
No more than 12 months	9,392	9,931
More than 12 months	—	—
<b>Total other non-financial assets</b>	<b>9,392</b>	<b>9,931</b>

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

## 3. Departmental financial position continued

### 3.3 Payables

	Notes	2016 \$'000	2015 \$'000
<b>3.3A: Suppliers</b>			
Trade creditors and accruals	7.2A	20,657	24,867
Operating lease rent payable		12,773	12,292
<b>Total suppliers</b>		<b>33,430</b>	<b>37,159</b>
Supplier payables expected to be settled within 12 months:			
No more than 12 months		33,430	37,159
More than 12 months		–	–
<b>Total supplier payables</b>		<b>33,430</b>	<b>37,159</b>
<b>3.3B: Other payables</b>			
Other unearned revenue		180	144
Property lease incentives <sup>1</sup>		27,999	30,946
Salaries and bonuses		10,108	16,191
Separations and redundancies		1,050	1,466
Parental leave		5	34
<b>Total other payables</b>		<b>39,342</b>	<b>48,781</b>
Total other payables are expected to be settled in:			
No more than 12 months		11,343	17,835
More than 12 months		27,999	30,946
<b>Total other payables</b>		<b>39,342</b>	<b>48,781</b>

1. Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2016. Lease incentives are amortised over the lease term.

#### Accounting policy

##### 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.

### 3.4 Other provisions

#### 3.4A: Other provisions

Provision for restoration obligations – leased premises		8,695	8,418
Provision for adverse cost orders		1,935	7,437
<b>Total other provisions</b>		<b>10,630</b>	<b>15,855</b>
Other provisions are expected to be settled in:			
No more than 12 months		4,566	1,098
More than 12 months		6,064	14,757
<b>Total other provisions</b>		<b>10,630</b>	<b>15,855</b>

ASIC currently has nine lease agreements (2015: nine) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. ASIC has made a provision to reflect the present value of these obligations.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 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

	2016 \$'000	2015 \$'000
<b>Note 4.1A: Cash and cash equivalents</b>		
Total cash and cash equivalents	2,065	2,157
<b>4.1B: Taxation receivables</b>		
Fees and fines receivable	189,306	173,118
Information brokers' fees	6,929	8,624
<b>Total taxation receivables (gross)</b>	196,235	181,742
Less: impairment allowance account:		
Fees and fines	65,693	58,028
<b>Total taxation receivables (net)</b>	130,542	123,714
Receivables were aged as follows:		
Not overdue	92,874	86,812
Overdue by:		
Less than 30 days	18,760	20,478
30 to 60 days	9,405	8,702
61 to 90 days	6,054	5,932
More than 90 days	69,142	59,818
<b>Total taxation receivables (gross)</b>	196,235	181,742
The impairment allowance account is aged as follows:		
Not overdue	468	431
Overdue by:		
Less than 30 days	1,273	1,003
30 to 60 days	1,644	1,453
61 to 90 days	1,188	1,454
More than 90 days	61,120	53,687
<b>Total impairment allowance account</b>	65,693	58,028
Taxation receivables are due from entities that are not part of the Australian Government.		
Credit terms for goods and services were within 30 days (2015: 30 days).		



## 4. Assets and liabilities administered on behalf of the Government continued

	2016 \$'000	2015 \$'000
<b>Reconciliation of the movement in the impairment allowance account</b>		
Opening balance	58,028	55,134
Amounts written off	(39,037)	(40,040)
Amounts waived	(2,768)	(2,409)
Increase in impairment allowance recognised as an expense	49,470	45,343
<b>Closing balance</b>	<b>65,693</b>	<b>58,028</b>
<b>4.1C: Other receivables</b>		
GST receivable	315	203
<b>Total receivables (gross)</b>	<b>315</b>	<b>203</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

### 4.2A: Suppliers

Suppliers payables	1,167	450
<b>Total suppliers</b>	<b>1,167</b>	<b>450</b>
<b>Other payables</b>		
Refund of fees payable	16,170	12,044
Unallocated monies <sup>1</sup>	6,093	6,140
Grants payable <sup>2</sup>	1,883	1,286
<b>Total other payables</b>	<b>24,146</b>	<b>19,470</b>

All other payables are for entities that are not part of the Australian Government.

1. All payables are expected to be settled within 12 months. Settlement is usually made within 30 days.
2. Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 4. Assets and liabilities administered on behalf of the Government continued

	2016 \$'000	2015 \$'000
<b>4.2B: Non-taxation provisions</b>		
<i>Corporations Act 2001 claims</i>	171,865	168,715
<i>Banking Act 1959 claims</i>	197,410	224,333
<i>Life Insurance Act 1995 claims</i>	22,459	24,643
<b>Total other provisions</b>	<b>391,734</b>	417,691

<b>Reconciliation of the opening and closing balance of other provisions</b>		
Opening balance	417,691	435,848
Amounts recognised	140,245	140,245
Amounts used	(166,202)	(158,402)
<b>Closing balance</b>	<b>391,734</b>	417,691

### 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 calculated by a registered actuary, under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.

#### Significant accounting judgements and estimates

The provision has been estimated based on 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.

## 5. Funding

This section identifies ASIC's funding structure.

### 5.1 Appropriations

#### 5.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2016	Appropriation Act <sup>1</sup>	PGPA Act		Total appropriation \$'000	Appropriation applied in 2016 (current and prior years) \$'000	Variance \$'000
	Annual appropriation \$'000	Section 74 receipts \$'000	Section 75 receipts \$'000			
<b>Departmental</b>						
Ordinary annual services	311,480	5,210	–	<b>316,690</b>	339,793	<b>(23,103)</b>
Capital Budget	19,131			<b>19,131</b>	16,805	<b>2,326</b>
Other Services						
Equity Injections	5,301			<b>5,301</b>	5,328	<b>(27)</b>
<b>Total Departmental</b>	<b>335,912</b>	<b>5,210</b>	<b>–</b>	<b>341,122</b>	<b>361,926</b>	<b>(20,804)</b>
<b>Administered</b>						
Ordinary annual services	7,427			7,427	5,777	1,650
Appropriations reduced	–			–		–
<b>Total Administered</b>	<b>7,427</b>			<b>7,427</b>	<b>5,777</b>	<b>1,650</b>

1. Determination under s51 of the PGPA Act (determination made on 17 June 2016)

	Ordinary annual services \$'000	Equity \$'000
Appropriation Act (No. 1) 2015–2016	150	
Appropriation Act (No. 2) 2012–2013		1,679
Appropriation Act (No. 2) 2013–2014		1,200

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 5. Funding continued

Annual appropriations for 2015	<i>Appropriation Act</i>	<i>PGPA Act</i>		Total appropriation	Appropriation applied in 2015 (current and prior years)	Variance <sup>2</sup>
	Annual appropriation <sup>1</sup>	Section 74 receipts	Section 75 receipts			
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Departmental						
Ordinary annual services	324,843	6,109	3,247	334,199	348,736	(14,537)
Capital Budget	15,215			15,215	27,036	(11,821)
Other Services						
Equity Injections	9,365			9,365	7,070	2,295
Total Departmental	349,423	6,109	3,247	358,779	382,842	(24,063)
Administered						
Ordinary annual services	7,891			7,891	5,738	2,153
Appropriations reduced <sup>1,3</sup>	(1,248)			(1,248)		(1,248)
Total Administered	6,643			6,643	5,738	905

1. In 2015, this includes \$0.634m in Appropriation Bill (No.1) 2015 and \$2.613m in equity injection for the reallocation of funding from the Department of Treasury for the North Queensland Insurance Comparison Website.

2. In 2015, there were no material variances.

3. In 2015, the Direction to Permanently Withhold Access to Annual Appropriations enabled the specific amount to be withheld in accordance with the approved Government decisions and movement of funds.

## 5. Funding continued

	2016 \$'000	2015 \$'000
<b>5.1B: Unspent annual appropriations ('recoverable GST exclusive')</b>		
<b>Departmental</b>		
Appropriation Act (No. 2) 2012–2013	2,064	2,044
Appropriation Act (No. 2) 2013–2014	1,507	1,507
Appropriation Act (No. 1) DCB 2014–2015	–	320
Appropriation Act (No. 1) 2014–2015	–	86,687
Appropriation Act (No. 2) 2014–2015	720	2,311
Appropriation Act (No. 4) 2014–2015	–	268
Appropriation Act (No. 1) DCB 2015–2016	2,647	–
Appropriation Act (No. 1) 2015–2016	76,306	–
Appropriation Act (No. 2) 2015–2016	1,793	–
Appropriation Act (No. 4) 2015–2016	18	–
Enforcement Special Account	44,195	62,127
<b>Total departmental</b>	<b>129,250</b>	<b>155,264</b>

Unspent departmental appropriations includes cash balances of \$1.506m (2015: \$9.232m).

### Administered

Appropriation Act (No. 1) 2014–2015	–	2,142
Appropriation Act (No. 1) 2015–2016	1,692	–
Appropriation Act (No. 3) 2015–2016	349	–
<b>Total administered</b>	<b>2,041</b>	<b>2,142</b>

Unspent administered appropriations represents cash balances.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 5. Funding continued

<b>5.1C: Special appropriations ('recoverable GST exclusive')</b>			<b>Appropriation applied</b>	
<b>Authority</b>	<b>Type</b>	<b>Purpose</b>	<b>2016 \$'000</b>	<b>2015 \$'000</b>
<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 ( <i>s69 Banking Act 1959</i> ) to refund amounts to banking and deposit taking institution account holders.	<b>81,776</b>	117,093
<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 ( <i>s216 Life Insurance Act 1995</i> ) to refund amounts to life insurance policy holders.	<b>10,024</b>	10,342
<i>s77 PGPA Act, Corporations Act 2001 (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 s77 of the <i>PGPA Act 2013</i> .	<b>6,799</b>	9,518
<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> .	<b>31,175</b>	30,028
<b>Total</b>			<b>129,774</b>	166,981

## 5. Funding continued

### 5.2 Special Accounts

	Enforcement Special Account <sup>1</sup>		Deregistered Companies Trust Monies Special Account <sup>2</sup>		Security Deposits Special Accounts <sup>3</sup>		Investigations, Legal Proceedings, Settlements and Court Orders Special Account <sup>4</sup>	
	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000
Balance carried forward from previous year	62,127	51,900	1,902	1,546	454	445	11	11
Appropriation for the reporting period	26,920	27,000	493	362	–	–	–	–
Costs recovered	32	428	40	35	8	9	–	–
Available for payments	89,079	79,328	2,435	1,943	462	454	11	11
Cash payments from the Special Account	(44,884)	(17,201)	(146)	(41)	–	–	–	–
Balance carried forward to the next period	44,195	62,127	2,289	1,902	462	454	11	11

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 13 September 2006 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 Deregistered Companies Trust Monies Special Account was established by the Finance Minister on 18 February 2008 to manage property vesting in the Commonwealth as a result of the deregistration provisions of the *Corporations Act 2001*.

3. Appropriation: *s78 Public Governance, Performance and Accountability Act 2013*.

Establishing Instrument: *s78 Public Governance, Performance and Accountability Act 2013*.

Purpose – the ASIC Security Deposits Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage security deposits lodged with ASIC by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees.

4. Appropriation: *s78 Public Governance, Performance and Accountability Act 2013*.

Establishing Instrument: *s78 Public Governance, Performance and Accountability Act 2013*.

Purpose – the ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage money or other property temporarily held by ASIC for the benefit of a person other than the Commonwealth as a result of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC.

ASIC has a Services for Other Entities and Trust Monies 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 Monies 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 year ended 30 June 2016 the account had a nil balance and there were no transactions debited or credited to it during the current or prior reporting period.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 5. Funding continued

### 5.3 Regulatory charging summary

	2016 \$'000	2015 \$'000
<b>5.3: Receipts pursuant to cost recovery provisions</b>		
<b>Significant regulatory charging arrangements</b>		
Supervision of Australia's financial markets and competition for market services	<b>21,200</b>	21,286
<b>Total receipts subject to regulatory charging arrangements</b>	<b>21,200</b>	21,286
Receivables	<b>5,464</b>	6,215
Receivables are aged as follows:		
Not overdue	<b>5,064</b>	6,062
Overdue by:		
Less than 30 days	<b>207</b>	–
30 to 60 days	–	–
61 to 90 days	–	153
More than 90 days	<b>193</b>	–
<b>Total receivables (gross)</b>	<b>5,464</b>	6,215

ASIC is recovering its costs to enhance its supervision of Australia's financial markets and competition for market services.



## 5. Funding continued

### 5.4 Cash flow reconciliation

	2016 \$'000	2015 \$'000
<b>5.4A: Departmental cash flow reconciliation</b>		
<b>Reconciliation of cash and cash equivalents as per the Statement of Financial Position and Cash Flow Statement</b>		
<b>Cash and cash equivalents as per:</b>		
Cash Flow Statement	1,506	9,232
Statement of Financial Position	1,506	9,232
<b>Discrepancy</b>	–	–
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net cost of services	(366,023)	(349,449)
Add revenue from Government	325,643	311,942
<b>(Deficit) attributable to the Australian Government</b>	<b>(40,380)</b>	<b>(37,507)</b>
<b>Adjustments for non-cash items</b>		
Depreciation/amortisation	44,373	41,373
Net write-down of non-financial assets	174	165
<b>Movement in assets and liabilities</b>		
<b>Assets</b>		
Decrease in net receivables	5,044	7,559
(Increase)/decrease in other non-financial assets	539	7,619
<b>Liabilities</b>		
Increase/(decrease) in employee provisions	(398)	3,118
Increase/(decrease) in supplier payables	9,235	(14,158)
Increase/(decrease) in other provisions and payables	(24,395)	(3,326)
<b>Net cash from operating activities</b>	<b>(5,808)</b>	<b>4,844</b>

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 5. Funding continued

	2016 \$'000	2015 \$'000
<b>5.4B: Administered cash flow reconciliation</b>		
<b>Reconciliation of cash and cash equivalents as per Administered Schedule of Assets and Liabilities to the Administered Cash Flow Statement</b>		
<b>Cash and cash equivalents as per:</b>		
Administered Cash Flow Statement	2,065	2,157
Schedule of Administered Assets and Liabilities	2,065	2,157
<b>Discrepancy</b>	–	–
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net contribution by services	768,699	842,045
<b>Movement in assets and liabilities</b>		
<b>Liabilities</b>		
(Decrease) in other provisions	(25,957)	(2,895)
Increase/(Decrease) in Suppliers and other payables	5,392	–
<b>Assets</b>		
(Increase) in receivables	(6,940)	2,894
<b>Net cash from operating activities</b>	741,194	842,044

## 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

#### 6.1A: Employee provisions

Annual leave entitlement	19,507	18,880
Long service leave entitlement	40,095	36,970
Restructuring provision	–	4,150
<b>Total employee provisions</b>	<b>59,602</b>	<b>60,000</b>
Employee provisions are expected to be settled in:		
No more than 12 months	15,233	20,365
More than 12 months	44,369	39,635
<b>Total employee provisions</b>	<b>59,602</b>	<b>60,000</b>



## 6. People and relationships continued

### 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 sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of ASIC is estimated to be less than the annual entitlement for sick leave.

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

The liability for long service leave has been determined by reference to the work of an independent actuary as at 30 June 2016. 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.

### 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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 6. People and relationships continued

### 6.2 Senior management personnel remuneration

	2016 \$	2015 \$
<b>6.2A: Total remuneration expense recognised in relation to Commissioners</b>		
<b>Short-term employee benefits:</b>		
Salary	2,469,977	2,389,413
Car parking fringe benefits	–	35,904
Total short-term employee benefits	2,469,977	2,425,317
<b>Post-employment benefits:</b>		
Superannuation	286,231	274,417
<b>Other long-term benefits:</b>		
Annual leave accrued	207,142	197,551
Long service leave accrued	67,537	64,410
<b>Total remuneration expense for Commissioners</b>	<b>3,030,887</b>	<b>2,961,695</b>

The total number of Commissioners who are included in the above table is five (2015: five).

#### 6.2B: Remuneration of senior management personnel

Senior management personnel are those who perform functions controlling operational activities that directly impact the economic function and viability of ASIC and whose employment conditions are equivalent to SES employment conditions of service.

<b>Short-term employee benefits:</b>		
Salary and performance bonuses	7,848,385	8,049,754
Motor vehicle allowances and other short-term benefits	1,058,929	1,036,737
Total short-term employee benefits	8,907,314	9,086,491
<b>Post-employment benefits:</b>		
Superannuation	1,196,599	1,121,652
<b>Other long-term benefits:</b>		
Annual leave accrued	632,998	624,454
Long service leave accrued	206,384	203,598
Termination benefits		
Severance benefits	154,042	72,757
<b>Total remuneration expense for senior management personnel</b>	<b>11,097,337</b>	<b>11,108,952</b>

The total number of senior management personnel who are included in the above table is 36 (2015: 37).

## 7. Managing uncertainties

This section describes how ASIC manages financial risks within its operating environment.

### 7.1 Contingent assets and liabilities

	2016 \$'000	2015 \$'000
<b>7.1A: Departmental contingent liabilities and assets</b>		
<b>Contingent assets</b>		
Claims for costs		
Balance from previous period	924	806
Adjustments to prior period contingent receivables:		
Assets relinquished	–	(126)
Revisions to estimates	(236)	244
New contingent receivables	505	–
<b>Total contingent assets</b>	<b>1,193</b>	<b>924</b>
<b>Net contingent assets</b>	<b>1,193</b>	<b>924</b>

#### Quantifiable contingencies (ASIC departmental)

The above contains 13 matters (2015: seven matters) of contingent assets disclosed in respect to matters which 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 \$1.193m (2015: \$0.924m), 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. In accordance with *AASB 137 Provisions, Contingent Liabilities and Contingent Assets*, ASIC has not disclosed the value of these matters on the grounds that it may seriously prejudice the outcome of these cases.

As at the date of this report, there are civil matters that may result in an award of costs in favour or against ASIC.

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

There is, at the date of this report, two 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:

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

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 7. Managing uncertainties continued

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 remote.

### 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.

### 7.1B: Administered contingent liabilities

#### Quantifiable administered contingencies

Quantifiable administered contingencies that are not remote are disclosed in the Schedule of Administered Items.

#### Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the amount 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, excluding interest and 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 remote. 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:

<i>Banking Act 1959</i>	\$448.984m (2015: \$474.926m)
<i>Life Insurance Act 1995</i>	\$ 62.771m (2015: \$ 66.313m)
<i>Corporations Act 2001</i>	\$274.447m (2015: \$251.005m)

#### Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

### Accounting policy

Administered contingent liabilities represent an estimate of unclaimed monies that are likely to be refunded, but not considered remote. There are no administered contingent assets as at 30 June 2016 (2015: nil).

## 7. Managing uncertainties continued

### 7.2 Financial instruments

	Notes	2016 \$'000	2015 \$'000
<b>7.2A: Categories of financial instruments</b>			
<b>Financial assets</b>			
Loans and receivables:			
Cash and cash equivalents		1,506	9,232
Receivables for goods and services (net of impairment allowance)		552	704
<b>Total financial assets</b>	3.1	<b>2,058</b>	<b>9,936</b>
<b>Financial liabilities</b>			
At amortised cost:			
Trade creditors		20,657	24,867
<b>Total financial liabilities</b>	3.3	<b>20,657</b>	<b>24,867</b>

#### Accounting policy

##### Financial assets

ASIC classifies its financial assets as receivables. See Note 3.1B for further details.

##### Financial liabilities

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

#### 7.2B: Net gains or losses on financial assets

##### Loans and receivables

Impairment		(20)	(10)
<b>Net gain/(expense) from financial assets</b>	1.1C	<b>(20)</b>	<b>(10)</b>

#### 7.2C: Fair value of financial instruments

ASIC does not have any assets pledged or held as collateral in the financial instruments disclosures.

#### 7.2D: Credit risk

ASIC is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables (2016: \$677,125, 2015: \$ 839,227). ASIC has assessed the risk of the default on payment for each receivable and has allocated \$125,376 in 2016 (2015: \$132,848) to the impairment allowance account.

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

ASIC holds no collateral to mitigate against credit risk.

The following two tables illustrate ASIC's gross exposure to credit risk, excluding any collateral or credit enhancements.

AASB 7 *Financial Instruments: Disclosures* requires that the classification of financial instruments at fair value be determined by reference to the source of inputs used to derive the fair value.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 7. Managing uncertainties continued

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

	Not past due nor impaired 2016 \$'000	Not past due nor impaired 2015 \$'000	Past due or impaired 2016 \$'000	Past due or impaired 2015 \$'000
<b>Loans and receivables</b>				
Cash and cash equivalents	1,506	9,232	–	–
Receivables for goods and services (gross)	617	240	60	402
<b>Total</b>	<b>2,123</b>	<b>9,472</b>	<b>60</b>	<b>402</b>

Ageing of financial assets that are past due but not impaired for 2016:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	Total \$'000
<b>Loans and receivables</b>					
Receivables for goods and services	2	30	–	28	60
<b>Total</b>	<b>2</b>	<b>30</b>	<b>–</b>	<b>28</b>	<b>60</b>

Ageing of financial assets that are past due but not impaired for 2015:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	Total \$'000
<b>Loans and receivables</b>					
Receivables for goods and services	258	11	–	133	402
<b>Total</b>	<b>258</b>	<b>11</b>	<b>–</b>	<b>133</b>	<b>402</b>

### 7.2E: Liquidity risk

ASIC's financial liabilities are trade creditors. The exposure to liquidity risk was based on the notion that ASIC will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely as ASIC is appropriated funding from the Australian Government and ASIC manages its budgeted funds to ensure it has adequate funds to meet payments as they fall due. In addition, ASIC has policies in place to ensure timely payments are made when due and has no past experience of default.

All ASIC's financial liabilities as at 30 June 2016 and 30 June 2015 were payable within one year. As at 30 June 2016, ASIC has no financial liabilities payable on demand (2015: nil).

### 7.2F: Market risk

ASIC's exposure to 'Currency risk' is minimal as only a small number of contracts are in currencies other than Australian dollars. ASIC's financial instruments are not exposed to interest rate risk.



## 7. Managing uncertainties continued

### 7.3 Administered – financial instruments

	2016 \$'000	2015 \$'000
<b>7.3A: Categories of financial instruments</b>		
<b>Financial assets</b>		
Cash and cash equivalents	2,065	2,157
<b>Financial liabilities</b>		
At amortised cost:		
Grants payable	1,883	1,286
Suppliers payables	1,166	450
<b>Total financial liabilities held at amortised cost</b>	<b>3,049</b>	<b>1,736</b>

#### **7.3B: Fair values of financial instruments**

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

#### **7.3C: Credit risk**

ASIC's administered receivables arise as a result of a statutory obligation not a contractual obligation and are therefore not classified as financial instruments.

ASIC has no significant exposures to any concentrations of credit risk.

#### **7.3D: Liquidity risk**

ASIC's administered financial liabilities are trade creditors. ASIC is able to meet its financial liabilities as and when they become due and payable.

All administered financial liabilities as at 30 June 2016 and 30 June 2015 are payable within one year.

## 7.4 Fair value measurement

The following tables provide an analysis of assets and liabilities that are measured at fair value. The different levels of the fair value hierarchy are defined below.

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Unobservable inputs for the asset or liability.

The remaining assets and liabilities in the Statement of Financial Position do not apply the fair value hierarchy.

#### **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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 7. Managing uncertainties continued

### 7.4A: Fair value measurement

Fair value measurements at the end of the reporting period		For Level 2 and 3 fair value measurements			Sensitivity of the fair value measurement to changes in unobservable inputs	
2016 \$'000	2015 \$'000	Category (Level 1,2,3) <sup>1</sup>	Valuation techniques <sup>2</sup>	Inputs used		
Range (weighted average) <sup>3</sup>						
Non-financial assets:	40,706	36,208	3	Depreciated replacement cost (DRC)	Replacement cost, useful life	The significant unobservable inputs used in the fair value measurement of leasehold improvements relates to the consumed economic benefits.
Leasehold improvements						
Plant and equipment	3,533	–	2	Market approach	Adjusted market transactions	N/A
Plant and equipment	15,262	22,854	3	Depreciated replacement cost (DRC)	Replacement cost, useful life	N/A
						The significant unobservable inputs used in the fair value measurement of plant and equipment relate to asset obsolescence.
Total non-financial assets	59,501	59,062				

1 Recurring and non-recurring Level 3 fair value measurements – valuation processes. Transfer from Level 2 to Level 3 occurred at 30 June 2016.

2 No change in valuation technique occurred during the period.

3 Significant unobservable inputs only. Not applicable for assets or liabilities in the Level 2 Category.

ASIC did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2016.



## 8. Other information

### 8.1 Expenditure relating to statutory boards and tribunal

The following direct expenditure incurred on behalf of these boards and tribunal is included in the Statement of Comprehensive Income of ASIC:

	2016 \$'000	2015 \$'000
Companies Auditors and Liquidators Disciplinary Board	640	671
Superannuation Complaints Tribunal	5,238	5,919

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.

#### 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 and Liquidators Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of this board and the tribunals are included in the Statement of Comprehensive Income of ASIC.

### 8.2 Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* provides that, on deregistration of a company, all of the company's property vests in ASIC. In 2011–12, ASIC began taking a proactive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

Vested assets are not available to ASIC and are not recognised in the financial statements.

	2016 Quantity	2015 Quantity
Class of asset		
Land	468	568
Shares	57	211
Other	74	125
Closing balance	599	904

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.

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 8. Other information continued

### 8.3 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.

	2016 \$'000	2015 \$'000
Security deposits under <i>Corporations Regulations 2001</i> reg 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	323	323
Inscribed stock	20	20
Bank guarantees	9,630	9,670
Closing balance	9,973	10,013
Security deposits under the <i>Corporations Act 2001</i> s1284(1)(liquidators)		
Insurance bond	1,800	1,800
Closing balance	1,800	1,800

## 8. Other information continued

### 8.4 Budgetary reports and explanations of major variances

#### 8.4A: Departmental budgetary reports

The following tables provide a comparison of the original budget as presented in the 2015–16 Portfolio Budget Statements (PBS) to the 2015–16 final outcome as presented in accordance with Australian Accounting Standards for the entity. The budget is not audited. Explanations for variances greater than 10% are provided.

#### Statement of Comprehensive Income

	Actual	Original budget	Variance
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	198,521	212,187	(13,666)
Suppliers	128,065	97,836	30,229
Depreciation and amortisation	44,373	39,071	5,302
Finance costs– unwinding of restoration provision	70	500	(430)
Write-down and impairment of assets	194	–	194
<b>Total expenses</b>	<b>371,223</b>	<b>349,594</b>	<b>21,629</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
Rendering of services	1,992	1,282	(710)
Resources received free of charge– Auditors' remuneration	360	172	(188)
Other revenue	2,848	865	(1,983)
<b>Total own-source revenue</b>	<b>5,200</b>	<b>2,319</b>	<b>(2,881)</b>
<b>Net Cost of Services</b>	<b>366,023</b>	<b>347,275</b>	<b>24,510</b>
Total revenue from Government	311,427	311,630	203
Deficit	(54,596)	(35,645)	18,951
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Items not subject to reclassification to net cost of services</b>			
Changes in asset revaluation reserve	10,772	–	(10,772)
	(43,824)	(35,645)	8,179

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 8. Other information continued

Explanations of variances greater than 10%	Affected line items (and schedule)
<b>Expense</b>	
The variance in suppliers cost is predominantly driven by an additional \$13m of expenditure related to Enforcement Special Account matters.	Suppliers (Statement of Comprehensive Income)
Depreciation and amortisation is higher than budget predominantly due to the deployment of computer software assets relating to Market Supervision and ASIC's enterprise content and records management systems.	Depreciation and amortisation (Statement of Comprehensive Income)
The finance cost variance relates to a year end valuation adjustment supported by an independent valuation.	Finance Cost (Statement of Comprehensive Income)
<b>Own-source income</b>	
The rendering of services variance relates to higher than budgeted receipts for ASIC's Annual Forum and revenue from other government agencies.	Rendering of services (Statement of Comprehensive Income)
The other revenue variance related to higher than budgeted awards of costs from litigation (\$0.7m) as well as rental income from subleasing surplus space (\$1.2m).	Other Revenue (Statement of Comprehensive Income)

## 8. Other information continued

### Statement of Financial Position

	Actual	Original budget	Variance
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	1,506	15,129	13,623
Trade and other receivables	130,606	102,753	(27,853)
<b>Total financial assets</b>	132,112	117,882	(14,230)
<b>Non-financial assets</b>			
Leasehold improvements	40,706	27,920	(12,786)
Plant and equipment	18,795	24,734	5,939
Computer software	81,683	77,602	(4,081)
Other non-financial assets	9,392	17,750	8,358
<b>Total non-financial assets</b>	150,576	148,006	(2,570)
<b>Total assets</b>	282,688	265,888	(16,800)
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	33,430	52,647	19,217
Other payables	39,342	48,797	9,455
<b>Total payables</b>	72,772	101,444	28,673
<b>Provisions</b>			
Employee provisions	59,602	60,391	789
Other provisions	10,630	18,342	7,712
<b>Total provisions</b>	70,232	78,733	8,501
<b>Total liabilities</b>	143,004	180,177	37,173
<b>Net assets</b>	139,684	85,711	(53,973)
<b>EQUITY</b>			
Contributed equity	314,305	310,798	(3,507)
Reserves	17,137	6,366	(10,771)
Accumulated deficits	(191,758)	(231,453)	(39,695)
<b>Total equity</b>	139,684	85,711	(53,973)

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 8. Other information continued

Explanations of variances greater than 10%	Affected line items (and schedule)
<b>Financial asset</b>	
The variance in cash relates to the timing of the final pay of the financial year (30 June).	Cash (Statement of Financial Position)
The variance in trade and other receivables is due to the budget recognising revenue from Government when enforcement activity expenditure met the criteria set out in the ESA Determination.	Trade and other receivables (Statement of Financial Position)
<b>Non-financial assets / Equity</b>	
The variance in leasehold improvements is driven by the revaluation adjustment for leasehold improvements and plant and equipment, offset by depreciation.	Leasehold improvements / Reserves (Statement of Financial Position)
The variance in accumulated deficits relates to the prior period adjustment in 2016 related to the timing of recognising revenue from Government.	Accumulated deficits (Statement of Financial Position)
<b>Liabilities</b>	
The variance relates to the timing of supplier payment at the end of the financial year.	Suppliers / Other Payables (Statement of Financial Position)
The actual provision held is lower than budget due to payment/settlement during the year relating to a significant ESA matter, which comprised over 80% of the budgeted provision.	Other provisions (Statement of Financial Position)



## 8. Other information continued

### Statement of Changes in Equity

	Actual	Original budget	Variance
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>CONTRIBUTED EQUITY</b>			
Opening balance	289,874	289,874	–
Transactions with owners			
Contributions by owners			
Equity injections– Appropriations	5,300	1,793	3,507
Departmental capital budget	19,131	19,131	–
<b>Total transactions with owners</b>	<b>24,431</b>	<b>20,924</b>	<b>3,507</b>
<b>Closing balance as at 30 June</b>	<b>314,305</b>	<b>310,798</b>	<b>3,507</b>
<b>RETAINED EARNINGS</b>			
Opening balance	(137,162)	(195,808)	58,646
Comprehensive income			
Deficit for the period	(54,596)	(35,645)	(18,951)
<b>Total comprehensive loss</b>	<b>(54,596)</b>	<b>(35,645)</b>	<b>(18,951)</b>
<b>Closing balance as at 30 June</b>	<b>(191,758)</b>	<b>(231,453)</b>	<b>39,695</b>
<b>ASSET REVALUATION RESERVE</b>			
Opening balance	6,365	6,366	(1)
Comprehensive income			
Other comprehensive income	10,772	–	–
<b>Total comprehensive income</b>	<b>10,772</b>	<b>–</b>	<b>–</b>
<b>Closing balance as at 30 June</b>	<b>17,137</b>	<b>6,366</b>	<b>10,771</b>
<b>TOTAL EQUITY</b>			
Opening balance	159,077	100,432	58,645
Comprehensive income			
Other comprehensive income	10,772	–	–
Deficit for the period	(54,596)	(35,645)	(18,951)
<b>Total comprehensive loss</b>	<b>(43,824)</b>	<b>(35,645)</b>	<b>(18,951)</b>
Transactions with owners			
Contributions by owners			
Equity injections – Appropriations	5,300	1,793	3,507
Departmental capital budget	19,131	19,131	–
<b>Total transactions with owners</b>	<b>24,431</b>	<b>20,924</b>	<b>3,507</b>
<b>Closing balance as at 30 June</b>	<b>139,684</b>	<b>85,711</b>	<b>43,201</b>

#### Explanations of variances greater than 10%

Subsequent to the PBS, ASIC received additional funding to undertake work on the Financial Advisers Register (\$1.5m) and the Streamlining Business Registration measure (\$2.0m).

#### Affected line items (and schedule)

Equity Injection – Appropriation

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 8. Other information continued

### Cash Flow Statement

	Actual	Original budget	Variance
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	337,277	311,532	(25,745)
Goods and services	2,177	1,282	(895)
GST received	12,754	12,501	(253)
Other	3,034	865	(2,169)
<b>Total cash received</b>	<b>355,242</b>	<b>326,180</b>	<b>(29,063)</b>
<b>Cash used</b>			
Employees	204,558	209,508	4,950
Suppliers	139,762	101,296	(38,466)
GST Paid	11,520	12,500	980
Cash used other	5,210	670	(4,540)
<b>Total cash used</b>	<b>361,050</b>	<b>323,974</b>	<b>(37,076)</b>
<b>Net cash from or (used by) operating activities</b>	<b>(5,808)</b>	<b>2,206</b>	<b>8,013</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	24,051	23,130	(921)
<b>Total cash used</b>	<b>(24,051)</b>	<b>23,130</b>	<b>(921)</b>
<b>Net cash from or (used by) investing activities</b>	<b>(24,051)</b>	<b>23,130</b>	<b>(921)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>	22,133	20,924	(1,209)
Appropriations– contributed equity	22,133	20,924	(1,209)
<b>Total cash received</b>	<b>22,133</b>	<b>20,924</b>	<b>(1,209)</b>
<b>Net cash from or (used by) financing activities</b>			
<b>Net increase or (decrease) in cash held</b>	<b>(7,726)</b>	<b>–</b>	<b>7,726</b>
Cash at the beginning of the reporting period	9,232	15,129	5,897
<b>Cash at the end of the reporting period</b>	<b>1,506</b>	<b>15,129</b>	<b>13,623</b>
<b>Explanations of variances greater than 10%</b>	<b>Affected line items (and schedule)</b>		
<b>Cash received / Cash used</b>			
Appropriations received and supplier payments were higher due to Enforcement Special Account spending in 2016.	Appropriations / Suppliers (Cashflow Statement)		

## 8. Other information continued

### 8.4B: Administered budgetary reports

The following tables provide a comparison of the original budget as presented in the 2015–16 Portfolio Budget Statements (PBS) to the 2015–16 final outcome as presented in accordance with Australian Accounting Standards for the entity. The budget is not audited. Explanations of variances greater than 10% are provided.

#### Administered Schedule of Comprehensive Income

	Actual	Original budget	Variance
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>EXPENSES</b>			
Grants	3,192	3,580	(388)
Write-down and impairment of assets	49,470	45,542	3,928
Other	100,806	40,572	60,234
<b>Total expenses</b>	<b>153,468</b>	<b>89,694</b>	<b>63,774</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Fees and fines	876,225	834,230	41,995
<b>Total taxation revenue</b>	<b>876,225</b>	<b>834,230</b>	<b>41,995</b>
<b>Non-taxation revenue</b>			
Unclaimed monies	45,942	41,966	3,976
<b>Total non-taxation revenue</b>	<b>45,942</b>	<b>41,966</b>	<b>3,976</b>
<b>Total revenue</b>	<b>922,167</b>	<b>876,196</b>	<b>45,971</b>
<b>Net contribution by services</b>	<b>768,699</b>	<b>786,502</b>	<b>(17,803)</b>

#### Explanation of variances greater than 10%

Actuarial valuation of the unclaimed monies provision to reflect change in the claims profile on lodgements that were impacted by legislative change and economic factors that has resulted in lower than expected discount rates.

#### Affected line items (and schedule)

Other expenses  
(Administered Expenses)

# Notes to and forming part of the financial statements

FOR THE YEAR ENDED 30 JUNE 2016

## 8. Other information continued

### Administered Schedule of Assets and Liabilities

	Actual	Original budget	Variance
	2016	2016	2016
	\$'000	\$'000	\$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	2,065	3,876	(1,811)
Receivables	130,857	121,772	9,085
<b>Total assets administered on behalf of Government</b>	<b>132,922</b>	<b>125,648</b>	<b>7,274</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	25,313	20,837	4,476
Other payables	391,734	335,228	56,506
<b>Total liabilities administered on behalf of Government</b>	<b>417,047</b>	<b>356,065</b>	<b>60,982</b>
<b>Net liabilities</b>	<b>(284,125)</b>	<b>(230,417)</b>	<b>(53,708)</b>

#### Explanations of variances greater than 10%

The Corporations Act fee overpayments to be refunded are higher than estimated as total Corporations Law revenue has increased.

Movements in the unclaimed monies provision reflect a change in the claims profile on lodgements that were the result of a legislative increase in period monies are designated and the impact of emerging refund experience on anticipated future claim projections and a lower discount rate to value future cash flows.

#### Affected line items (and schedule)

Suppliers  
(Administered Schedule of Assets and Liabilities)

Payables  
(Administered Schedule of Assets and Liabilities)

End of financial statements



# 5

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## 5.1 The role of Commissioners

The Commission is responsible for ASIC's strategic direction and priorities.

The Commission meets monthly (except January) to:

- ♦ decide on matters within ASIC's regulatory functions and powers that have strategic significance
- ♦ oversee management and operations of ASIC as an Australian Government agency.

The Commission appoints and evaluates the performance of its senior executive leaders, and approves budgets and business plans for each team. Individual Commissioners also have executive responsibility for particular stakeholder and enforcement teams. See pages 17–18 for ASIC's corporate structure.

The Commission held 14 meetings in 2015–16.

### Commission meetings, 2015–16

Commissioner	Eligible to attend	Attended
Greg Medcraft	11 scheduled meetings	11
	3 unscheduled meetings	3
Peter Kell	11 scheduled meetings	11
	3 unscheduled meetings	3
Greg Tanzer	11 scheduled meetings	9
	3 unscheduled meetings	3
John Price	11 scheduled meetings	11
	3 unscheduled meetings	3
Cathie Armour	11 scheduled meetings	11
	3 unscheduled meetings	3

Unscheduled Commission meetings are called to obtain Commission approval on specific issues that are generally of an administrative nature (such as granting delegations).

The Commission also meets on a weekly basis to discuss strategic issues, coordinate Commissioners' activities, and make decisions on time critical matters.

The Governor-General, on the nomination of the Treasurer, appoints Commissioners.

The Treasurer may nominate as Commissioners only people who are qualified by knowledge of, or experience in, business administration of companies, financial markets, financial products and financial services, law, economics or accounting.

Commissioners are appointed on fixed terms that may be terminated only for reasons set out in s111 of the 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 arrangements or agreements for future business relationships.

Michael Kingston, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel to the Chairman on major regulatory and enforcement matters. Other independent legal and accounting experts also advise on specific matters.

The Commission delegates various powers and functions to senior executive leaders, regional commissioners, and staff reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

Additional information on ASIC's internal governance is published on our website at [www.asic.gov.au/internal-governance](http://www.asic.gov.au/internal-governance).

## 5.2 Audit Committee and audit, assurance and compliance services

The Audit Committee operates independently of management and plays a key role in assisting the Chairman to discharge his responsibilities for the efficient, effective, economical and ethical use of Commonwealth resources. The Committee does this by providing independent oversight of, and reporting to the Chairman on, ASIC's governance and internal control frameworks, financial reporting, and compliance with relevant legislation.

The Committee reviewed ASIC's 2015–16 financial statements and provided advice to the Chairman and Commissioners on the preparation and review of financial statements before the Chairman signed the statements. The Committee met four times during the year supplemented by one special meeting to review ASIC's draft financial statements and the annual PGPA Act Compliance Report.

### Audit Committee meetings, 2015–16

Members	Eligible to attend	Attended
<b>Geoffrey Applebee</b> First appointed as an independent member on 1 February 2010 Reappointed as independent member and Chairman 1 September 2015	4 main meetings 1 special meeting	4 1
<b>David Prothero</b> First appointed as an independent member on 1 March 2011 Promoted to Deputy Chairman 1 September 2015	4 main meetings 1 special meeting	4 1
<b>John Price</b> ASIC Commissioner First appointed as a committee member in May 2013	4 main meetings 1 special meeting	4 1
<b>Byram Johnston OAM</b> Independent member and Chairman Retired from committee 31 August 2015	1 main meeting 1 special meeting	1 1
<b>Chris Van Homrigh</b> Senior Executive Leader, Investment Banks Retired from committee 31 August 2015	1 main meeting 1 special meeting	1 1

Byram Johnston OAM and Chris Van Homrigh retired from the Committee on 31 August 2015. Geoffrey Applebee was appointed Chairman and David Prothero was appointed Deputy Chairman at that time.

The two independent members of the Committee are chartered accountants and company directors with significant financial, business and community experience. The internal appointee is Commissioner John Price.

Internal Audit services are provided by ASIC's Audit, Assurance and Compliance team supported by KPMG in a co-sourced arrangement. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend Audit Committee meetings.

### Geoffrey Applebee Chairman

Audit Committee  
July 2016

## 5.3 External committees and panels

### 5.3.1 Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board provides independent and strategic guidance to Government and ASIC on financial literacy issues, and in particular on the implementation of Australia's National Financial Literacy Strategy, led and co-ordinated by ASIC. The Board also plays an important advocacy role in promoting ASIC's MoneySmart website, tools and publications and ASIC's MoneySmart Teaching program.

The Board members are:

- ♦ Paul Clitheroe AM, ipac securities (Chairman)
- ♦ Air Commodore Robert Brown AM, Australian Defence Force Financial Services Consumer Centre
- ♦ Fiona Guthrie, Financial Counselling Australia
- ♦ Elaine Henry OAM
- ♦ Phil Lambert PSM, Phil Lambert Consulting
- ♦ Martin MacDonald, Herbert Smith Freehills
- ♦ Theresa Mills, Guild Superannuation Trustee Services
- ♦ Professor Roslyn Russell, RMIT University, School of Economics, Finance and Marketing.

ASIC Chairman and Deputy Chairman are ex-officio members of the Board.

ASIC acknowledges and thanks previous Board members Hamish Douglass, Craig Dunn, Linda Elkins, Tony Mackay, Ian Silk, Mike Smith OBE and Robert Thomas, whose terms have expired, for their substantial contribution towards improving the financial literacy of Australians, thereby supporting trust and confidence in the financial system.

The Board met twice in 2015–16, contributing to planning the National Financial Literacy Stakeholder Forum, held in November 2015, and reviewing and providing feedback on a range of prototype tools and resources developed for ASIC's financial literacy program. Members also reviewed progress under the National Financial Literacy Strategy in 2014–15 and contributed to discussions about priorities going forward.

### 5.3.2 Consumer Advisory Panel

The Consumer Advisory Panel (CAP) advises ASIC on current issues faced by consumers and retail investors in the financial services and credit industries. The CAP also informs ASIC's surveillance, enforcement, policy and financial education initiatives. The CAP meets three times per year.


In 2015–16, the following members continued on the CAP:

- ♦ Clare Petre (Panel Chair)
- ♦ Australian Shareholders' Association (Richard Wilkins)
- ♦ CHOICE (Erin Turner)
- ♦ Consumer Action Law Centre (Vic.) (Gerard Brody)
- ♦ Consumers' Federation of Australia (Nicola Howell)
- ♦ COTA Australia (Ian Yates)
- ♦ Financial Counselling Australia (Rosalyn Williams)
- ♦ Financial Rights Legal Centre (Karen Cox)
- ♦ Indigenous Consumer Assistance Network (Bettina Addo)
- ♦ Legal Aid NSW (Rebekah Doran / Dana Beiglari)
- ♦ SMSF Owners' Alliance (Duncan Fairweather)
- ♦ ADF Financial Services Consumer Council (Air Commodore Robert M.C. Brown AM)
- ♦ The Melbourne SMSF Group (Viv Elliston).

We thank Bettina Addo for her valuable contribution to CAP over the past two years.

During 2015–16, the Panel continued its focus on credit and insurance issues, particularly, life insurance and add-on insurance products, consumer leases and small amount credit contracts. Superannuation, including SMSFs, financial advice and markets issues were a focus of CAP's investor members.





CAP maintained a forward-looking and strategic focus on consumer and financial services policy issues, including the dispute resolution framework, Financial System Inquiry and behavioural economics. The CAP held a joint meeting with the ACCC's Consumer Panel in March 2016.

### 5.3.3 Director Advisory Panel

The Director Advisory Panel was established in 2013 to channel senior level advice from company directors of listed entities so that we can gain a deeper understanding of developments and systemic risks in the corporate sector.

The members of the panel are drawn from entities of different size, sector and location to enable the panel to provide ASIC with views from a broad spectrum of Australian listed entities.

Panel members in 2015–16 included:

- ♦ John Price, ASIC Commissioner (Panel Chair)
- ♦ Graham Bradley AM (HSBC Bank Australia, Stockland Corporation and Energy Australia Holdings, Virgin Australia International Holdings, Po Valley Energy and GI Dynamics Inc.)
- ♦ Bruce Brook (CSL, Programmed Maintenance Services and Newmont Mining Corporation)
- ♦ Ken Dean (Bluescope Steel and EnergyAustralia)
- ♦ Dr Eileen Doyle (Hunter Research Foundation, Boral, Oil Search and GPT Group)
- ♦ Fiona Harris (Barrington Consulting Group, BWP Trust, Infigen Energy and Perron Group)
- ♦ Jane Harvey (IOOF Holdings, DUET Finance, Orygen – The National Centre of Excellence in Youth Mental Health, UGL and Colonial Foundation Trust)
- ♦ Jacqueline Hey (Bendigo and Adelaide Bank, AGL, Qantas Airways, Australian Foundation Investment Company, Special Broadcasting Service, Melbourne Business School and Cricket Australia)
- ♦ Charles Macek (Vicinity Centres, Earthwatch Australia, Greenearth Energy and Sinefa)

- ♦ Nancy Milne (Securities Exchanges Guarantee Corporation, ALE Property Group and Pillar Administration)
- ♦ Christine McLoughlin (Suncorp, NIB, Spark Infrastructure Group, Whitehaven Coal and The Smith Family)
- ♦ Bronwyn Morris (LGIASuper, Watpac, Collins Foods, RACQ and CARE Australia)
- ♦ Grant Murdoch (ALS, OzForex, QIC and UQ Holdings)
- ♦ Dr Helen Nugent AO (Veda Group, Origin Energy, Australian Rail Track Corporation and National Portrait Gallery)
- ♦ Susan Oliver (CNPR, Melbourne Chamber Orchestra, Simonds Homes and Scale Investors)
- ♦ Kate Spargo (UGL, Sonic Healthcare, Fletcher Building, Adairs, ColInvest and SMEC Holdings)
- ♦ Gene Tilbrook (Woodside Petroleum, Orica, GPT Group and Bell Shakespeare Company).

The Panel charter required one third of the founding members to retire after two years of membership. As such, Paula Dwyer, Dr Sally Pitkin, Brian Long, Harvey Collins, John Pegler and David Flanagan each retired from the Panel in October 2015. Due to taking up a position on ASIC's External Advisory Panel, Elizabeth Bryan retired from the Panel in December 2015, and Michael Smith resigned from the Panel in April 2016. We thank each of these former Panel members for their contributions.

During 2015–16, the Panel met twice and discussed ASIC's market surveillance system (Market Analysis Intelligence), the proposed industry funding model for ASIC, the role of boards in the oversight of corporate culture and key issues arising from the 2015 AGM season. Panel members also provided valuable insight and input into ASIC-wide issues.

## 5.3 External committees and panels continued

### 5.3.4 External Advisory Panel

The External Advisory Panel assists ASIC in gaining a deeper understanding of developments and systemic risks within the financial services industry. This in turn assists ASIC in achieving its current objectives. The panel meets four times per year and provides advice and feedback to ASIC on matters and current issues of concern. Members are from different sectors and hold, or have held, senior positions. Members sit in a personal capacity – they do not represent individual organisations. This ensures they can provide a broad range of views, free from vested interests.

Panel members in 2015–16 included:

- ♦ Mark Johnson AO (Panel Chair) (Chairman, Alinta Energy and Dateline Resources, Director, Westfield Group, and Senior Adviser, Gresham Partners)
- ♦ Gerard Brody (CEO, Consumer Action Law Centre)
- ♦ Elizabeth Bryan (Chairman, Caltex Australia, IAG and Virgin Australia, Director, Westpac Banking Corporation)
- ♦ Melinda Cilento (Director, Woodside Petroleum and Australian Unity, Commissioner, Productivity Commission, and Co-Chair, Reconciliation Australia)
- ♦ Craig Dunn (Chair, Stone and Chalk and the Australian Ballet, Director, Westpac Banking Corporation, Financial Literacy Australia and former Chief Executive Officer, AMP and Member, Financial System Inquiry)
- ♦ Tony Gill (Chairman, Australian Finance Group, Director, First American Title Insurance Company of Australia, First Mortgage Services and Genworth Financial)
- ♦ David Gonski AC (Chairman, ANZ Banking Group and Coca-Cola Amatil, Chancellor, University of New South Wales, Chairman, UNSW Foundation)
- ♦ Fiona Guthrie (Chief Executive Officer, Financial Counselling Australia)

- ♦ Professor Jennifer Hill (Professor, Sydney Law School, and Director, Ross Parsons Centre)
- ♦ Professor Dimity Kingsford Smith (Professor, University of New South Wales Law School)
- ♦ Dr John Laker AO (Lecturer, University of Sydney, Adviser, International Monetary Fund and the Basel Committee, and former Chairman, APRA)
- ♦ Dr Simon Longstaff AO (Executive Director, The Ethics Centre)
- ♦ Andrew Love (Director, Champion Iron, former Senior Partner, Ferrier Hodgson)
- ♦ Claire Mackay (Principal and Head of Advice, Quantum Financial)
- ♦ Andrew Mohl (Director, Commonwealth Bank, and former Chairman, Export Finance and Insurance Corporation)
- ♦ Dr Sally Pitkin (Director, Super Retail Group, Star Entertainment Group, Billabong International, IPH Limited, Link Administration Holdings and Opera Queensland)
- ♦ President of the Business Council of Australia (currently Catherine Livingstone AO, Director, WorleyParsons, Commonwealth Bank, The George Institute for Global Health and Saluda Medical Pty Ltd)
- ♦ Managing Director of the Future Fund (currently David Neal).

Members of the Panel serve for a term not exceeding four years with approximately one third of the membership of the Panel retiring each year. During 2015–16, the following members of the Panel retired: Maile Carnegie, Ian Silk, John Trowbridge, Jenni Mack, Paula Dwyer, and Peter Costello. We thank each of them for their contributions.

During 2015–16, the Panel met four times and provided advice and feedback on a wide range of matters, including building sustainable liquidity in markets, the ASIC Capability Review, the regulation of the fintech sector including distributed ledger and robo-advice, ASIC's review of mortgage broking, ASIC's strategic risks and corporate culture.

### 5.3.5 Markets Advisory Panel

The Markets Advisory Panel advises ASIC on our approach to our responsibilities for day-to-day supervision of the Australian market and on broader market developments. Panel members are from the financial services industry, with experience in retail and institutional markets.

Panel members in 2015–16 included:

- ♦ Cathie Armour, Commissioner, Australian Securities and Investments Commission (Panel Chair)
- ♦ Greg Yanco, Senior Executive Leader, ASIC Market and Participant Supervision
- ♦ Oliver Harvey, Senior Executive Leader, ASIC Financial Market Infrastructure
- ♦ Nathan Bourne, Senior Manager, ASIC Market and Participant Supervision
- ♦ Calissa Aldridge, Senior Manager, ASIC Financial Market Infrastructure
- ♦ Stewart Adams, Morgan Stanley Smith Barney Australia
- ♦ Keith Birch, Goldman Sachs Australia Pty Ltd
- ♦ Paul Rayson, Commonwealth Bank of Australia
- ♦ David Dixon, Colonial First State Global Asset Management
- ♦ Anastasia Economou, Credit Suisse
- ♦ John Lee, Susquehanna Pacific
- ♦ Nghi Luu, Treasury
- ♦ Will Psomadelis, Schroders Investment Management Australia Limited
- ♦ Dean Surkitt, Bell Potter Financial Group
- ♦ Scott Webster, UBS AG Australia
- ♦ Daniel Weinberg, Optiver
- ♦ Vic Jokovic, Deutsche Bank
- ♦ Sean Lawrence, ABN AMRO Clearing
- ♦ Emma Quinn, Alliance Bernstein
- ♦ Simon Gray, Shaw and Partners.

We thank outgoing members Daniel McAuliffe (Treasury), David Dixon (Colonial First State Global Asset Management) and Daniel Weinberg (Optiver) for their valuable contributions.

During 2015–16, the Panel met four times and provided advice on:

- ♦ developments in the equities and futures markets, and clearing and settlements
- ♦ various ASIC projects, including managing confidential information and conflicts of interest, and market integrity rule unification
- ♦ dark liquidity and high-frequency trading.

### 5.3.6 Markets Disciplinary Panel

The Markets Disciplinary Panel (MDP) is the forum for disciplinary action against market operators and participants for alleged breaches of the market integrity rules. It is a peer review body, consisting of part-time members with relevant market or professional experience. The current members of the MDP have, or have had, senior roles in broking firms and investment banks.

ASIC established the MDP to make decisions about whether to issue infringement notices or accept enforceable undertakings for alleged breaches of the market integrity rules. ASIC decides which matters to refer to the MDP for determination.

## 5.3 External committees and panels continued

The MDP members in 2015–16 included:

- ♦ Lisa Gay (Panel Chair)
- ♦ Simon Gray, Shaw and Partners
- ♦ Cilla Boreham, JBWere
- ♦ Richard Brasher, Northcape Capital
- ♦ Anthony Brittain, Euroz Limited
- ♦ Anne Brown, consultant and Clean Energy Regulator (non-executive director)
- ♦ Ian Chambers, Morgan Stanley Australia
- ♦ Leigh Conder, Commonwealth Securities Limited
- ♦ Jane Lamming, Ausbil Investment Management Limited
- ♦ Geoffrey Louw, Bell Potter Securities
- ♦ Michael Manford, Patersons Securities
- ♦ Russell McKimm, Patersons Securities
- ♦ Sadie Powers, Patersons Securities
- ♦ Mark Pugsley, Resource Development Group Ltd
- ♦ Peter Robson, ITG Australia
- ♦ John Steinthal, consultant financial adviser
- ♦ Andrew Tanner, Goldman Sachs
- ♦ Victoria Weekes, ANZ Share Investing Limited

In August 2016, Simon Gray was appointed as the new Panel Chair.

We thank outgoing Chair, Lisa Gay, for her valuable contribution to the Panel.

Members of the MDP made determinations on alleged breaches of the market integrity rules during 2015–16.

The infringement notices for finalised matters are published in the MDP Infringement Notices Register on the ASIC website. The MDP issued nine infringement notices during 2015–16. The MDP imposed a total of \$984,000 in penalties in these matters. Various penalties were imposed for a number of alleged breaches of the market integrity rules, including penalties of \$120,000, \$130,000 and \$300,000.

### 5.3.7 Registry and Licensing Business Advisory Committee

The Registry and Licensing Business Advisory Committee provides an ongoing means of direct consultation with the business community, providing input and opinion on the impact of current and proposed registry and licensing services, with particular emphasis on small business.

The committee's scope includes advice on strategic directions, performance feedback, and reporting on the trends and needs of business. It advises on proposed legislative change and on the appropriateness of corporate registry objectives and initiatives, with a focus on the impact to business and to ASIC operations.

The committee members are drawn from a wide range of business community, industry and professional organisations. Each member of the committee represents an area of experience and expertise relevant to the planning and delivery of ASIC's registry and licensing objectives and initiatives. They contribute their knowledge, experience and expertise of business, industry and ASIC to the advisory process.

The committee members in 2015–16 were:

- ♦ Greg Tanzer, Commissioner, Australian Securities and Investments Commission (Committee Chairman)
- ♦ Hugh Elvy, Institute of Chartered Accountants Australia
- ♦ Chris Boys and Adam Siddique, Dun & Bradstreet
- ♦ Robin Buckham, Family Business Australia
- ♦ Daryl Koch, Institute of Public Accountants
- ♦ Judith Fox, Governance Institute of Australia
- ♦ Nicola Steele and Kerry Hicks, Australian Institute of Company Directors

- ◆ Deborah Hambleton, Law Council of Australia
- ◆ Colin Porter, CreditorWatch
- ◆ Warren Renden, BGL Corporate Solutions
- ◆ Peter Strong, Council of Small Business Organisations of Australia
- ◆ Anna Tantau, CPA Australia
- ◆ Claire Wivell Plater, The Fold Legal Pty Ltd
- ◆ Myron Zlotnick and David Francis, Reckon Group.

We thank Robin Buckham, Nicola Steel, Chris Boys and Myron Zlotnick, outgoing representatives of Family Business Australia, Australian Institute of Company Directors, Dun & Bradstreet and Reckon, for their valuable contributions.

During 2015–16, the committee received updates about our improvements to our registry services including our continued efforts to move our registry customers to online services, and information about registry reforms.

The committee was also actively engaged with the Department of Finance ASIC Registry Project working group in November 2015 and May 2016, providing feedback on issues relevant to the competitive tender process being conducted in relation to the ASIC Registry business.

### 5.3.8 Digital Finance Advisory Committee

The Digital Finance Advisory Committee was established in 2015 to assist ASIC to support innovation in financial services and markets. The Committee channels senior level advice and feedback on the opportunities, developments and emerging risks for start-ups in the fintech sector, as well as ASIC's engagement with those businesses through its Innovation Hub.

Members are drawn from the fintech, venture capital, consumer and academic communities and sectors, and serve in their personal capacity (not as a representative of an organisation). Australian Treasury, APRA, RBA and AUSTRAC are observers at Committee meetings.

Committee members in 2015–16 included:

- ◆ Professor Deborah Ralston (Panel Chair)
- ◆ Alex Scandurra, Stone & Chalk
- ◆ Andrew Corbett-Jones, Tyro Fintech Hub
- ◆ Kim Heras, 25Fifteen
- ◆ Murray Hurps, Fishburners
- ◆ Toby Heap, H2 Ventures
- ◆ Matt Symons, SocietyOne
- ◆ Jenni Mack, SunSuper.

During 2015–16, the Committee met four times and provided advice and feedback on a number of matters, including ASIC's communication strategy, ASIC's work on digital advice, marketplace lending and a 'regulatory sandbox' licensing exemption proposal, and the ASIC licensing process.

## 5.4 Portfolio budget statement outcomes

ASIC's outcomes for 2015–16 are reported below against the Government's Portfolio Budget Statements.

### **Outcome 1: To allow markets to fund the real economy by promoting investor and consumer trust and confidence, facilitating fair and efficient markets and delivering efficient registration.**

#### **Program 1.1: Australian Securities and Investments Commission**

Sections 2.1–2.3 of the annual performance statement sets out our performance against the Program 1.1 deliverables and key performance indicators.

#### **Program 1.2 *Banking Act 1959, Life Insurance Act 1995, unclaimed money and special accounts***

Section 2.4 of the annual performance statement sets out our performance against the Program 1.2 deliverables and key performance indicators.

### 5.4.1 Agency resource statement 2015–16

		Actual available appropriation for 2015–16 \$'000s	Cash payments made <sup>1</sup> 2015–16 \$'000s	Balance remaining 2015–16 \$'000s
<b>Ordinary annual services<sup>2</sup></b>				
<b>Departmental</b>				
Departmental appropriation <sup>3</sup>		481,853	378,430	103,423
<b>Administered expenses</b>				
Outcome 1 – ordinary annual services				
Administration Fund		7,427	5,777	N/A
<b>Total ordinary annual services</b>	A	489,280	384,207	N/A
<b>Other services</b>				
<b>Departmental non-operating</b>				
Equity injections <sup>4</sup>		5,301	5,328	(27)
<b>Total other services</b>	B	5,301	5,328	(27)
<b>Total available annual appropriations (A+B)</b>		494,581	389,535	N/A
<b>Special appropriations limited by criteria/amount</b>				
<i>Banking Act 1959</i>		N/A	82,159	N/A
<i>Life Insurance Act 1995</i>		N/A	9,992	N/A
<b>Total special appropriations</b>	C	N/A	92,151	N/A
<b>Total appropriations excluding Special Accounts (A+B+C)</b>		494,581	481,686	N/A
<b>Special Account<sup>5</sup></b>				
Opening balance		62,127	N/A	N/A
Appropriation receipts		26,920	N/A	N/A

		Actual available appropriation for 2015–16 \$'000s	Cash payments made <sup>1</sup> 2015–16 \$'000s	Balance remaining 2015–16 \$'000s
Costs recovered		32	N/A	N/A
Payments made		N/A	44,884	N/A
<b>Total Special Account</b>	D	89,079	44,884	N/A
<b>Total resourcing (A+B+C+D)</b>		583,660	526,570	N/A
Less appropriations drawn from annual appropriations above and credited to Special Accounts		(26,920)	–	N/A
<b>Total net resourcing for ASIC</b>		556,740	526,570	N/A

1. Does not include GST.

2. Appropriation Bill (No. 1) 2015–16, prior year departmental appropriation and s74 of the PGPA Act relevant agency receipts.

3. Includes \$19.131 million for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

4. Appropriation Bill (No. 2) 2015–16, Appropriation Bill (No. 4) 2015–16.

5. Does not include Special Public Money.

## 5.4.2 Expenses by outcome

	Budget <sup>1</sup> 2015–16 (1) \$'000s	Actual expenses 2015–16 (2) \$'000s	Variance column (1) minus column (2) \$'000s
<b>Outcome 1:</b> To allow markets to fund the real economy by promoting investor and consumer trust and confidence, facilitating fair and efficient markets and delivering efficient registration			
<b>A</b> Administered expenses funded by administered appropriations	7,427	6,980	447
<b>B</b> Departmental expenses funded by departmental appropriations and own-source revenue	323,950	326,850	(2,900)
<b>Total for Outcome 1 (A + B)</b>	331,377	333,830	(2,453)
Average FTE <sup>2</sup>	1,658	1,627	31

1. Based on the 2015–16 forecast as set out in ASIC's 2016–17 Portfolio Budget Statements.

2. 2016–17 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.

## 5.5 Six-year summary of key stakeholder data

### 5.5.1 Summary of key stakeholder data, 2010–16

Business data	2015–16	2014–15	2013–14	2012–13	2011–12	2010–11
Companies (total)	2,372,429	2,245,364	2,118,666	2,012,241	1,921,545	1,839,772
New companies registered	246,051 <sup>1</sup>	235,182 <sup>1</sup>	212,573	192,211	176,062	163,276
AFS licensees	5,511	5,198	5,101	5,043	4,955	4,883
Authorised financial markets <sup>2</sup>	52	50	50	45	42	41
Licensed clearing and settlement facilities	7	7	7	6	5	5
Licensed trade repositories	2	1	N/A	N/A	N/A	N/A
Registered company auditors	4,483	4,596	4,729	4,852	4,985	5,114
Registered liquidators	707	711	696	685	680	669
Registered managed investment schemes	3,619	3,642	3,673	4,152	4,289	4,270
Credit licensees	5,726	5,779	5,837	5,856	6,004	6,081
Fundraising documents lodged	891	1,078	1,095	821	799	957
Products the subject of product disclosure 'in-use' notices	5,153	5,023	5,461	4,988	4,758	4,593
Takeovers	40	43	59	45	55	72
Fundraising where ASIC required additional disclosure	\$6.4bn	\$9.4bn	\$6.7bn	\$3.5bn	\$7bn	\$3.4bn
Recoveries, costs, compensation, fines or assets frozen	\$217.4m <sup>3</sup>	\$61.1m	\$214.6m	\$222.4m	\$19.8m	\$113m
% successful criminal and civil litigation <sup>4</sup>	96%	85%	90%	95%	92%	90%
Criminal and civil litigation and administrative actions concluded <sup>5</sup>	181	167	149	144	179	202
Criminals imprisoned	13	12	14	9	20	16
Reports of crime or misconduct finalised	9,751	9,669	10,530	11,682	12,516	15,634
Total searches of ASIC databases	90.7m	86.2m	76.2m	68.0m	71.2m	68.5m
Business names (total)	2,070,028	2,153,959	1,994,001	1,740,780	1,488,898	N/A <sup>6</sup>



Business data	2015–16	2014–15	2013–14	2012–13	2011–12	2010–11
New business names registered	337,413	327,687	299,988	274,349	19,131	N/A <sup>6</sup>
Registered SMSF auditors	6,671	6,669	7,073	5,935	N/A <sup>6</sup>	N/A <sup>6</sup>
% company data lodged on time	95%	96%	96%	95%	95%	95%
Fees and charges collected for the Commonwealth	\$876m	\$824m	\$763m	\$717m	\$664m	\$622m
Staff (average FTEs) <sup>7</sup>	1,627	1,609	1,773	1,832	1,716	1,862

1. Successful and completed registrations.

2. This includes domestic and overseas financial markets that are licensed to operate in Australia as well as financial markets that are exempt from the requirement to be licensed.

3. In 2015–16, there were six compensation and remediation matters that comprised \$165.5 million of the total figure.

4. Excludes administrative actions and summary prosecutions for strict liability offences.

5. Excludes summary prosecutions for strict liability offences.

6. N/A means not applicable because legislative requirements had not commenced.

7. Data rounded. Excludes contractors and secondees from other agencies.

## 5.6 Reports required under statute and other reporting requirements

### 5.6.1 Australian Securities and Investments Commission Act 2001

As required by s136(1)(a), ASIC reports that in 2015–16 we did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997*. No applications were received to do so.

ASIC issued one legislative instrument under Part 29 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) in 2015–16 relating to the requirement in s29QB of the SIS Act that superannuation websites must be kept up-to-date at all times.

As required under s136(1)(c), ASIC reports that during 2015–16 we did not conduct any joint inspections with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations.

ASIC did not conduct any joint inspections with the Canadian Public Accountability Board or share any information with them under the relevant provisions of the ASIC Act during 2015–16.

### 5.6.2 Commonwealth fraud control guidelines

During 2015–16, ASIC has reviewed our fraud exposures and has an approved fraud control policy and plan in place. ASIC has appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes in place to minimise the effects of fraud and to comply with the Commonwealth Fraud Control Framework. ASIC has taken all reasonable measures to deal appropriately with fraud.

### 5.6.3 Compensation for detriment caused by defective administration

There was one payment made in 2015–16, for \$5,935, under the Scheme for Compensation for Detriment caused by Defective Administration (CDDA Scheme).

### 5.6.4 External scrutiny of agency

#### Judicial decisions and decisions of administrative tribunals

There were no judicial decisions, administrative tribunal decisions or decisions by the Australian Information Commissioner in 2014–15 that have had, or may have, a significant impact on ASIC's operations.

#### Reports by Parliamentary Joint Committee on Corporations and Financial Services

There has been one ASIC oversight report between 1 July 2015 and 30 June 2016.

The report on the 2014–15 annual report of bodies established under the ASIC Act was tabled on 4 May 2016.

The Parliamentary Joint Committee on Corporations and Financial Services inquiry into impairment of customer loans report was released on 4 May 2016.

#### Senate Standing Committees on Economics

During 2015–16, ASIC testified before the Senate Economics Committees numerous times and provided answers to Questions on Notice.

The Senate Economics Legislation Committee reviewed ASIC's Annual Report 2014–15 and considers ASIC to have met its reporting obligations.

Other reports finalised by the Senate Economics Committees which involved ASIC included:

- ♦ Cooperative, mutual and member-owned firms on 17 March 2016
- ♦ Corporations Amendment (Life Insurance Remuneration Arrangements) Bill 2016 on 15 March 2016
- ♦ Forestry managed investment schemes on 11 March 2016
- ♦ Matters relating to credit card interest rates on 16 December 2015

- ◆ Insolvency in the Australian construction industry on 3 December 2015
- ◆ Superannuation Legislation Amendment (Trustee Governance) Bill 2015 on 9 November 2015
- ◆ Digital currency on 4 August 2015.

## Reports by Auditor-General

The Auditor-General issued Audit Report No. 15 2015–16, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2015*, on 17 December 2016.

The Australian National Audit Office (ANAO) audited the financial statements of Australian Government entities, including ASIC, and the Consolidated Financial Statements of the Australian Government, as at 2 December 2015. The ANAO Audit Report published the results of its final audit.

The ANAO's 2014–15 audit identified the following areas of audit focus for ASIC which had the potential to impact the financial statements:

- ◆ the accuracy and completeness of administered revenues and receivables, in view of the complex IT systems involved
- ◆ the relevance and reliability of the actuarial assumptions used to determine the estimate of likely claims relating to future claims of unclaimed monies previously collected
- ◆ the Government's scoping study relating to the potential sale of the Registry function.

We have taken these issues into account in preparing the financial statements for 2015–16.

The ANAO Audit Report also summarised the status of audit findings reported by the ANAO in 2013–14 and 2014–15. The Audit Report noted that ASIC had implemented controls to resolve the following issues previously identified by the ANAO:

- ◆ the use of shared accounts between application developers and database administrators on ASIC's IT system increased the risk that if inappropriate or unauthorised changes were made to the system, ASIC would not have been able to identify the specific users who made these changes

- ◆ ASIC did not have arrangements in place to monitor privileged user activity logs, including for those privileged accounts shared between application developers and database administrators.

## 5.6.5 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**

or you may lodge a mail request to:

The Senior Manager  
Administrative Law Team  
GPO Box 9827  
Melbourne VIC 3001

For further information on how to apply, visit **www.asic.gov.au**.

Categories of documents in ASIC's possession include:

- ◆ in relation to operational matters:
  - licence and professional registration applications
  - applications from businesses, correspondence, internal working papers, policy proposals and submissions
  - administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers

## 5.6 Reports required under statute and other reporting requirements *continued*

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

Members of the public can inspect ASIC regulatory documents, information brochures, media releases, reports, legislative instruments and other regulatory publications on the ASIC website, [www.asic.gov.au](http://www.asic.gov.au).

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

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

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 are required to publish information for the public as part of the Information Publication Scheme (IPS). This requirement is in Part 2 of the FOI Act and has replaced the former requirement to publish a s8 statement in an annual report.

ASIC's Information Publication Scheme Plan, showing what information is published in accordance with the IPS requirements, is available on the ASIC website, [www.asic.gov.au](http://www.asic.gov.au).

### 5.6.6 Grants programs

The Assetless Administration Fund (AA Fund) is a grant scheme established by the Australian Government and administered by ASIC.

The scheme may fund liquidators for:

- ♦ preliminary investigations and reports into the failure of companies that have few or no assets, where it appears that enforcement action may result from the investigations and reports
- ♦ the winding up of companies under Part 5.4C of the Corporations Act
- ♦ actions to recover assets where fraudulent or unlawful phoenix activity is suspected.

The funding allocation for 2015–16 was \$3.580 million. ASIC paid and committed just over \$3.574 million to liquidators in 2015–16.

In 2015–16, under the grant scheme, ASIC received:

- ♦ 561 banning (EX02) applications, a 1% decrease on applications received in 2014–15
- ♦ 153 'Matters other than s206F – Director banning' (EX03) applications, a 12% increase on applications received in 2014–15
- ♦ 31 winding-up activities, a 55% increase on activities received in 2014–15
- ♦ 4 actions for liquidator to recover assets.

In total, ASIC received 714 applications for funding in 2015–16, the highest number ever received.

Reports funded by the AA Fund assisted in approximately 76% of director bannings (30 out of 39).

Information on grants by ASIC under the AA Fund is available on the ASIC website at [www.asic.gov.au/aafund](http://www.asic.gov.au/aafund).

## 5.7 Consultancies and expenditure on advertising

### 5.7.1 Commonwealth Electoral Act 1918

Section 311A of the *Commonwealth Electoral Act 1918* requires agencies to report on expenditure on services provided by advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising organisations. Sums less than \$12,700 are not required to be reported. All sums are GST inclusive, and are actual expenditure for 2015–16.

Further information on ASIC's advertising campaigns is available 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/advertising/index.html](http://www.finance.gov.au/advertising/index.html).

#### Expenditure on advertising agency services in 2015–16

Agency	Expenditure	Purpose
Dentsu Mitchell Media Australia	\$1,339,858	Media expenditure (advertising placement for Phase 5 of ASIC's MoneySmart campaign)
Media Brands	\$214,500	Search optimisation services
Spinach Advertising	\$270,736	Account service & creative development of the MoneySmart advertising campaign
Australian Public Service Commission	\$20,362	Yearly subscription of advertising of jobs on the APS Gazette
<b>Total</b>	<b>\$1,845,456</b>	

#### Expenditure on services by market research,<sup>1</sup> polling, direct mail and media advertising organisations in 2015–16

Agency	Expenditure	Purpose
ChatHouse	\$119,714	Consumer research for development of Phase 5 of ASIC's MoneySmart advertising campaign
Ernst and Young	\$88,000	ASIC's MoneySmart Awareness and Usage Study and Australian Financial Attitudes and Behaviour tracking
GFK Australia	\$50,099	Concept testing – Investor Toolkit
Latitude	\$38,940	User testing – Buying a Car app
Latitude	\$21,505	Concept testing – Financial Advice app
Trivium	\$44,000	Seniors research project
<b>Total</b>	<b>\$362,258</b>	

1. We have listed market research organisations that are recognised by the Australian Market & Social Research Society (AMSRS) and the Association of Market and Social Research Organisations (AMSRO).

## 5.7 Consultancies and expenditure on advertising

continued

### 5.7.2 Managing procurement

The PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) primarily govern ASIC's use of Commonwealth resources and expenditure of public money. 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 officers who:

- ♦ develop and maintain ASIC's procurement processes and systems designed to promote compliance with the PGPA Act, PGPA Rule and the CPRs for all levels of procurement
- ♦ manage complex and/or high-risk procurement activities, including procurements that are subject to the Mandatory Procurement Procedures of the CPRs.

ASIC's 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'. ASIC undertakes 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 2015–16 contained provisions, as required, allowing the

Auditor-General access to information held by contractors relating to contract performance.

### 5.7.3 Using AusTender

ASIC advertises all open tender opportunities through the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

During 2015–16, ASIC implemented seven standing offer arrangements (procurement panels), including one cooperative arrangement, and awarded 802 procurement activities (each valued at \$10,000 or more reported on AusTender) for a total value of \$103.6 million. Of these procurements, 226 were valued in excess of \$80,000 for a total value of \$81.6 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. ASIC's annual procurement plan was published on AusTender by 1 July 2015 and was updated as required during the year.

There were no contracts that were exempt from the contract reporting requirements.

### 5.7.4 Consultancy contracts

During 2015–16, 58 new consultancy contracts were entered into, involving total expenditure of \$4.017 million. In addition, 27 ongoing consultancy contracts were active during the year, involving total expenditure of \$2.382 million.

#### Consultancy trend data

	2015–16	2014–15	2013–14	2012–13
Number of new consultancies	58	63	65	62
Expenditure on new consultancies (millions)	\$4.017	\$2.354	\$2.209	\$4.242
Number of ongoing consultancies	27	23	30	16
Expenditure on ongoing consultancies (millions)	\$2.382	\$1.313	\$2.364	\$3.961

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 expenditure shown on page 120 of the financial statements which is 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).

### 5.7.5 Policy on selection and engagement of consultants

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

Of the 58 consultants engaged by ASIC during 2015–16, 30 were for specialised or professional skills, four were for skills not currently available within ASIC and 12 were for independent research or assessment. The method of procurement used was open tender for 34 engagements (including engagements from panels), limited tender for 24 engagements and pre-qualified tender for one engagement.

The main categories for which the consultants were engaged were:

- ♦ business intelligence consulting services
- ♦ information technology consulting services
- ♦ market research
- ♦ software maintenance and support
- ♦ education and training services
- ♦ strategic planning consultation services.

### 5.7.6 Procurement initiatives to support small business

ASIC 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, [www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/](http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/).

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 Treasury's 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
- ♦ presenting information in an accessible format
- ♦ encouraging the use of payment cards.

## 5.8 ASIC's use of its significant compulsory information-gathering powers

Since 2010–11, ASIC has reported the use of our significant compulsory information-gathering powers under statute. This appendix discloses data by number of instances in 2015–16, with comparative data for 2014–15.

Use of significant compulsory information-gathering powers		No. of notices 2015–16	No. of notices 2014–15
<b>Appear for examination</b>			
s19 ASIC Act <sup>1</sup>	Requirement to appear for examination	739	575
s58 ASIC Act	Power to summons a witness and take evidence	0	0
s253 National Credit Act <sup>1</sup>	Requirement to provide reasonable assistance	28	50
<b>Give reasonable assistance</b>			
s1317R Corporations Act	Power to require assistance in prosecutions	13	3
s49(3) ASIC Act	Power to require reasonable assistance in prosecutions	9	24
s51 National Credit Act	Requirement to provide reasonable assistance	1	0
s601FF Corporations Act	Power to conduct surveillance/monitor managed investment scheme	0	0
s274(4) National Credit Act	Requirement to provide reasonable assistance	0	0
s912E Corporations Act	Power to require assistance and disclosure of books and information from an AFS licensee	390	569
<b>Produce documents</b>			
s266 National Credit Act	Requirement to produce books (credit activities)	172	180
s267 National Credit Act	Requirement to produce books	94	119
s30 ASIC Act	Notice to produce books about affairs of body corporate or registered scheme	1,141	1,146
s31 ASIC Act	Notice to produce books about financial products	133	61
s32A ASIC Act	Notice to produce books about financial services	3	1
s33 ASIC Act	Notice to produce books in person's possession	1,314	1,292
<b>Provide access</b>			
s29 ASIC Act	Power to inspect books	2	1
s821D Corporations Act	Power to require access to a CS facility	0	1

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



Use of significant compulsory information-gathering powers		No. of notices 2015–16	No. of notices 2014–15
<b>Provide information</b>			
s12GY(2) ASIC Act	ASIC to require claims to be substantiated	1	0
s37(9)(a) ASIC Act	Power requiring explanation of books	2	2
s601HD Corporations Act	Power to request information about compliance plan of a registered scheme	0	0
s49(1) National Credit Act	Requirement to provide information (statement)	61	74
s912C Corporations Act	Power to require information from an AFS licensee	707 <sup>2</sup>	516
Item 17 Sch 2 National Credit Act	Power to require information (obtain statement or audit report)	0	0
s672A Corporations Act	Power to require disclosure of relevant interests	19	32
s672B Corporations Act	Power to require disclosure of relevant interests	0	0
s37(4) National Credit Act	Power to request information or audit report from licence applicant	1	0
s792D Corporations Act	Power to require reasonable assistance from a market licensee	31	16
<b>Provide information and produce books</b>			
s30A ASIC Act	Notice to auditors requiring information or books	47	61
<b>Search warrants</b>			
s3E <i>Crimes Act 1914</i>	Warrants to search premises/conveyance or person	30 <sup>3</sup>	25
s36 ASIC Act	Warrant to search premises	0	0
<b>Use of other powers</b>			
<b>Obligations of carriers and carriage service providers</b>			
s313 <i>Telecommunications Act 1997</i>	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>			
s10(2) <i>Mutual Assistance in Business Regulation Act 1992</i>	Requirement to produce documents, to give information or to appear to give evidence and produce documents	16	17

2. The increase in s912C notices issued in 2015–16 is the result of some specific ASIC surveillance projects, such as the Wealth Management project.

3. Of the 30 warrants issued (for nine individual investigations), 27 were executed.

## 5.9 Corporate Plan performance indicators

### Area of focus: Gatekeeper conduct – Responsible entities

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>♦ Risk management – review risk management arrangements in the managed funds sector, including conflict management, liquidity and leverage</li> <li>♦ Responsible entities – review risk-profiled responsible entities with a focus on opaque and complex structures, liquidity, mandate compliance and custody</li> <li>♦ Identify inappropriate conduct by assessing breach reports and reports of misconduct and deciding whether we need to act further – we expect licensees to report breaches promptly so we can rectify problems with individual entities quickly and effectively</li> </ul>	<p>Number of failures to comply with conduct obligations identified and addressed</p> <hr/> <p>Improvements in individual responsible entities, including risk management arrangements, in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Published regulatory guidance for risk management arrangements of responsible entities</p>	<ul style="list-style-type: none"> <li>♦ 60 instances where a failure to comply with conduct obligations by responsible entities, superannuation trustees and other entities was identified and addressed</li> </ul> <p>See page 44</p> <hr/> <ul style="list-style-type: none"> <li>♦ Risk profiled entities project</li> </ul> <p>See page 45</p> <hr/> <ul style="list-style-type: none"> <li>♦ Risk management arrangements of responsible entities</li> </ul> <p>See page 44</p>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>♦ Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing</li> </ul>	<p>Successful enforcement or other action – including enforceable undertakings and infringement notices</p>	<ul style="list-style-type: none"> <li>♦ Punitive outcomes</li> <li>♦ Protective outcomes</li> <li>♦ Remedial outcomes</li> </ul> <p>See pages 46–47</p>
<b>Stakeholder engagement</b> <ul style="list-style-type: none"> <li>♦ Facilitate emerging business models, while maintaining protections for investors and consumers in innovative products and services, including digital platforms that enable marketplace funding</li> </ul>	<p>Streamlined licensing for fintech start-ups</p> <hr/> <p>Financial literacy messages delivered about innovative products and services</p>	<ul style="list-style-type: none"> <li>♦ Individual guidance and assistance with licence or relief applications</li> </ul> <p>See page 80</p> <hr/> <ul style="list-style-type: none"> <li>♦ ‘How MoneySmart are you’ campaign</li> <li>♦ Investing challenge</li> </ul> <p>See pages 50–51</p>
<b>Policy advice</b> <ul style="list-style-type: none"> <li>♦ Assess limitations on financial services licensing for responsible managers and responsible officers, especially in the context of the ‘licensees-for-hire’ business model</li> </ul>	<p>Identification of policy issues and law reform options</p>	<ul style="list-style-type: none"> <li>♦ Asia Region Funds Passport</li> <li>♦ Law reform in managed investment schemes</li> <li>♦ Law reform in superannuation</li> </ul> <p>See page 47</p>

## Area of focus: Gatekeeper conduct – Lenders

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>♦ Interest-only loans – review current market practices</li> <li>♦ Finance broker compliance – review large finance brokers' compliance with responsible lending and general conduct obligations</li> <li>♦ Margin lenders – review lending policies</li> <li>♦ Reduce the sale of inappropriate products, targeting: <ul style="list-style-type: none"> <li>– payday lending, including compliance with recently introduced interest rate caps</li> <li>– consumer leases</li> </ul> </li> </ul>	<p>Number of failures to comply with responsible lending and general conduct obligations identified and addressed</p> <hr/> <p>Improvements by individual lenders in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Published reports on surveillance outcomes to articulate lender standards and expectations, and industry commitment to address ASIC concerns obtained</p>	<ul style="list-style-type: none"> <li>♦ 75 instances where a failure to comply with conduct obligations was identified and addressed. 45 of those instances related to lenders.</li> </ul> <p>See page 34</p> <hr/> <ul style="list-style-type: none"> <li>♦ Interest-only home loans</li> <li>♦ Consumer leasing</li> <li>♦ Margin lending</li> </ul> <p>See pages 34–35</p> <hr/> <ul style="list-style-type: none"> <li>♦ Interest-only home loans</li> <li>♦ Consumer leasing</li> </ul> <p>See pages 34–35</p>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>♦ Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing – for example, failures to comply with responsible lending and general conduct obligations</li> </ul>	<p>Successful enforcement or other regulatory action – including enforceable undertakings and infringement notices</p>	<ul style="list-style-type: none"> <li>♦ Punitive outcomes</li> <li>♦ Protective outcomes</li> <li>♦ Remedial outcomes</li> </ul> <p>See pages 36–38</p>
<b>Education</b> <ul style="list-style-type: none"> <li>♦ Promote messages to people about how to borrow responsibly and manage debt</li> </ul>	<p>Production, delivery and promotion of financial literacy resources and tools to help people compare different types of borrowing and how much they can afford to borrow</p>	<ul style="list-style-type: none"> <li>♦ 'How MoneySmart are you' campaign</li> <li>♦ Interest-only mortgages – information for Australian consumers</li> </ul> <p>See pages 50–51</p>

## 5.9 Corporate Plan performance indicators continued

### Area of focus: Gatekeeper conduct – Markets

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>◆ Confidential information – review market practices on confidential information</li> <li>◆ Conduct risk calculator – benchmark ways investment banks manage conduct risk and identify potential gaps</li> <li>◆ Wholesale market conduct risk – do proactive surveillance of benchmark manipulation through bank bill issuance/trading and benchmark submitters</li> <li>◆ ASX market assessment – assess ASX standards and administration of securities listing function</li> <li>◆ Merger and acquisition and fundraising transactions – review certain transactions that pose a high conduct risk, targeting:</li> <li>◆ Backdoor listings</li> <li>◆ Substantial overseas assets or management business models based on intangibles</li> <li>◆ Identify inappropriate conduct by assessing breach reports and reports of misconduct and deciding whether we need to act further – we expect licensees to report breaches promptly so we can rectify problems with individual entities quickly and effectively</li> </ul>	<p>Number of failures to comply with conduct obligations identified and addressed</p> <hr/> <p>Improvements in individual market practices in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Improved disclosures for individual transactions in response to identified areas of improvement</p> <hr/> <p>Published report of ASX standards and administration of securities listing function to drive behavioural and structural changes and set future development standards</p> <hr/> <p>Industry messages delivered to stakeholders, including market intermediaries, to articulate standards and expectations on handling confidential information and managing conduct risk, and obtain industry commitment to address ASIC concerns</p>	<ul style="list-style-type: none"> <li>◆ 127 instances where a failure to comply with conduct obligations was identified and addressed (6 by Investment Banks, 121 by Market and Participant Supervision)</li> </ul> <p>See pages 71, 77</p> <hr/> <ul style="list-style-type: none"> <li>◆ Morgans Financial Limited</li> <li>◆ ASX 24 quarterly roll markets</li> <li>◆ Australian Real Estate Investment Trust (A-REIT) index futures contracts</li> <li>◆ Dark liquidity and high-frequency trading</li> <li>◆ Managing confidential information and conflicts of interest</li> <li>◆ Retail OTC derivatives</li> </ul> <p>See pages 70, 71–72, 75, 78</p> <hr/> <ul style="list-style-type: none"> <li>◆ Improving fundraising disclosure</li> </ul> <p>See page 61</p> <hr/> <ul style="list-style-type: none"> <li>◆ ASX assessment report</li> </ul> <p>See page 70</p> <hr/> <ul style="list-style-type: none"> <li>◆ Managing confidential information and conflicts of interest</li> </ul> <p>See page 75</p>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>◆ Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing</li> </ul>	<p>Successful enforcement or other action – including enforceable undertakings and infringement notices</p>	<ul style="list-style-type: none"> <li>◆ Punitive outcomes</li> <li>◆ Protective outcomes</li> <li>◆ Remedial outcomes</li> </ul> <p>See pages 72–74, 78</p>

## Area of focus: Gatekeeper conduct – Directors, auditors and insolvency practitioners

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>Key financial and transaction information – review corporate transaction documents lodged with ASIC and, in some instances, sales disclosures to investors in connection with fundraising</li> <li>Disclosures in financial reports – review financial reports of listed and other public interest entities</li> <li>Audit quality – review audit firm business models to ensure appropriate experience and expertise is applied to increasingly complex clients and businesses, financial reporting judgements and audit approaches</li> <li>Insolvency practitioners – review high-risk insolvency practitioners focusing on independence (including pre-insolvency advisers), competence and improper gain (including remuneration)</li> <li>Lodgement compliance – review systemic non-compliance by insolvency practitioners with statutory lodgement obligations</li> <li>Identify inappropriate conduct by assessing reports of misconduct and deciding whether we need to act further – we expect gatekeepers to report issues promptly so we can rectify problems with individual entities quickly and effectively</li> </ul>	<p>Number of failures to comply with conduct obligations identified and addressed</p> <hr/> <p>Improvements in individual entities in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Published audit inspection report to articulate standards and expectations and drive domestic and international action plans for largest audit firms</p> <hr/> <p>Improved disclosures made for individual prospectuses, related party notices of meeting, schemes and bids in response to identified areas of improvement</p>	<ul style="list-style-type: none"> <li>425 instances where a failure to comply was identified and addressed (315 by Corporations, 20 by Insolvency practitioners, 90 by Financial reporting and audit).</li> </ul> <p>See pages 61, 65, 67</p> <hr/> <ul style="list-style-type: none"> <li>Financial reporting surveillance and audit</li> <li>Pre-insolvency advice</li> <li>Compliance with reporting and publishing requirements</li> <li>Monitoring takeovers</li> <li>Corporate governance</li> </ul> <p>See pages 61, 65, 67</p> <hr/> <ul style="list-style-type: none"> <li>Audit inspection program</li> </ul> <p>See page 68</p> <hr/> <ul style="list-style-type: none"> <li>Improving fundraising disclosure</li> <li>Due diligence practices in initial public offerings</li> </ul> <p>See page 61</p>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>Where appropriate, take enforcement action or accept enforceable undertakings where we identify wrongdoing – for example, action against directors, auditors and liquidators where their competence or independence is significantly compromised, or where they have misused their position for improper financial gain</li> </ul>	<p>Successful enforcement or other regulatory action – including enforceable undertakings and deregistering and suspending individuals</p>	<ul style="list-style-type: none"> <li>Punitive outcomes</li> <li>Protective outcomes</li> <li>Remedial outcomes</li> </ul> <p>See pages 62–63, 66, 68</p>

## 5.9 Corporate Plan performance indicators continued

### Area of focus: Cyber attacks

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>Identify practices to deal with cyber threats and technological advances through our markets cyber risk taskforce</li> <li>Distribute ASIC's cyber resilience calculator results to participating investment banks for private self-assessment and peer benchmarking as appropriate</li> <li>Review financial market infrastructure to focus on governance and outsourcing</li> </ul>	<p>Industry messages delivered to stakeholders to increase awareness of and promote good cyber practices</p> <hr/> <p>Improvements by individual investment banks in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Published cyber assessment report to articulate standards and expectations of financial market infrastructure</p>	<p>♦ Cyber resilience See page 75</p> <hr/> <p>♦ Cyber resilience See page 75</p> <hr/> <p>♦ ASX/Chi-X cyber resilience report See page 69</p>
<b>Data matching and analytics</b> <ul style="list-style-type: none"> <li>Identify potential cyber attacks in markets through real-time market monitoring – for example, detecting anomalous trading patterns that may be the result of a cyber attack</li> </ul>	<p>Number of potential cyber attacks identified and addressed</p>	<p>♦ Cyber resilience See page 75</p>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing – for example, deal with cases where companies' and issuers' disclosure provides insufficient information on cyber threats</li> </ul>	<p>Successful enforcement or other regulatory action – including enforceable undertakings, infringement notices or improved disclosures</p>	<p>♦ No relevant enforcement action required in 2015–16</p>

## Area of focus: Poor financial advice

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>Review advice in large, vertically-integrated institutions, including how the largest banks deal with 'bad apple' advisers</li> <li>Identify inappropriate conduct by assessing breach reports and reports of misconduct and deciding whether we need to act further – we expect licensees to report breaches promptly so we can rectify problems with individual entities quickly and effectively</li> </ul>	<p>Number of failures to comply with advice conduct obligations identified and addressed</p> <hr/> <p>Improvements in individual entities in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Where appropriate, published reports on surveillance outcomes to articulate standards and expectations, increased industry understanding of the impact of conflicts of interest and industry commitment to address ASIC concerns obtained</p>	<ul style="list-style-type: none"> <li>84 instances where a failure to comply was identified and addressed See page 39</li> </ul> <hr/> <ul style="list-style-type: none"> <li>Professional indemnity insurance</li> <li>Use of the term 'independent' by AFS licensee</li> <li>Fee for no service See page 40</li> </ul> <hr/> <ul style="list-style-type: none"> <li>Professional indemnity insurance See page 40</li> </ul>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing – for example, where we identify deficient advice (including poor quality life insurance advice) or poor licensee conduct</li> </ul>	<p>Successful enforcement or other regulatory action – including enforceable undertakings, infringement notices, licence cancellations and adviser bannings</p>	<ul style="list-style-type: none"> <li>Protective outcomes</li> <li>Remedial outcomes See pages 40–42</li> </ul>
<b>Education</b> <ul style="list-style-type: none"> <li>Promote the Financial Advisers Register</li> </ul>	<p>People enabled to check adviser credentials, and helped to choose an adviser – for example, knowing what questions to ask</p>	<ul style="list-style-type: none"> <li>Financial Advisers Register See page 52</li> </ul>
<b>Guidance</b> <ul style="list-style-type: none"> <li>Develop guidance about remediation where consumers suffer loss</li> </ul>	<p>Published proposed regulatory guidance on remediation</p>	<ul style="list-style-type: none"> <li>Remediation by advice licensees See page 39</li> </ul>
<b>Policy advice</b> <ul style="list-style-type: none"> <li>Work with Treasury to improve the adviser professionalism and ethical standards, including training</li> </ul>	<p>Participation in roundtables and meetings to identify policy issues and law reform options</p>	<ul style="list-style-type: none"> <li>Adviser professionalism and training See page 42</li> </ul>

## 5.9 Corporate Plan performance indicators continued

### Area of focus: Misalignment of retail product design and distribution with consumer understanding

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>♦ Reduce the sale of inappropriate products, targeting: <ul style="list-style-type: none"> <li>– retail OTC derivatives</li> <li>– add-on insurance products in the car finance industry</li> </ul> </li> <li>♦ We also intend to reduce the sale of inappropriate products targeting payday lending and consumer leases.</li> <li>♦ Complex products, targeting hybrid securities</li> <li>♦ Identify inappropriate conduct by assessing breach reports and reports of misconduct and deciding whether we need to act further – we expect licensees to report breaches promptly so we can rectify problems with individual entities quickly and effectively</li> </ul>	<p>Number of failures to comply with conduct obligations identified and addressed</p> <hr/> <p>Improvements in individual entities, or improved disclosures made, in response to identified areas of improvement – for example, case studies of changes to systems, processes or procedures</p> <hr/> <p>Where appropriate, published reports on surveillance outcomes to articulate standards and expectations, and industry commitment to address ASIC concerns obtained</p>	<ul style="list-style-type: none"> <li>♦ 75 instances where a failure to comply with conduct obligations was identified and addressed. 30 of those instances related to insurers.</li> </ul> <p>See page 34</p> <hr/> <ul style="list-style-type: none"> <li>♦ Retail OTC derivatives</li> </ul> <p>See page 78</p> <hr/> <ul style="list-style-type: none"> <li>♦ Retail OTC derivatives</li> </ul> <p>See page 78</p>
<b>Data matching and analytics</b> <ul style="list-style-type: none"> <li>♦ Draw on behavioural economics, and collect data on how people make choices to understand consumer and market problems and pick the right responses to deal with them – for example, understanding biases that affect financial advice decisions or how consumers use credit cards</li> </ul>	<p>Existing practices that may encourage investor and consumer disengagement with products identified, and proposals to increase engagement levels and reduce the potential for providers to take advantage of disengagement developed</p>	<ul style="list-style-type: none"> <li>♦ Law reform in superannuation</li> </ul> <p>See page 47</p>
<b>Enforcement</b> <ul style="list-style-type: none"> <li>♦ Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing – for example, stop the sale of inappropriate financial products to Indigenous communities</li> </ul>	<p>Successful enforcement or other regulatory action – including enforceable undertakings and infringement notices</p>	<ul style="list-style-type: none"> <li>♦ No relevant enforcement action required in 2015–16</li> </ul>



Key activities	Performance indicators	Result
<b>Education</b> <ul style="list-style-type: none"> <li>♦ Act to improve financial literacy through:               <ul style="list-style-type: none"> <li>– implementing the National Financial Literacy Strategy 2014–17 priorities, including educating the next generation through the formal education system</li> <li>– providing Australians with access to free and impartial information, tools and resources through ASIC's MoneySmart website to support their decision-making</li> <li>– targeting financial literacy strategies to vulnerable people</li> </ul> </li> </ul>	Production, delivery and promotion of financial resources and tools, including: <ul style="list-style-type: none"> <li>♦ ASIC's MoneySmart website and related tools and resources – for example, ASIC's MoneySmart teaching resources</li> <li>♦ Resources to support vocational education and training</li> <li>♦ Women's Money Toolkit</li> <li>♦ Tailored resources for Indigenous consumers</li> </ul>	<ul style="list-style-type: none"> <li>♦ ASIC and the National Financial Literacy Strategy</li> <li>♦ National Financial Literacy Stakeholder Forum</li> <li>♦ ASIC's MoneySmart website</li> <li>♦ 'How MoneySmart are you' campaign</li> <li>♦ ASIC's MoneySmart cars app</li> <li>♦ Investing challenge</li> <li>♦ Interest-only mortgages – informing Australian consumers</li> <li>♦ Resources for consumers</li> </ul> See pages 49–52
	Number of unique visitors to ASIC's MoneySmart website, and proportion who took subsequent action on their finances	<ul style="list-style-type: none"> <li>♦ 6.1 million unique visits to ASIC's MoneySmart website</li> <li>♦ 90% of users who took action on their finances after visiting MoneySmart</li> </ul> See page 50

## 5.9 Corporate Plan performance indicators continued

### Area of focus: Cross-border businesses, services and transactions

Key activities	Performance indicators	Result
<b>Surveillance</b> <ul style="list-style-type: none"> <li>Review corporate transaction documents like prospectuses, especially those from emerging market issuers</li> </ul>	Disclosure improvements by individual issuers in response to identified areas of improvement	<ul style="list-style-type: none"> <li>Improved disclosure for emerging market issuers listing on ASX</li> </ul> See page 62
<b>Data matching and analytics</b> <ul style="list-style-type: none"> <li>Analyse intelligence on innovative businesses, services and transactions in global markets – this includes through regular market and industry discussions with European Union, North American and Asian regulators on developments, drivers and risks in Australian capital markets and financial market infrastructure</li> </ul>	Participated in forums with northern hemisphere and regional jurisdictions to harvest innovative businesses, services and transactions in global markets, while mitigating risks	<ul style="list-style-type: none"> <li>International cooperation</li> </ul> See page 48
<b>Policy advice</b> <ul style="list-style-type: none"> <li>Develop and implement international market policy, including through: <ul style="list-style-type: none"> <li>International leadership – for example, continued contribution to IOSCO</li> <li>Implementation of the G20 OTC derivatives reforms</li> <li>Development of regional and global standards in the funds management sector through continued development and implementation of the Asia Region Funds Passport</li> <li>Supporting international standards in the Asia Pacific region through capacity building, and</li> <li>Reducing regulatory burdens for cross-border activity through bilateral and multilateral engagement</li> </ul> </li> </ul>	<p>International policy initiatives progressed, with milestones achieved</p> <hr/> <p>Bilateral and multilateral engagements established, with satisfactory progress made on finalising international cooperation arrangements</p>	<ul style="list-style-type: none"> <li>Asia Region Funds Passport</li> <li>Global OTC reforms</li> </ul> See pages 47, 70 <hr/> <ul style="list-style-type: none"> <li>International cooperation</li> </ul> See page 48
<b>Enforcement</b> <ul style="list-style-type: none"> <li>Where appropriate, take enforcement action, accept enforceable undertakings or issue infringement notices where we identify wrongdoing – for example, manipulation of certain financial benchmarks</li> </ul>	Successful enforcement or other regulatory action – including enforceable undertakings and infringement notices	<ul style="list-style-type: none"> <li>Retail OTC derivatives</li> </ul> See page 78

## Area of focus: Overall ASIC outcomes

Key activities	Performance indicators	Result
Financial literacy	Number of unique visitors to ASIC's MoneySmart website, and proportion who took subsequent action on their finances	<ul style="list-style-type: none"> <li>6.1 million unique visits to ASIC's MoneySmart website</li> <li>90% of users who took action on their finances after visiting MoneySmart</li> </ul> See page 31, 50
	Number of financial literacy resources produced and delivered	<ul style="list-style-type: none"> <li>5,079 unique interactions with MoneySmart Teaching</li> </ul> See pages 31, 52
Good conduct	Number of surveillances completed	<b>Investors:</b> <ul style="list-style-type: none"> <li>461 high-intensity surveillances completed</li> </ul> See page 32
		<b>Markets:</b> <ul style="list-style-type: none"> <li>980 high-intensity surveillances completed</li> </ul> See page 57
	% misconduct reports resolved resulting in changes to systems, processes or procedures, or corrective disclosures made	<ul style="list-style-type: none"> <li>Assessing misconduct and other reports</li> </ul> See pages 90–96
	Number of investigations and criminal and civil litigations and administrative actions completed	<b>Investors:</b> <ul style="list-style-type: none"> <li>79 investigations completed</li> <li>7 criminal actions completed</li> <li>36 civil actions completed</li> <li>74 administrative actions completed</li> </ul> See page 32
		<b>Markets</b> <ul style="list-style-type: none"> <li>96 investigations completed</li> <li>18 criminal actions completed</li> <li>18 civil actions completed</li> <li>28 administrative actions completed</li> </ul> See page 58
	% successful criminal and civil litigation	<b>Investors</b> <ul style="list-style-type: none"> <li>100% criminal litigation completed successfully</li> <li>94% civil litigation completed successfully</li> </ul> See page 32
		<b>Markets</b> <ul style="list-style-type: none"> <li>94% criminal litigation completed successfully</li> <li>100% civil litigation completed successfully</li> </ul> See page 58

## 5.9 Corporate Plan performance indicators continued

### Area of focus: Overall ASIC outcomes continued

Key activities	Performance indicators	Result
Good conduct continued	Number of enforceable undertakings accepted	<b>Investors</b> <ul style="list-style-type: none"> <li>♦ 13 enforceable undertakings accepted</li> </ul> See page 33
		<b>Markets</b> <ul style="list-style-type: none"> <li>♦ 9 enforceable undertakings accepted</li> </ul> See page 58
	Number of new or revised regulatory guides published	<b>Investors</b> <ul style="list-style-type: none"> <li>♦ 17 new or revised regulatory guides published</li> </ul> See page 31
		<b>Markets</b> <ul style="list-style-type: none"> <li>♦ 14 new or revised regulatory guides published</li> </ul> See page 57
Efficient markets	Number of relief applications received and approved	<b>Investors</b> <ul style="list-style-type: none"> <li>♦ 451 received</li> <li>♦ 300 approved</li> </ul> See page 31
		<b>Markets</b> <ul style="list-style-type: none"> <li>♦ 1,531 received</li> <li>♦ 951 approved</li> </ul> See page 57
	Total dollar value of net benefit of deregulatory measures	<ul style="list-style-type: none"> <li>♦ \$309.0 million</li> </ul> See page 6

# Glossary

<b>AA Fund</b>	Assetless Administration Fund
<b>AFS licence</b>	Australian financial services licence
<b>ASIC Act</b>	<i>Australian Securities and Investments Commission Act 2001</i>
<b>ASIC Connect</b>	ASIC's online portal for business name registration and searching companies, business names and other registers
<b>ASX</b>	ASX Limited or the exchange market operated by ASX Limited
<b>BBSW</b>	Bank bill swap rate
<b>blockchain</b>	A distributed electronic ledger of all publicly verifiable transactions between users on a network
<b>Business Names Register</b>	ASIC's national business names registration service
<b>CALDB</b>	Companies Auditors and Liquidators Disciplinary Board
<b>Corporations Act</b>	<i>Corporations Act 2001</i>
<b>crowd-sourced equity funding</b>	An innovative form of fundraising that allows a large number of individuals to make small equity investments in a company
<b>cyber resilience</b>	An organisation's ability to prepare for, respond to and recover from a cyber attack
<b>dark liquidity or dark pools</b>	A type of matching system characterised by the absence of pre-trade transparency, meaning that bids and offers are not made publicly available as is the case with, for example, ASX's central order limit book
<b>derivative</b>	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index
<b>DPP</b>	Director of Public Prosecutions
<b>ESA</b>	Enforcement Special Account
<b>fintech</b>	Financial technology
<b>G20</b>	Group of 20 of the world's largest economies (19 countries and the European Union)
<b>G20 commitments</b>	Commitments made by the G20 nations in September 2009 for the operation of OTC derivative markets
<b>high-frequency trading</b>	While there is no commonly agreed definition of high-frequency trading, it is characterised by: the use of high-speed computer programs to generate, transmit and execute orders on markets; the generation of large numbers of orders, many of which are cancelled rapidly; and typically holding positions for very short time horizons and ending the day with a zero position

## Glossary continued

<b>hybrid securities</b>	Securities that combine 'equity-like' and 'debt-like' characteristics
<b>Innovation Hub</b>	ASIC's online hub providing tailored content for fintech businesses that are developing innovative financial products or services
<b>IOSCO</b>	International Organization of Securities Commissions
<b>MAI</b>	Market Analytics and Intelligence surveillance system
<b>MECS</b>	Market Entity Compliance System
<b>Marketplace lending</b>	A product that matches people who have money to invest with people who are looking for a loan (also known as peer-to-peer lending)
<b>MoneySmart</b>	ASIC's consumer website, which provides money tips and tools, and aims to help consumers and investors make financial decisions that improve their lives
<b>NABERS</b>	National Australian Built Environment Rating System
<b>National Credit Act</b>	<i>National Consumer Credit Protection Act 2009</i>
<b>National Financial Literacy Strategy</b>	The National Financial Literacy Strategy, developed by ASIC, provides national direction for this priority area. The Strategy was comprehensively reviewed and updated by ASIC during 2013–14, identifying key issues and priorities for 2014–17, and launched on 1 August 2014
<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>phoenix activity</b>	Transferring assets of an indebted company to a new company to avoid paying creditors, tax or other employee entitlements
<b>robo-advice</b>	Financial advice that is either completely automated advice (i.e. with no human involvement), or automated advice with some human input
<b>SMSF</b>	Self-managed superannuation fund
<b>Women's Money Toolkit</b>	Free online resource, available on the MoneySmart website, to help Australian women manage their finances, make money decisions at key life stages and enhance their financial wellbeing

## Reporting requirements under the Public Governance, Performance and Accountability Act

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 accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the 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	Inside front cover
17AJ(b)	Alphabetical index	Mandatory	215–218
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	207–208
17AJ(d)	List of requirements	Mandatory	209–214
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	2–4
<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	12–15
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	17–18
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	30, 56, 82, 88, 184
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	28
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	Mandatory	N/A

## Compliance index continued

PGPA rule reference	Part of report/Description	Requirement	Location (page/s)
<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 Act and section 16F of the Rule	Mandatory	27–102
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	26, 119–174
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	184–185
	<b>Reports on financial performance – 17AD(c)(ii)</b>		
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)	Mandatory	188
17AG(2)(b)(i)	A certification by the accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	188
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	188
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	188
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	17–21, 106–107, 176–177
17AG(2)(d)–(e)	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	If applicable, Mandatory	N/A
	<b>External scrutiny</b>		
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	188–189



PGPA rule reference	Part of report/Description	Requirement	Location (page/s)
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	188
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory	189
17AG(3)(c)	Information on any capability review on the entity that was released during the period.	If applicable, Mandatory	5
<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	104–109
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: <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>	Mandatory	106–109, 114
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 <i>Public Service Act 1999</i> .	Mandatory	105
17AG(4)(c)(i)	Information on the number of SES and non SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	105
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level.	Mandatory	107
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees.	Mandatory	105
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	106
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory	106
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory	106
17AG(4)(d)(iv)	Information on aggregate amount of performance payments.	If applicable, Mandatory	106

## Compliance index continued

PGPA rule reference	Part of report/Description	Requirement	Location (page/s)
<b>Assets management</b>			
17AG(5)	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	89
<b>Purchasing</b>			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i>	Mandatory	192
<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	192
17AG(7)(b)	A statement that <i>"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]"</i> .	Mandatory	192
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	193
17AG(7)(d)	A statement that <i>"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."</i>	Mandatory	192
<b>Australian National Audit Office access clauses</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, 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>Exempt contracts</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) which 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	193
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	193
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	193
<b>Financial statements</b>			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	119–174
<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	191
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	190
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	111
17AH(1)(d)	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found	Mandatory	189–190
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	Inside back cover
17AH(2)	Information required by other legislation	Mandatory	188

Note: N/A means not applicable

Source: Department of Finance, *Resource Management Guide No. 135 Annual reports for non-corporate Commonwealth entities*, July 2016.

## Additional compliance reporting requirements

Part of report	Description	Requirement	Source of requirement	Location (page/s)
Additional requirements	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)	188
Additional requirements	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)	22–25, 30–80
	ASIC's activities in accordance with each agreement or arrangement entered into by ASIC under s11(14) of the ASIC Act	Mandatory	ASIC Act, s136(1)(c)	188
	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)	83–87
	The number of times ASIC used an information-gathering power, the provision of the Corporations Act, ASIC Act, or another law which 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)	194–195
	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)	97–98, 101–102
	Financial services and consumer credit external dispute resolution schemes	Suggested	Senate Economics Reference Committee inquiry into the performance of ASIC, Recommendation 4	43
	Enforceable undertakings and their effectiveness	Suggested	Senate Economics Reference Committee inquiry into the performance of ASIC, Recommendation 27	54

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# Contact details

## ASIC websites

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## Annual report contact officer

Senior Manager, Publishing  
phone: **02 9911 5829**  
email: **[peter.richardson@asic.gov.au](mailto:peter.richardson@asic.gov.au)**

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For registry and licensing matters, including company annual statements, notification of changes to company or licence details, routine company or licence compliance, document lodgements, deregistration and reinstatements:

ASIC, PO Box 4000  
Gippsland Mail Centre, VIC 3841

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## Annual Report 2014–15 errata

- ♦ On page 9 of the ASIC Annual Report 2014–15, we incorrectly reported that nine infringement notices were issued in 2012–13 in relation to Priority 2 (fair, orderly, transparent and efficient markets). There were 10 infringement notices issued in 2012–13.
- ♦ On page 167 of the ASIC Annual Report 2014–15, we incorrectly reported \$10.6bn of fundraising where ASIC required additional disclosure. The correct figure is \$9.4 billion.
- ♦ On page 167 of the ASIC Annual Report 2014–15, we incorrectly reported the number of authorised financial markets as 43 (in 2014–15), 40 (2013–14), 18 (2012–13), 18 (2011–12), 17 (2010–11). The correct figures are 50 (2014–15), 50 (2013–14), 45 (2012–13), 42 (2011–12), 41 (2010–11).
- ♦ On page 167 of the ASIC Annual Report 2014–15, we incorrectly reported there were 6 licensed clearing and settlement facilities in 2013–14. The correct figure is 7.

\* ASIC uses Twitter to provide updates. Any Twitter replies and direct messages that contain helpful suggestions, feedback and improvement ideas are passed on to the right people. ASIC is not able to discuss personal circumstances via Twitter. ASIC cannot accept complaints – under the Corporations Act or any other statute or regulation – via Twitter. ASIC does not ask for confidential details via Twitter. Do not respond to such requests.

