



**ASIC**  
Australian Securities &  
Investments Commission



# Annual Report **2017–18**

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**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

**JAMES R. F. SHIPTON**  
Chair

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12 October 2018

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

Dear Treasurer

I am pleased to give you the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2018.

The report has been prepared in accordance with section 136 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), section 46 of the *Public Governance, Performance and Accountability Act 2013*, sections 17AA to 17AJ of the *Public Governance, Performance and Accountability Rule 2013* and the 'Resource Management Guide No. 135: Annual reports for non-corporate Commonwealth entities', published by the Department of Finance in May 2018.

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

A handwritten signature in black ink, appearing to read "James Shipton".

James Shipton  
Chair

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# 1

## ASIC's role

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# Chair's report

This is my first annual report as Chair of ASIC after commencing in the role on 1 February 2018. I am delighted to welcome you to this important document outlining ASIC's work and achievements in 2017–18.

I acknowledge the leadership of Greg Medcraft as Chair of ASIC until November 2017 and Peter Kell as acting Chair during the transition until February 2018. I am grateful to them both for their important contributions to financial regulation in Australia, and I am very pleased to be able to build on their work.

Many changes have taken place in the Australian financial system this year – for example, on 1 July 2017, an industry funding model for ASIC took effect. We have been working closely with the Treasury to implement other reforms recommended by the ASIC Enforcement Review Taskforce and the Financial System Inquiry.

Alongside this, the important work of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Royal Commission) has also been highlighting the misconduct that ASIC has been investigating and acting on for some time. The Royal Commission has shone a bright light on the consequences of financial services misconduct and of failing to abide by the standards of behaviour required by the community as a whole. We will continue to help and support the Royal Commission in its important work and will respond seriously to its recommendations.

## Our vision

In everything we do, we are guided by our recently adopted vision of a fair, strong and efficient financial system for all Australians.

## Our mission

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

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

Our registry business also plays a vital role in achieving this vision. It is dedicated to providing efficient and accessible business registers that make it easier to do business.

Our mission underpins our work and why we take the actions we do.

## Our achievements

As an organisation, we strive to be strategic and agile as well as resolute so we can respond rapidly to challenges as they arise.

This year, we have achieved many outcomes and delivered a number of initiatives.

Many instances of misconduct before the Royal Commission have been the subject of ASIC investigations and resulted in regulatory actions. During the year, we undertook over 1,200 surveillances and completed 124 formal investigations.

**Over 1,200  
SURVEILLANCES  
UNDERTAKEN IN 2017–18**



**CRIMINAL ACTIONS**

**22** criminal convictions  
**13** custodial sentences



**CIVIL ACTIONS**

**\$42.2m** in civil penalties



**BANNINGS, DISQUALIFICATIONS AND  
LICENCE CONDITIONS**

**133** people/companies removed,  
restricted or banned from providing  
financial services or credit  
**50** people disqualified or removed from  
directing companies  
**62** actions taken against auditors and  
liquidators

**124  
INVESTIGATIONS  
COMPLETED IN 2017–18**



**COURT ENFORCEABLE UNDERTAKINGS**

**27** enforceable undertakings accepted



**COMPENSATION AND REMEDIATION**

**\$351.6m** in compensation or  
remediation for investors and financial  
consumers



**INFRINGEMENT NOTICES**

**55** infringement notices issued  
**\$2.02m** total value of infringement  
notices



**INDUSTRY REPORTS**

**45** industry reports published which  
promote changes in industry behaviour  
and inform government policy and law  
reform

Some of our key regulatory outcomes include securing admissions from three of Australia's big four banks over unconscionable conduct in respect of the bank bill swap rate (BBSW) and significant changes to practices in the add-on insurance sector, including the payment of over \$122 million in compensation to consumers.

Regulatory technology (regtech) has continued to be a focus for us, for the simple reason that it has enormous potential to improve compliance, highlight risks and learning opportunities and, ultimately, deliver better outcomes for consumers. We established the Regtech Liaison Forum in December 2017 to facilitate networking and stimulate discussion on regtech developments and opportunities that promote positive applications of regtech.

We continue our transformation into a data-driven and technologically adept regulator by investing in our data analytics capabilities, trialling new technologies and supporting the ASIC Chief Data Office.

ASIC's Office of Small Business was established in March 2017, and we launched our Small Business Strategy 2017–2020 in August 2017.

We continue to help consumers be in control of their financial lives through our financial capability work, including by developing the 2018 National Financial Capability Strategy.

We are also expanding our behavioural insights capabilities to improve our understanding of investors and consumers – in order to better inform our regulatory work and our financial capability initiatives, so that Australians can be in control of their financial lives.

We have continued to drive forward our Regulatory Transformation program, which will revolutionise how we work and will ensure our information systems are appropriate for a modern regulator. We are bringing our teams into the new system and creating a rich data source to support our analytics capabilities.

## Challenges confronting the financial system

**We need to recognise that every cent in the financial system is other people's money.**

Corporate Australia – and, in particular, the finance industry – is suffering from a deficit of trust.

Good conduct is pivotal to well-functioning financial markets and good consumer and investor outcomes. We want to determine how we can use the regulatory tools available to us to modify behaviours and improve professional standards, with the aim of rebuilding trust in the financial services sector.

We are focusing on identifying, diagnosing and then addressing the harms and behaviours that endanger trust and integrity in our financial markets. In addition, we will focus on enhancing professionalism and advocating why developing and maintaining a professional mindset is important.

We work to ensure that we use the right regulatory tools to address the harms we identify. In doing this, we must consider several objectives, including the strategic significance of the matter and the efficient use of our resources. We also consider the benefits of pursuing the incident of misconduct, including specific and general deterrence and protecting or obtaining compensation for consumers.

## Outlook – our strategic priorities

**Ensuring a fair, strong and efficient financial system for all Australians is our goal and is at the heart of everything we do at ASIC.**

We work on being future-ready and agile so that we can implement our vision and realise our mission.

As an organisation, we are working to achieve better regulatory outcomes for investors and consumers. Our new strategic initiatives are:

- › **being a strategic and agile organisation** through an enhanced:
  - › strategic planning framework to better focus on harms and risks to consumers, investors, and fair and efficient markets
  - › a revised internal governance framework to better support strategic decision making
- › **accelerating enforcement initiatives** and our capacity to pursue actions for serious misconduct, through greater use of external expertise and resources
- › **adopting new supervisory approaches**, including:
  - › frequent onsite visits by dedicated staff for extended periods within our largest financial institutions to monitor their governance and compliance actions
  - › a stronger supervision and enforcement focus for the superannuation sector
  - › enhanced cooperation with fellow regulators, particularly the Australian Prudential Regulation Authority (APRA)
  - › increased collaboration within ASIC through internal cross-team working groups on key issues such as corporate governance and conflicts of interest, with an intention to expand to other areas
- › **encouraging regtech adoption by**:
  - › promoting Australia as a world leader in the development and adoption of regtech solutions
  - › assisting and collaborating with the regtech industry – for example, by supporting trials and proofs of concept.

These strategic initiatives, and others, have been supported by \$70.1 million of additional funding for ASIC announced by the Government on 7 August 2018. This funding supports our efforts to be a more strategic, effective and agile regulator.

We recently released our four-year corporate plan, which explains how we will respond to future challenges; and our business plans, which detail how we will implement our vision and realise our mission.

As an organisation, we continually look for new ways to do our job and ensure we are responding to the harms and threats manifesting in Australia's financial system.

A handwritten signature in black ink, appearing to read "James Shipton".

**James Shipton**  
Chair



*The Commission in June 2018. From left, Commissioner John Price, Chair James Shipton, Deputy Chair Peter Kell and Commissioner Cathie Armour*

# 1.1 ASIC's role and responsibilities

## Our regulatory approach

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

We have a number of regulatory tools available to us to address the harms that threaten good investor and consumer outcomes. These tools include enforcement action, supervision and surveillance, engagement with industry and other stakeholders, guidance, education and policy advice.

For most of the issues in our remit, we use a number of these tools to achieve the best outcomes. This includes:

- › supervising entities on an ongoing basis
- › undertaking risk-based surveillances that target specific incidents or transactions
- › reviewing particular entities
- › undertaking thematic reviews that focus on issues across a particular sector
- › enforcing the law.

Our threat, harm and behaviour framework is a process that identifies and describes regulatory risks in the market to inform the strategic priorities in our corporate plan. This framework helps us to prioritise enforcement and other regulatory actions targeting particular harms to investors, consumers and markets.

When we identify a potential breach of the law or risk or cause of harm, we will determine what is the most appropriate response. Broadly, we consider the following factors in deciding which regulatory tool or tools we will use:

- › the matter's strategic significance (e.g. the seriousness of the misconduct or harm, the importance of deterrence, and taking into account our strategic priorities)

- › the likelihood of success of using one or more of the tools available to us
- › the issues specific to the case (e.g. availability of evidence)
- › the benefits of pursuing misconduct (e.g. the impact of remedies we may be able to obtain to deter misconduct and protect or compensate consumers)
- › the availability of resources.

We record and assess all breach notifications that we receive, make a range of initial inquiries and conduct preliminary assessments to consider whether further action should be taken.

## Our legislative responsibilities

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

- › maintain, facilitate and improve the performance of the financial system and entities within it in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy
- › promote confident and informed participation by investors and consumers in the financial system
- › administer the law effectively and with minimal procedural requirements
- › receive, process and store – efficiently and quickly – the information 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.

We enforce the law and regulate 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)*.

We also administer parts of the following legislation:

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

## Oversight

### Responsible Ministers

At 30 June 2018, the Ministers responsible for ASIC were:

- › Treasurer, the Hon. Scott Morrison MP
- › Minister for Revenue and Financial Services, the Hon. Kelly O'Dwyer MP
- › Minister for Small Business, the Hon. Michael McCormack MP
- › Assistant Minister to the Treasurer, the Hon. Michael Sukkar MP.

### Parliamentary oversight

The Parliamentary Joint Committee on Corporations and Financial Services (PJC) provides parliamentary oversight of ASIC. We also appear before the Senate Standing Committee on Economics, the House of Representatives Standing Committee on Economics and other parliamentary committees and inquiries as required.

### Correspondence with members of Parliament

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

We aim to respond to 100% of correspondence within 28 days of receipt. In 2017–18, we responded to 161 letters and emails from members of Parliament. We responded to 96% of this correspondence within 14 days and 100% within 28 days.

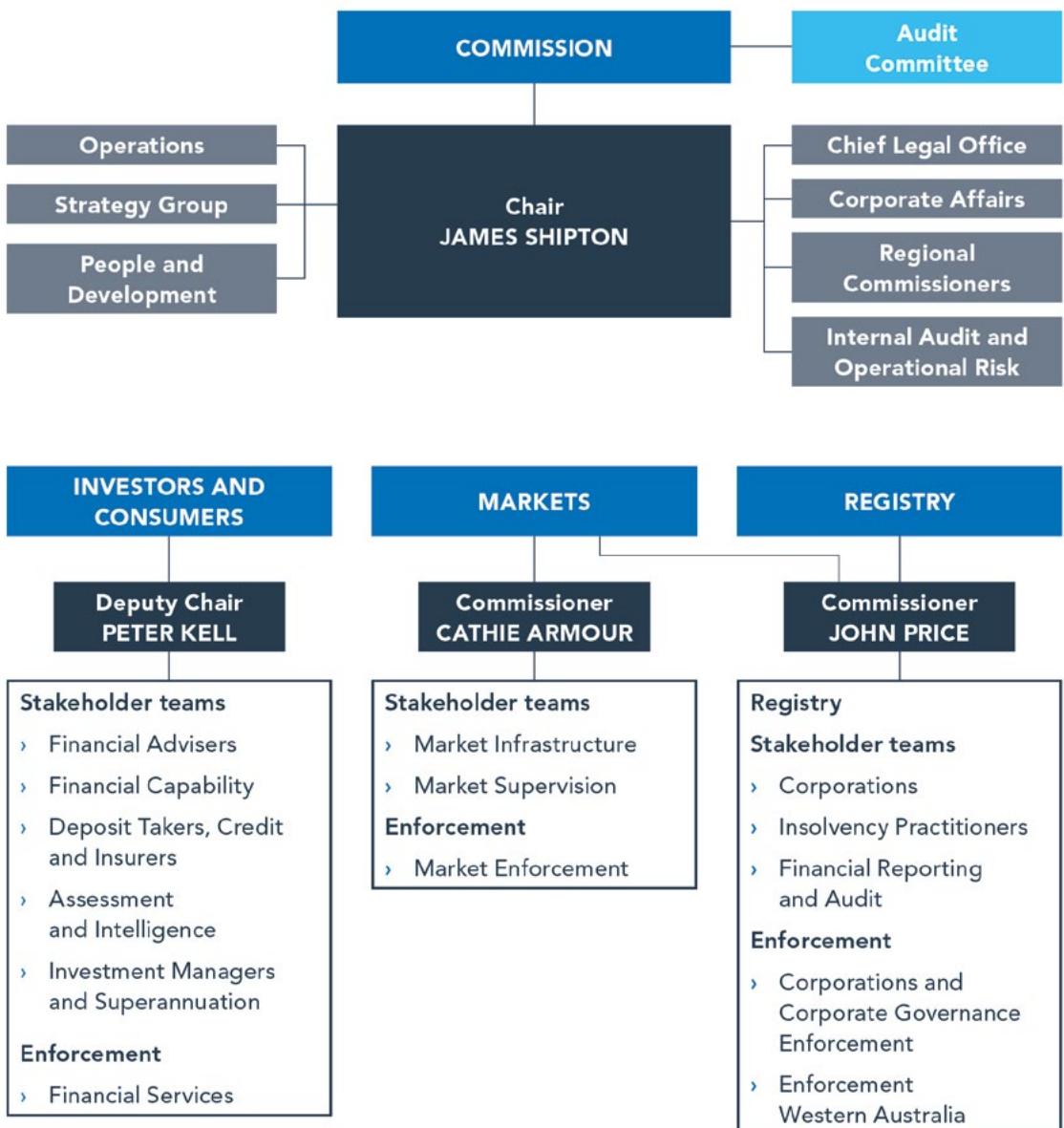
### Financial and operational oversight

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

The PGPA Act also requires ASIC to prepare a corporate plan covering our purpose, environment, performance, capability, and risk oversight and management for the budget forward estimates period. ASIC's *Corporate Plan 2017–18 to 2020–21* was published on 31 August 2017. This year, we took steps to act in accordance with our rolling corporate plan.

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

## 1.2 Our structure and management<sup>1</sup>



<sup>1</sup> Commission membership of external and internal bodies is detailed in Section 1.3.

# 1.3 ASIC Commissioners and Regional Commissioners

## Commissioners

### James Shipton

#### Chair, BA, LLB (Hons)

James Shipton commenced as ASIC Chair on 1 February 2018.

External bodies: Australian Criminal Intelligence Commission; Australian Government Financial Literacy Board; Council of Financial Regulators; Criminal Justice and Law Enforcement Forum; International Organization of Securities Commissions.

Internal committees: Digital Governance Board; Enforcement Committee; Operational Risk Committee; Property and Environmental Management Board; Regulatory Policy Group.



### Cathie Armour

#### BEc, LLB (Hons), LLM

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013. In May 2017, Cathie was reappointed for a further five years.



External bodies: Markets Advisory Panel.

Internal committees: Enforcement Committee; Regulatory Transformation Board.

### Peter Kell

#### Deputy Chair, BA (Hons)

Peter Kell commenced as Deputy Chair on 6 May 2013. Prior to this appointment he was a Commissioner from 7 November 2011. In March 2018, Peter was reappointed until May 2019.



External bodies: Australian Government Financial Literacy Board; Commonwealth Consumer Affairs Advisory Council; Consumer Advisory Panel.

Internal committees: Regulatory Policy Group.

### 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 three years to 20 March 2018. In March 2018, John was reappointed for a further two years until March 2020.



External bodies: Australian Business Register Advisory Board; Business Advisory Committee; Council of Financial Regulators; Digital Finance Advisory Committee; Director Advisory Panel; Standard Business Reporting.

Internal committees: ASIC Diversity Council; Audit Committee; Emerging Risk Committee; Innovation Hub.

*For more information on the activities of these external bodies, see Appendix 8.1.*

## **Greg Medcraft**

**BComm**

Greg Medcraft ceased to be Chair of ASIC on 12 November 2017.

Greg joined ASIC as a Commissioner in 2009 and was appointed Chair on 13 May 2011.



## **Commissioners commencing after 30 June 2018**

### **Daniel Crennan QC**

**BA, LLB (Hons), MAICD**

Daniel Crennan commenced as Deputy Chair on 16 July 2018.

### **Danielle Press**

**BEc (Hons)**

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

### **Sean Hughes**

**BA, LLB, LLM**

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

## Regional Commissioners

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

*For more information on our regional actions, see Section 2.2.*

### Christian Mikula

**BA, LLB (Hons)**

Commenced as Regional Commissioner for the **Australian Capital Territory** in February 2016.



### Melissa Smith

**LLB (Hons), BA(Juris), GDLP**

Commenced as Regional Commissioner for **South Australia** in June 2015.



### Michael Saadat

**BEc, LLB (Hons), LLM, EMBA**

Commenced as Regional Commissioner for **New South Wales** in July 2016.



### Chris Green

**LLB, GDipBA(Exec)**

Commenced as Regional Commissioner for **Tasmania** in November 2013.



### Duncan Poulsom

**BA, LLB**

Commenced as Regional Commissioner for the **Northern Territory** in February 2006.



### Warren Day

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

Commenced as Regional Commissioner for **Victoria** in October 2008.



### John Weaver

**LLB, MSc (Fraud and Risk Management), FGIA**

Commenced as Regional Commissioner for **Queensland** in June 2016.



### Natalie Dürr

**LLB**

Commenced as Regional Commissioner for **Western Australia** in July 2017.



# 1.4 ASIC's stakeholder teams and who they regulate

## INVESTORS AND CONSUMERS

### Deposit Takers, Credit and Insurers

ASIC staff: 81

#### Michael Saadat – Senior Executive Leader

Authorised deposit-taking institutions: 151

Australian credit licensees: 5,503

Credit representatives: 39,019

General insurers: 81

Life insurers: 29

Friendly societies: 12

Non-cash payment facility providers: 635

Trustee companies: 13



### Financial Capability

ASIC staff: 32

#### Laura Higgins – Senior Executive Leader



## Investment Managers and Superannuation

ASIC staff: 52

#### Jane Eccleston – Senior Executive Leader

Amount of funds under management:

Around \$3.3 trillion

Superannuation trustees: 133

Responsible entities: 454

Registered managed investment schemes: 3,718

Wholesale trustees: 1,582

MDA operators: 193

IDPS operators: 91

Foreign financial services providers: 884

Custodial service providers: 1,002



## MARKETS

### Corporations

ASIC staff: 42

#### Claire LaBouchardiere and Rachel Howitt – Senior Executive Leaders

Public companies: 23,872

Listed entities (including registered schemes and foreign companies): Over 2,330



## Financial Advisers

ASIC staff: 47

#### Joanna Bird and Louise Macaulay – Senior Executive Leaders

Financial advisers: 24,933

AFS licensees licensed to provide personal advice: 4,231

AFS licensees licensed to provide general advice only: 1,674

AFS licensees licensed to deal in financial products only: 260



### Insolvency Practitioners

ASIC staff: 22

#### Thea Eszenyi – Senior Executive Leader

Registered liquidators: 663

Companies entering external administration: 7,747



### Financial Reporting and Audit

ASIC staff: 28

#### Douglas Niven – Senior Executive Leader

Registered company auditors: 4,226

Entities required to produce financial reports: 28,000

Registered SMSF auditors: 6,050



## Market Infrastructure

ASIC staff: 29

### **Oliver Harvey – Senior Executive Leader**

Licensed domestic and overseas financial markets: 23  
Exempt markets: 26  
Licensed domestic and overseas clearing and settlement facilities: 7  
Exempt clearing and settlement facilities: 1  
Derivative trade repositories: 2  
Credit rating agencies: 6



## Market Supervision

ASIC staff: 80

### **Greg Yanco – Senior Executive Leader**

Market participants: 121  
Securities dealers: 882  
Investment banks: 27  
Retail OTC derivative providers: 68  
Wholesale electricity providers: 48



## ENFORCEMENT<sup>1</sup>

### Financial Services Enforcement

ASIC staff: 77

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



## Market Enforcement

ASIC staff: 44

### **Sharon Concism – Senior Executive Leader**



## Corporations and Corporate Governance Enforcement

ASIC staff: 34

### **George Stogdale – Senior Executive**



## Enforcement Western Australia

ASIC staff: 35

### **Natalie Dürr – Senior Executive Leader**



## REGISTRY SERVICES

### Registry Services and Customer Contact Centre

ASIC staff: 184

#### **Rosanne Bell – Senior Executive Leader**



Total companies registered:

2,616,707

New companies registered: 244,510

Total business names registered: 2,246,283

New business names registered: 366,181

Number of searches of ASIC registers: 122.5m

<sup>1</sup> Plus 91 full-time equivalent (FTE) staff working on Enforcement Special Account matters, and an additional 80 FTE providing Enforcement support services and legal counsel.

# 1.5 Government priorities and parliamentary inquiries

## Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

The Royal Commission was established on 14 December 2017.

The Royal Commission is examining whether there has been misconduct or conduct which falls below community expectations within the banking, superannuation and financial services industry.

ASIC is assisting the Royal Commission by providing detailed intelligence across different market sectors, witness statements and submissions, and appearing at public hearings. As at 30 June 2018, we had received 58 requests for documents, including 29 notices to produce, provided 7 witness statements and produced more than 26,000 documents (over 195,000 pages).

The Royal Commission issued its interim report on 28 September 2018 and is currently due to submit its final report to the Government by 1 February 2019.

## ASIC industry funding model

In 2017, the Government introduced new laws that change the way ASIC is funded. Under the new arrangements, regulated entities will receive an invoice for the regulatory services ASIC delivered in the preceding year. **For more information on industry funding and fees for service, see Section 4.**

## ASIC Enforcement Review

In October 2016, the Government announced a taskforce to review ASIC's enforcement regime. The ASIC Enforcement Review Taskforce considered the adequacy of this regime to deter misconduct and foster consumer confidence in the financial system.

In April 2018, the Government released the taskforce's final report and announced its response. The Government agreed, or agreed in principle, to all 50 recommendations of the taskforce and will prioritise the implementation of 30 of them.

These recommendations include significant enhancements to ASIC's enforcement toolkit, including:

- › stronger criminal and civil penalties for licensees, including a new penalty for a breach of the important 'efficiently, honestly and fairly' obligation by licensees, and a new ASIC power to seek additional remedies to strip wrongdoers of profits that have been illegally obtained
- › significantly stronger and clearer rules about the obligation of licensees to report breaches to ASIC honestly and in a timely manner, and civil penalties for not doing so
- › a stronger ability for ASIC to take regulatory action against senior managers or controllers of financial services businesses where they are found to be unfit, improper or incompetent
- › a stronger power to refuse, revoke or cancel financial services and credit licences where the licensee is not fit or proper
- › a power to direct licensees to take particular remedial actions, such as consumer compensation programs
- › enhanced search warrant powers, including the ability to use seized materials and telecommunications intercepted materials.

The Government deferred implementation of 20 recommendations, including those relating to the regime for self-reporting breaches by licensees and a new ASIC directions power, until after the Royal Commission is completed, to take into account any relevant findings made by the Royal Commission. *For more information on our regulatory approach, see Section 1.1.*

## Product intervention powers and design and distribution obligations

As part of the Government's response to the Financial System Inquiry, the Government accepted the Inquiry's recommendations to introduce:

- › a product intervention power for ASIC that would enable us to take direct action to deal with significant shortcomings in products or conduct where there is a risk of significant consumer detriment
- › design and distribution obligations that require issuers and distributors of financial products to establish processes and controls for ensuring that products are designed with consumer needs in mind and are targeted at appropriate sections of the population.

The product intervention power is intended to work together with the design and distribution obligations to ensure the regulatory framework delivers fairer outcomes for consumers.

In February 2018, ASIC made a submission in response to the Government's consultation on draft legislation for these measures.

We support the Government's work to strengthen consumer protection by introducing these important reforms, and we will work closely with stakeholders as we prepare guidance. *For more information on our policy advice, see Section 3.3.*

## Comprehensive credit reporting

On 2 November 2017, the Government announced the establishment of a mandatory comprehensive credit reporting regime, which applies from 1 July 2018.

The *Privacy Act 1988* (*Privacy Act*) permits sharing of 'positive' credit information, including about products held and repayment history. ASIC will be responsible for monitoring the supply of the information required. The existing framework in the *Privacy Act* will continue to be administered by the Office of the Australian Information Commissioner (OAIC).

We provided comments to the Treasury on the design of the regime and met with industry and other stakeholders to discuss the new requirements. *For more information on our policy advice, see Section 3.3.*

## Combating illegal phoenix activity

In September 2017, the Government announced a package of reforms to address illegal phoenix activity, building on, among other things, the work of the Phoenix Taskforce, of which we are a member. ASIC made a submission to the consultation process.

In the 2018–19 Budget, the Government announced its intention to reform the Corporations Act to include new phoenix offences, restrict related party voting rights, prevent misuse of backdating director appointments and change director resignation provisions. The significant reform to implement a Director Identification Number is being pursued via the Government's registry modernisation initiative. *For more information on our work on illegal phoenix activity, see Section 5.6.*

## Dispute resolution

A fair, efficient and effective dispute resolution framework is integral to consumer trust and confidence in the Australian financial system.

In 2017–18, the Financial Ombudsman Service (FOS) reported 123 definite systemic issues and 11 cases of serious misconduct to ASIC. The Credit and Investments Ombudsman (CIO) reported 38 definite systemic issues and 10 cases of serious misconduct. We assessed

these reports and, where appropriate, used the information to inform current or new investigations.

The past year has seen significant reform reshaping the dispute resolution framework that ASIC administers. These reforms apply to both internal dispute resolution (IDR) and external dispute resolution (EDR).

## Australian Financial Complaints Authority

On 9 May 2017, in response to the Review of the Financial System External Dispute Resolution and Complaints Framework, the Government announced it would establish a new one-stop shop for financial complaints: the Australian Financial Complaints Authority (AFCA). Legislation establishing AFCA passed Parliament in February 2018, and the Minister announced the authorisation of the operator of the scheme on 1 May 2018.

AFCA will deal with financial services and credit and superannuation complaints made by consumers, small businesses and primary producers. It replaces two ASIC-approved, industry-based schemes – the CIO and the FOS – as well as the statutory Superannuation Complaints Tribunal (SCT). Together, FOS, CIO and the SCT deal with more than 45,000 consumer and small business complaints each year.

Affected financial firms need to join AFCA by 21 September 2018, and the scheme will start providing access to effective EDR services from 1 November 2018.

AFCA has many key features of the existing EDR schemes. It will have an expanded small business and monetary jurisdiction and preserve the pre-existing access to EDR for superannuation fund members and beneficiaries under the SCT.

ASIC will oversee the operation of AFCA and receive reports, including about systemic issues and serious contraventions by financial

firms. We published RG 267 *Oversight of the AFCA* in June 2018, providing guidance about AFCA reporting to regulators and the new directions powers relating to AFCA performance.

In May 2018, ASIC gave financial firms, including superannuation trustees, transitional relief until 1 July 2019 to update mandatory disclosure documents with AFCA's contact details. Measures are in place to ensure that consumers are kept informed of how and where to pursue their complaints during the transition to AFCA commencement.

AFCA will retain the systemic issues reporting role of the FOS and CIO for as long as they continue to operate. The SCT will continue to operate to finalise the open complaints that were accepted by the SCT before AFCA commenced.

The legislation also enhances reporting and information provision to regulators by requiring reports of serious contraventions to regulators, including ASIC, APRA and the Australian Taxation Office (ATO).

We will continue to work with all stakeholders to ensure that the transition to AFCA is smooth and that consumer access to EDR is maintained throughout. After AFCA commences operations, ASIC will publicly consult on new standards for IDR and the new mandatory IDR reporting requirements contained in the legislation.

## Improving financial capability across Australia

We assisted the Government to establish a new body, announced by the Minister for Revenue and Financial Services in May 2018, to boost the advancement of financial capability across Australia.

The new body – a not-for-profit public company – will manage and distribute the \$55 million in community benefit payments, including those that form part of the settlement agreements between ASIC, the Australia and New Zealand Banking Group (ANZ), the Commonwealth Bank of Australia (CBA) and the National Australia Bank (NAB) relating to the manipulation of the BBSW and the \$10 million committed by the Government to developing women's financial capability in the federal Budget. **For more information on our work improving financial capability, see Section 3.3.**

## Registry modernisation

As part of the National Business Simplification Initiative, the Government has committed to modernising business registers to support businesses in an evolving digital economy. Registers currently administered by ASIC will form a key component of the upgrade.

The Government has decided that the modernised registers will be administered by the ATO. A detailed business case and options for streamlining registry functions and upgrading technology systems will be developed for consideration by the Government in 2019.

A modernised business registry system will help transform the way business interacts with government in Australia, making it simpler and faster to start and run a business. The changes will also provide better access to registry data, in line with the Government's open data policy.

**For more information on our Registry, see Section 3.4.**

## Regulatory sandbox

Our 'regulatory sandbox' allows innovative businesses to develop and test their ideas through individual licensing exemptions to facilitate product or service testing. An enhanced regulatory sandbox put forward by a Bill to Parliament in October 2017 proposes to extend the scope of the ASIC sandbox. Legislation and regulations are intended to be enacted in 2018. ASIC has provided technical assistance throughout the consultation process. **For more information on our current regulatory sandbox, see Section 5.2.**

## Whistleblowers

ASIC supports the Government's work to reform Australia's corporate sector whistleblowing regime. These reforms encourage increased reporting of corporate wrongdoing and provide better protection for whistleblowers.

Our experience in assisting whistleblowers and dealing with the information they provide has led us to regularly review and enhance our own processes. It also provides us with practical insights while we support the Government's ongoing work to reform the whistleblowing regime.

Under the whistleblower reforms, ASIC is expected to receive any report from whistleblowers related to any misconduct or improper state of affairs in relation to a company. **For more information about our Office of the Whistleblower, see Section 5.5.**

## Open banking

In the 2017–18 Budget, the Government announced the creation of an open banking regime in Australia. The Government commissioned an independent review to recommend the best approach to implementing the open banking regime. We made several submissions to the review that covered:

- › the scope and coverage of the regime, including types of financial institutions, types of datasets and third-party providers
- › regulatory framework, rules and standards, and oversight
- › privacy and security
- › liability and redress
- › dispute resolution.

The introduction of an open banking regime has the potential to empower consumers in their decision making and stimulate competition and innovation in the financial services sector.

ASIC will continue to support the Australian Competition and Consumer Commission (ACCC) and the OAIC as they work to implement the regime from 1 July 2019.

## Other government inquiries

In 2017–18, ASIC made submissions to a number of parliamentary and government inquiries.

### Productivity Commission – competition in Australia's financial system

On 28 March 2018, we responded to the Productivity Commission's *Competition in the financial system: Draft report* with a submission focusing on the recommendations most relevant to ASIC.

We supported the Productivity Commission's draft recommendations to:

- › strengthen standards in the mortgage-broking industry
- › move ahead with our proposal to mandate a deferred sales model for add-on insurance through car dealerships
- › increase consumers' access to data.

We also commented on the Productivity Commission's recommendations to relabel general advice, allow financial advisers to promote specific credit advice, and introduce a competition champion.

The final Productivity Commission report was published on 3 August 2018.

### Productivity Commission – review of superannuation efficiency and competitiveness

We made submissions to the Productivity Commission's Review of the Competitiveness and Efficiency of the Australian Superannuation System.

In November 2017, we made a submission that highlighted our work in relation to conduct by trustees and others in engaging with employers, who make important decisions about default superannuation, and in the offering of insurance within superannuation.

The Productivity Commission released its draft report on 29 May 2018. ASIC made a submission on that report. The Productivity Commission expects to hand its final report to the Government in late December 2018.

## **Parliamentary Joint Committee Inquiry into the Life Insurance Industry**

In September 2017, we appeared before the PJC Inquiry into the Life Insurance Industry and made a submission highlighting our ongoing concerns about practices in the industry.

In March 2018, the inquiry report was released.

## **Parliamentary Joint Committee Inquiry into the Impact of New and Emerging Information and Communications Technology**

In January 2018, we made a submission to the PJC Inquiry into the Impact of New and Emerging Information and Communications Technology (ICT) on Australian law enforcement agencies. Our submission highlighted:

- › challenges facing ASIC arising from new and emerging ICT, with a focus on the dark web and digitisation
- › the work done by ASIC to respond to those challenges, including our investment in data analytical tools and law reform which would support ASIC
- › engagement with other law enforcement agencies on these issues.

## **Senate Select Committee on Lending to Primary Production Customers**

In February 2017, the Senate established the Select Committee on Lending to Primary Production Customers to inquire into, and report on, the regulation and practices of financial institutions in relation to primary production industries, including agriculture, fisheries and forestry. ASIC appeared at hearings, and our input was quoted in the Committee's report, released in December 2017.

## **Legal and Constitutional Affairs Legislation Committee – the Bankruptcy Amendment (Enterprise Incentives) Bill 2017**

In January 2018, we made a submission to the Legal and Constitutional Affairs Legislation Committee in relation to the Bankruptcy Amendment (Enterprise Incentives) Bill 2017 and attended a hearing of the Committee in March 2018.

Our submission related to the proposed reduction in the bankruptcy period from three years to one year. We highlighted our concerns in relation to investor protection, phoenix activity and encouragement of excessive risk-taking; and suggested safeguards which could be incorporated into the draft Bill to mitigate these concerns. **For more information on our work on illegal phoenix activity, see Sections 4.6 and 5.6.**

# 1.6 Financial summary and expenditure

In 2017–18, Parliament funded ASIC to achieve the outcome of improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets, and delivering efficient registry systems.

In 2017–18, ASIC raised \$1,227 million for the Commonwealth in fees, charges and supervisory cost recovery levies, an increase of 33% from 2016–17. The increase in revenue relates mainly to the recognition of supervisory levies recoverable from industry for ASIC's regulation-related costs, that commenced in 2017–18.

In 2017–18, ASIC received approximately \$348 million in appropriation revenue from the Government, including \$26 million for the

Enforcement Special Account (ESA), representing a \$6 million or 2% increase compared with 2016–17. The \$6 million increase in appropriation revenue relates mainly to new funding provided to ASIC in 2017–18 for the Royal Commission.

ASIC received approximately \$41 million of own-source revenue, 463% higher than the previous year. The increase in own-source revenue relates to significant court cost recoveries during the year relating to ESA matters.

The increase in expenditure is consistent with the increase in appropriation revenue and represents a general increase in staff and supplier expenditure.

**Table 1.6.1 Revenue, appropriations and expenditure**

	2017–18 (\$'000s)	2016–17 (\$'000s)	Change (\$'000s)	Percentage change
Revenues from Government (incl. Enforcement Special Account)	348,041	341,641	6,400	2%
Own-source revenue	40,875	7,261	33,614	463%
Total revenue	388,916	348,902	40,014	11%
Total expenses (including depreciation and amortisation, net of gains)	399,816	392,460	(7,356)	(2%)
Surplus/(Deficit)	(10,900)	(43,558)	32,658	75%

**Table 1.6.2 ASIC's use of taxpayers' money for the outcomes approved by Parliament**

	2017–18	2016–17
<b>Operating expenses (incl. depreciation and amortisation, net of gains)</b>		
Total	\$400m	\$392m
Total revenue increase	2%	6%
<b>Fees and charges raised for the Commonwealth</b>		
Total	\$1,227m	\$920m
Annual increase on previous year	33%	5%



# 2

## ASIC for all Australians

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# ASIC for all Australians

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

To achieve this, we work to improve financial capability through a number of programs and initiatives aimed at addressing the diverse needs of our community.

We seek opportunities across the country – such as reaching out to regional communities, engaging with our Indigenous population,

educating young people about money matters and providing our knowledge and expertise – to help build people's confidence around financial matters and ensure that the financial system is one that serves the needs of all Australians.

## 2.1 ASIC's MoneySmart

ASIC's MoneySmart website provides Australians with free and independent tools and information to help them be in control of their financial lives.

We aim to provide impartial financial guidance that can help people navigate the often confusing world of financial products and services and link them to resources that can help them make better financial decisions.

In 2017–18, over 7.3 million people visited MoneySmart, and it attracts on average 1 million sessions a month. Research indicates that 38% of adult Australians are aware of MoneySmart, and 90% of users reported that they took action on their finances after visiting the website.

We provide a range of information sources to support people's understanding of financial matters – for example, this year we released our 'Buying a home' series of videos, which cover topics such as budgeting and knowing how much you can borrow.

Our online calculators are designed to help consumers make more informed decisions, support them to manage their money and motivate them to achieve their financial goals. In 2017–18, the Budget Planner, the Mortgage Calculator and the Income Tax Calculator continued to be popular among Australians seeking to better understand money matters.

'Thank you for a fantastic website for financial counsellors to refer clients to take charge of their finances and be more empowered. Thank you also for providing an easy way to order resources. All much appreciated.'

*Marinela, Moneycare Bankstown,  
The Salvation Army*

Our MoneySmart Teaching Program has also had considerable success in nurturing confident and informed consumers through the formal education system.

An independent evaluation by EY Sweeney<sup>1</sup> found that ASIC's MoneySmart Teaching Program is making a difference to the way money matters are taught in schools, with teachers feeling better supported and student financial literacy being positively impacted. **For more information on teachers' engagement with MoneySmart tools, see Section 3.3.**

A significant proportion of Australian schools have engaged with the program. Through the National Partnership Agreement on MoneySmart Teaching, we will continue to work with all states and territories to support them to access and use ASIC's teaching resources. Sustaining and expanding our MoneySmart Teaching Program is a priority for us over the coming years.

'It makes it so much more clear how much money and time that your parents put into you, and before I would always ask mum, "Can I have 20 dollars" ... I don't tend to ask my parents for a lot of money now.'

**Student**

'MoneySmart fits beautifully into [the school philosophy] because it's a life skill. It's not just the teaching of mathematics.'

**Principal**



Dale Symons and Danielle Abbott, of ASIC's Financial Capability team, promoting MoneySmart Teaching at an Australian Primary Principals Association conference.

<sup>1</sup> EY Sweeney, *Independent evaluation of ASIC's MoneySmart Teaching Program, Volume 2: Case studies* (EY Sweeney Ref No. 24488), 10 November 2017.

## Responding to research – Australian Financial Attitudes and Behaviour Tracker

The findings of the sixth wave of the Australian Financial Attitudes and Behaviour Tracker show that 62% of Australians said they were confident about managing their money. However:

- › 35% of Australians said they found dealing with money stressful and overwhelming. This was higher for women (41%) than for men (28%)
- › 35% of Australians said they knew the current value of their main superannuation fund exactly or almost exactly – 42% of men, compared with 29% of women, reported knowing their fund value.

The difference in confidence levels when it comes to dealing with money matters between men and women was also a trend that came out of the fifth wave of Behaviour Tracker research – 41% of females reporting that they find dealing with money stressful and overwhelming compared to 28% of males – and we are developing resources such as our 'Women's Money Goals' graphic to address this.

'Thank you so much for putting this [women's money toolkit] together. I am still young, 25, and looking at my financial future is daunting and overwhelming but you really did address all the areas I had questions in. Thank you for making life seem vaguely simple and possible again.'

**No name provided**

## Helping vulnerable and disadvantaged Australians

We tailor our resources to specifically address vulnerable and disadvantaged audiences, including regional and remote communities, people with culturally and linguistically diverse (CALD) backgrounds, and Indigenous Australians.

This year, to support our CALD communities, we developed written and oral communication messages in different languages. **For more information on CALD communities, see Section 6.2.**

We also travelled to five remote communities, including Indulkana, to assist Indigenous people in remote communities to find their lost superannuation. **For more information on our Indigenous outreach, see Section 2.3.**



Carolyn Cartwright, Managing Director of Alice Springs-based Money Mob Talkabout, and Nathan Boyle, of ASIC's Indigenous Outreach Program, providing superannuation information and resources to the Indulkana community in the APY Lands, May 2018.

## 2.2 Regional action

Regional action is an example of how ASIC's efforts contribute to improving outcomes for consumers and businesses across Australia.

Two of our key regional initiatives this year were our Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Superannuation Forum and our Sydney Royal Easter Show stand. Both are discussed further below.

In 2017–18, our Regional Commissioners and local offices led a range of activities in each state and territory. They held industry and local stakeholder liaison meetings and ASIC MoneySmart workshops, and supported events that raised funds for local charities.

Intelligence Unit, and collaborative work with other Government departments and agencies on policy issues. Highlights for the year included:

- › The ACT Office MoneySmart Teaching team engaged with the next generation of educators by presenting a financial capability information session to student teachers at the Australian Catholic University in October 2017. Our team helped student teachers appreciate the importance of financial literacy and how they could build a financial literacy perspective into their teaching strategies and lesson activities.
- › In February 2018, the same team supported local tertiary students at the University of Canberra when they attended its Finance and Budgeting Market Day. Our team joined other diverse community groups in providing guidance and information to students at the 'Let's Talk Money' event.

### Australian Capital Territory

The work of our ACT Office focuses on financial capability, engagement with local law enforcement agencies through ASIC's Criminal

## New South Wales

ASIC's participation at the Sydney Royal Easter Show was a great success, showcasing our important work to help people to manage their money.

Our stand was supported by 56 passionate ASIC staff over 12 days, including many who gave up time on the weekend and public holidays to promote financial capability in the community. We handed out over 10,500 MoneySmart showbags and helped one consumer find nearly \$11,000 in unclaimed money through our website.

A diverse group of consumers from the city and the country stopped to chat at our stand and take our showbags. For example, a young woman who told us about the car she bought on finance said, 'I think I'm paying 7–9% interest and I also bought insurance with the car'. She said she thought this was a good deal. We helped her download MoneySmart's budget tracker app onto her smartphone. She thought this looked very helpful, especially for making decisions on future purchases. **For more information on MoneySmart, see Sections 2.1 and 2.3.**

We also hosted a Consumer Credit Webinar for the consumer credit industry, which was watched live by 240 people from industry. This was an opportunity for credit industry stakeholders to ask questions about ASIC's work and current projects.

Throughout the year, we supported ASIC's engagement with consumer groups and financial counselling organisations.



ASIC staff and visitors to ASIC's stand at the 2018 Sydney Royal Easter Show.

## Northern Territory

The Global Money Week Initiative is a financial awareness campaign built to inspire children and young people to become more financially literate. ASIC partnered with the Mortgage & Finance Association of Australia (MFAA) and other financial professionals to deliver two Global Money Week events in the regional town of Katherine. These events were designed to give the Katherine community the opportunity to gain a better awareness and understanding of financial management and wellbeing. Events included a panel discussion at the Katherine Town Library featuring ASIC, a mortgage broker, a financial adviser, a financial counsellor and a superannuation fund representative.

ASIC also hosted three regional events during October Business Month in Katherine, Tennant Creek and Nhulunbuy. The events highlighted the work ASIC does to assist small business through our registry services and educational resources. Separate events were held for consumers to showcase ASIC's MoneySmart website resources. This included participating in the East Arnhem Land Business Festival and alerting community members to unclaimed money owed to individuals and businesses in the community. Several people conducted a search on ASIC's free online database and discovered forgotten money in bank accounts.

ASIC and the ACCC hosted a Small Business Matters breakfast in conjunction with Chartered Accountants Australia and New Zealand and Charles Darwin University. Stakeholders participated in an interactive session about how each agency is working with the small business sector and how the regulators work together.

ASIC collaborated with the Department of Jobs and Small Business, the Department of Human Services and the Northern Territory Government to run information sessions for workers on the Inpex gas project in preparation for the completion of the construction phase. Information was distributed on social media about 'Losing your job' and 'Redundancy', and discussions highlighted MoneySmart website resources that can help.



Australian Air Force cadets at the MoneySmart Bootcamp, Darwin, September 2017.

In September 2017, ASIC's Deputy Chair, Peter Kell, and Northern Territory Regional Commissioner, Duncan Poulson, hosted a MoneySmart Bootcamp in Darwin for 150 Australian Air Force cadets and members of the Australian Army Indigenous Development Program. The cadets and Army personnel participated in a series of financial capability challenges focusing on day-to-day financial topics, including credit and debt. The challenges presented real-life scenarios to explain money management concepts and enhance understanding of the financial issues young people are likely to face, including managing student loans and the impact that poor financial decisions – such as running up too much debt on a credit card or not insuring a car properly – can have.

This year, the small business session was followed by a three-hour seminar series for risk and compliance professionals, financial advisers, lawyers and accountants which focused on ASIC's work on financial advice, financial reporting and audit, credit and insurance.

The Queensland Office also supported National Aborigines and Islanders Day Observance Committee (NAIDOC) week in Cairns in 2017. ASIC's Indigenous Outreach team and the Queensland Regional Commissioner ran a stall with information about ASIC's MoneySmart resources.

## South Australia

In 2017, ASIC staff spent two weeks working in South Australia's remote APY Lands, together with a number of superannuation funds, various government agencies, the Aboriginal Interpreter Service, Money Mob and the First Nations Foundation. Our team worked with local Indigenous people to find lost superannuation, access their superannuation in cases of hardship or retirement, and consolidate their accounts.

We worked with the Aboriginal Interpreter Service to help people in five remote Indigenous communities. For example, we helped a man claim \$2,000 in lost superannuation that had been left by his mother who had passed away – a challenging task for people without ready access to printers, email or a reliable telephone service. We helped the man obtain a free copy of his mother's death certificate and fill out the necessary paperwork to access this money.

We also helped young people and those close to retirement age find out where their superannuation was and how much they had accumulated. ***For more information about this, see Section 2.3.***

## Tasmania

As part of ASIC's ongoing focus on consumer lending, we discussed ASIC's work in the credit and mortgage-broking sector with Tasmanian members of the MFAA at their professional development day in Launceston and took

part in a panel with the ACCC at the Financial Counselling Australia annual conference in Hobart. Staff from Hobart also manned an ASIC stall at the Financial Counselling Australia annual conference.

We held two Regional Liaison Committee meetings (July 2017 and May 2018) with Commissioner John Price and delegates from the Tasmanian business and financial services community, including from Chartered Accountants Australia and New Zealand, the Governance Institute, the MFAA, the Financial Planning Association, the Australian Institute of Company Directors and the Law Society of Tasmania, as well as representatives from Tasmanian banking, superannuation, mortgage investment and listed aquaculture firms.

## Victoria

This year, we focused on promoting ASIC's MoneySmart in regional areas. We manned a MoneySmart stand at the three-day Henty Field Days event in September, which attracted a crowd of just under 60,000, and gave away 1,500 MoneySmart showbags containing a selection of publications. ASIC staff, including graduates, engaged with the local community about making sound financial decisions and promoted ASIC's financial literacy resources, including ASIC's MoneySmart website and apps.

Our regional work also included liaising with representatives of state agencies, including the Victorian Independent Broad-based Anti-Corruption Commission, about ASIC's work. We gave a presentation to the Commission's staff in August 2017 about ASIC's priorities, enforcement approach and powers.

We also supported ASIC licensing liaison meetings with key stakeholders to provide insights into ASIC's regulatory approach to our licensing and professional registration responsibilities. The meetings covered Australian financial services, credit licensing and professional registration, including for auditors (including self-managed superannuation fund auditors).

## Western Australia

This year, we held 14 external stakeholder liaison meetings across the corporate finance, credit and insurance, financial reporting, insolvency and market supervision areas, including three Regional Liaison Committee meetings. These committees engage with stakeholders on current areas of concern and policy or legislative changes relevant to their sectors.

We also hosted over 100 members of the Perth business community at our annual Commission WA Stakeholder function.

Our then Chair, Greg Medcraft, spoke about Australia's ageing population and how ASIC recognises that the increasing number of retirees and an ageing population will raise issues of fundamental and strategic importance to the financial services sector, community and economy. He also highlighted what we are doing to help in this area.

This year we also co-presented at the FinTech Initial Coin Offerings and Cryptocurrencies seminar, with partner agencies the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the ATO. Each agency discussed how their work relates to cryptocurrency trading platforms, brokers and taxation. ASIC emphasised that Australian laws prohibit misleading or deceptive statements and activities when selling initial coin offering products to Australian consumers and that additional obligations under the Corporations Act or the ASIC Act may apply. The session was well attended and attracted many questions.



From left, ASIC's WA Regional Commissioner Natalie Dürr with former Regional Commissioners Justice Michael Gething and Jane Gouvernet, Executive Assistant Katrina McKay and former Regional Commissioner Bruce Dodd at ASIC's annual WA Stakeholder function, August 2017.

## 2.3 Indigenous outreach

We are committed to developing programs, resources and policies to increase the financial capability of Aboriginal and Torres Strait Islander peoples and to improve the financial services provided to them.

### Engagement and education

ASIC's Indigenous Outreach Program (IOP) engages with Indigenous consumers, communities and their advocates in urban, regional and remote areas.

Issues raised by consumer advocates on recent outreach trips have formed the basis of new education resources specifically aimed at Indigenous communities on our MoneySmart website. Topics include 'Managing large sums of money' and 'Dealing with pressure from family about money'.

We will be complementing these online resources with new online videos in the coming year.

This year, we published the second edition of the IOP newsletter – a free newsletter about the IOP's work with information on issues affecting Indigenous consumers. This newsletter is for financial counsellors and capability workers, lawyers, peak Indigenous representative bodies and any other organisations whose work relates to Indigenous consumers.

In 2017–18, we also continued to respond to inquiries and requests for assistance received through the IOP Helpline and IOP email and actively participated in state and national Indigenous networks, including the National Indigenous Consumer Strategy, the North Queensland Indigenous Consumer Issues Taskforce, the WA Indigenous Consumer Assistance Forum and the Consumer Action Law Centre's Indigenous network.

### ASIC's outreach program heads to the Kimberley and Pilbara

In our outreach trips through the Kimberley and Pilbara regions of Western Australia in 2017, the IOP engaged with Indigenous consumers as well as financial counsellors and financial capability workers who work with Indigenous consumers.

We promoted the financial capability resources available on MoneySmart and discussed risky financial services and products as well as the alternatives available (e.g. no interest loan schemes).

During these trips, the IOP also participated in radio interviews and spoke to Indigenous consumers about making positive money choices and where to seek help with financial issues.

### ASIC's APY Superannuation Forum

ASIC also continued its involvement with the Indigenous Superannuation Working Group on issues affecting Indigenous consumers' engagement with superannuation funds.

In May 2018, seven ASIC staff travelled to five remote communities in the APY Lands with representatives from government (ATO, AUSTRAC and the Department of Health and Safety), five superannuation funds (HESTA, Australian Super, Prime Super, QSuper and

Super SA), the Aboriginal Interpreter Service, Money Mob, and the First Nations Foundation. Together, we helped around 500 Indigenous consumers, including by:

- › contacting government agencies and superannuation funds to resolve outstanding claims for deceased relatives
- › assisting consumers to consolidate multiple superannuation accounts
- › contacting local organisations and government agencies to confirm identification for Indigenous consumers whose identification records have inconsistent dates of birth and misspelling of names
- › locating Indigenous consumers' superannuation account details and finding lost superannuation.

One of the biggest challenges was helping people to establish their identity without formal documents. Our team did this by asking elders from those people's communities to provide confirmation of identity when people did not have a driver's licence or other ID.

This cooperative model of relevant government agencies working alongside industry participants meant that on-the-spot assistance could be provided to Indigenous people living in remote locations, directly addressing the practical issues they face in tracing their superannuation and engaging with superannuation funds. **For more information on this initiative, see Sections 2.1 and 2.3.**



The APY Lands superannuation outreach program in May 2018 was an opportunity for Indigenous people living in remote communities to receive expert advice, face-to-face.

## Our work on protecting Indigenous consumers

In 2017–18, we continued our important work of protecting Indigenous consumers from inappropriate sales practices involving financial products. Some examples include the following.

### Life insurance sales practices

ClearView Life Assurance Limited (ClearView) will refund approximately \$1.5 million to 16,000 consumers after ASIC raised concerns about its life insurance sales practices. It has also ceased selling life insurance direct to consumers.

ASIC's review of ClearView's sales calls found it used unfair and high-pressure sales practices when selling consumers life insurance policies by telephone. These sales were made direct to consumers without personal financial advice. ASIC's review raised concerns that between 1 January 2014 and 30 June 2017, when selling over 32,000 life insurance policies direct to consumers (1,166 of whom lived in areas with a high proportion of Indigenous people who were unlikely to have English as their first language), ClearView sales staff:

- › made misleading statements about the cover, premiums and effect of the consumer's pre-existing medical conditions
- › did not clearly obtain consumer consent to purchase the cover before processing the premium payments
- › used high-pressure sales tactics to sell policies.

ClearView agreed to engage an independent expert (EY Sweeney) to provide independent assurance on this consumer remediation program.

## Permanent ban

We permanently banned Jackson Temi Anni from engaging in credit activities and providing financial services following his conviction for a number of offences, including stealing, in the Darwin Local Court in 2017.

Mr Anni had targeted Aboriginal people, many of whom were ill, facing addictions or did not have English as a first language, at Darwin hospital and its associated hostels and in very remote surrounding communities. Mr Anni stole money from his victims through recurring, excessive payments that he set up from bank accounts of people he had agreed to

help obtain goods such as computers, mobile phones and vehicles. He also offered cash loans, obtaining consumers' online banking details and logging into the consumers' bank accounts to transfer money to himself.

## Cancelled credit licence

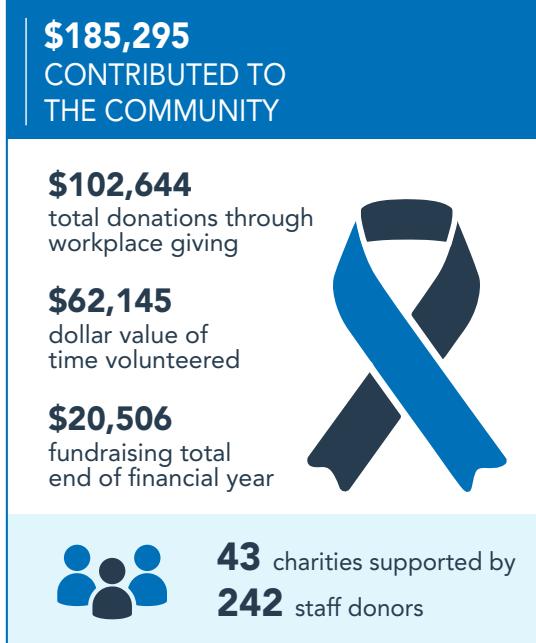
After reviewing William Barry Young's dealings with Indigenous consumers in relation to his Cairns-based second-hand car dealership, we cancelled his credit licence. As he was no longer a member of an ASIC-approved external dispute resolution scheme, he was ineligible to hold a credit licence.

## 2.4 ASIC in the Community

We aim to provide ASIC staff with opportunities to connect with philanthropic bodies, charities and causes that are important to them through ASIC in the Community.

A sense of fairness, and of wanting to share knowledge and resources, are some of the values that drive ASIC in the Community.

ASIC in the Community provides positive benefits to both our staff and to the charities that we support. For example, it increases employee engagement by building connections between our colleagues and the community organisations we partner with. It also helps create positive outcomes for the community, with ASIC staff donating both their time and funds. In 2017–18, our staff contributed \$185,295 to the community.



## Getting involved in our community

The ASIC in the Community program provides ASIC's staff with different ways to get involved in the communities in which we live and work.

### Workplace Giving Program

Through our Workplace Giving Program, we have supported 43 different charities this financial year, and the program continues to grow steadily. Close to 10% of ASIC's staff participate in workplace giving. This financial year, we donated \$102,644 to charities working in a wide variety of areas, including the Australian Red Cross, The Smith Family and Médecins Sans Frontières.

### Fundraising

ASIC in the Community facilitates national fundraising events in all our offices and, in 2017–18, we raised over \$20,000 through these events.

In 2017, the ASIC Graduate Group raised \$19,500 for StreetSmart Australia, which provides funding to community organisations tackling homelessness. In 2018, our graduates are fundraising for Lifeline Australia.

### National Speakers Program

We host regular national speakers events throughout the year, featuring well-known Australians who advocate for the charities we support.

ASIC in the Community supports ASIC's Diversity Strategy and ASIC's Reconciliation Action Plan (RAP) initiatives by delivering several events each year, such as NAIDOC Week and Harmony Day in 2017–18.

### NAIDOC Week

NAIDOC Week is about the celebration of Aboriginal and Torres Strait Islander history, culture and achievements, allowing all members of the Australian community to partake in national activities in support of their local Indigenous community.

As part of this year's NAIDOC Week theme, 'Our Languages Matter', Sharon Galleguillos from the Indigenous Literacy Foundation (ILF) presented to all ASIC sites and discussed Indigenous languages, their current threatened status and the ILF's exceptional work in the space.

In Brisbane, Songwoman Maroochy performed a traditional blessing in accordance with the Turrbal traditional laws and customs.

### Close the Gap – Indigenous entrepreneurs

In March 2018, we held our Close the Gap event featuring leading Indigenous entrepreneurs. The Close the Gap campaign aims to create equality in health and life expectancy between Indigenous and non-Indigenous Australians. This campaign also measures progress in economic development and employment and these aspects formed the focus of the event.

Liam Ridgeway, co-founder of Ngakkan Nyaagu (an Indigenous digital enterprise), and Jasmin Herro, founder of Outback Global (a leading Indigenous supplier of workwear), told us about how they started, the challenges they faced, and the factors that made them successful.

### ASIC ANZAC Day event

In April 2018, we held a special ANZAC Day event to commemorate and reflect on the contribution made by Australians in military operations, as well as our ANZAC history.

We were fortunate to have the senior officer commanding the Special Operations Training and Education Centre (SOTEC) speak to us about the work of the Special Operations Command in domestic security operations and law enforcement.



ASIC staff supporting the work of Foodbank Victoria through volunteering their time, May 2018.

## Volunteering

Volunteering is an important way for ASIC people to contribute to the communities in which we live and work. ASIC provides each staff member with one day's paid leave per year to volunteer.

In 2017–18, the total value of our volunteering time was \$62,145, with 10% of ASIC staff volunteering in both skilled and unskilled activities.

Thirty-four ASIC lawyers from Sydney, Brisbane, Perth and Melbourne provide pro bono legal services to the National Children's and Youth Law Centre (NCYLC). NCYLC provides free legal advice to young people throughout Australia through its Lawmail and cyber mail portals.

Some of the additional volunteering activity undertaken by our staff in 2017–18 included the following:

- › In Melbourne, five ASIC lawyers volunteered with Justice Connect, updating and delivering a Director's Guide for Not for Profits.
- › Also in Melbourne, ASIC staff regularly volunteer with Foodbank Victoria and The Brotherhood of St Laurence.
- › ASIC volunteers from Sydney regularly attend the Exodus Loaves and Fishes restaurant, in Ashfield in the inner west, serving hot, free meals for marginalised and disadvantaged people.
- › In Perth, ASIC staff regularly volunteer at the Red Cross breakfast club at Seaford primary school.
- › In Sydney, five ASIC lawyers volunteered at the Salvos Legal Humanitarian Services Free Legal Clinic at Lakemba in Sydney's south-west.

# 3

## ASIC's annual performance statement

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# Chair's statement

I, James Shipton, as the accountable authority of ASIC, present the 2017–18 annual performance statement of ASIC, 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.

## Our purpose

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

We do this by:

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

## 3.1 Performance objectives

ASIC's performance reporting in 2017–18 was guided by ASIC's *Corporate Plan 2017–18 to 2020–21* (at pages 38–39) and our Portfolio Budget Statement (at pages 147–148), which set out our objectives and targets related to investor and consumer trust and confidence and fair and efficient markets.

In particular, we aim to achieve our **key performance outcome**, as stated in the 2017–18 Portfolio Budget Statement (at page 153), of '*improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems*'.

We aim to achieve this outcome by conducting surveillances; pursuing enforcement outcomes; engaging with consumers and industry stakeholders; and providing guidance, policy advice and financial capability education.

These regulatory tools are used to achieve our vision of ensuring a fair, strong and efficient financial system for all Australians. **For more information on how we achieve this key performance outcome, see Sections 3.2, 3.3, 3.4 and 4.**

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



The number of surveillances and enforcement actions we undertake, and the value of the fines imposed or people convicted and the length of their sentences, as a result of these actions, varies from year to year. This variation depends on factors such as the severity of breaches of the law, the number of laws that have been breached and the complexity of the investigations we complete.

**Table 3.2.1 Key results**

Outcome	Total 2017–18	Total 2016–17
<b>Surveillance</b>		
Surveillances completed <sup>1</sup>	Over 1,200	Over 1,400
Instances of potentially misleading or deceptive promotional material withdrawn or amended	51	66
<b>Enforcement<sup>2</sup></b>		
<b>Investigations<sup>3</sup></b>		
Investigations commenced	126	163
Investigations completed	124	157
<b>Criminal actions</b>		
Criminal litigation completed	16	23
Criminal litigation completed successfully (as a percentage)	100%	91%
New criminal litigation commenced	30	11
Number of people convicted	22	20
Custodial sentences (including fully suspended)	13	13
Non-custodial sentences/fines	13	7
Total dollar value of fines	\$15,100	\$40,500
Average time to complete an investigation in months	24	22
Average time to a criminal court decision in months	30	44
Average total time to complete an investigation and reach a court decision in months	54	66

1 ASIC is moving to a new regulatory processes platform. As a result, we are making adjustments to the way matters are characterised and changing our recording systems. In 2017–18 as well as 2018–19, these changes are in progress and information is sourced from old and new platforms using different characteristics. These results are necessarily approximate.

2 For more information on the types of civil penalties, people or companies removed, restricted or banned from providing credit services, or types and value of the fines for infringement notices, see Section 4.1.

3 Investigations for these purposes meet the definition in section 13 of the ASIC Act.

Outcome	Total 2017–18	Total 2016–17
<b>Civil actions</b>		
Civil litigation completed	111	78
Civil litigation completed successfully (as a percentage)	99%	91%
New civil litigation commenced	77	112
Total dollar value of civil penalties	\$42.2m	\$5.2m
Average time to complete an investigation in months	24	24
Average time to a civil court decision in months	8	27
Average total time to complete an investigation and reach a court decision in months	32	51
<b>Administrative actions</b>		
Administrative actions completed	91	119
New administrative actions commenced	56	73
People disqualified or removed from directing companies	50	51
Action taken against auditors and liquidators	62	29
People/Companies removed, restricted or banned from providing financial services	92	100
People/Companies removed, restricted or banned from providing credit services	41	108 <sup>4</sup>
Average time to complete an investigation in months	21	24
Average time to an administrative decision in months	5	27
Average total time to complete an investigation and reach a court decision in months	25	51
<b>Court enforceable undertakings</b>		
Court enforceable undertakings accepted	27	16
<b>Infringement notices<sup>5</sup></b>		
Total number of infringement notices issued	55	74
Total dollar value of infringement notices	\$2.02m	\$4.3m

<sup>4</sup> The 2016–17 figure of 108 people and companies removed, restricted or banned from providing credit was disproportionately high due to a body of work undertaken by our Small Business Compliance and Deterrence team. This included the ‘Annual Compliance Certificate Surveillance Campaign’ and work in relation to the External Dispute Resolution Scheme memberships referred from the Credit and Investments Ombudsman.

<sup>5</sup> These notices were issued for infringements related to the market integrity rules; ASIC derivative transaction rules; continuous disclosure rules; ASIC Act; National Credit Act; and Australian Consumer Law. Compliance with the infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

Outcome	Total 2017–18	Total 2016–17
<b>Summary prosecutions</b>		
Summary prosecutions for strict liability offences	398	438
Total value of fines	\$1.5m	\$1.4m
<b>Agreed compensation</b>		
Compensation or remediation	\$351.6m	\$837.7m
Community benefit payments	\$48.1m	\$18.8m
<b>Stakeholder engagement</b>		
Meetings with industry groups and other stakeholders	2,160	1,928
Consultation papers published	11	31
Industry reports published	45	60
<b>Guidance</b>		
New or revised regulatory guides published	36	27
New or revised information sheets	32	22
Legislative instruments made, amended and repealed	93	124
Relief applications received	1,872	1,818
Relief applications approved	1,061	1,129
Relief applications refused or withdrawn	457	460
Relief applications in progress	354	229
<b>Education</b>		
Unique visits to ASIC's MoneySmart website	7.4m	7m
Users who reported taking action on their finances after visiting MoneySmart <sup>6</sup>	90%	89%
Number of financial literacy resources and tools produced <sup>7</sup>	80	92

<sup>6</sup> This data is collected in the 13th wave of our 'Awareness and Usage of ASIC's MoneySmart Website' tracking program.

<sup>7</sup> '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.

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

In 2017–18, ASIC delivered its outcome under the Portfolio Budget Statement by employing our range of regulatory tools to identify and respond to threats and harms to investor and consumer trust and confidence and fair and efficient markets. The regulatory tools we used to deliver our objective were supervision and surveillance, enforcement, engagement, guidance, education and policy advice.

#### Supervision and surveillance



In 2017–18, we completed:

- › Over 500 surveillances in the deposit-taking and credit, financial advice, investment management and superannuation sectors to ensure that financial services providers complied with their conduct obligations

These surveillances focused on areas such as compliance with responsible lending obligations by lenders and lessors under consumer leases (authorised deposit-taking institutions (ADIs) and non-ADIs); compliance by credit licensees with content obligations for credit advertising; deficiencies in financial services and product disclosure documentation; misleading or deceptive advertising and representations; preventing inappropriate conduct by responsible entities, superannuation trustees, fund managers and wholesale trustees and custodians; and compliance by financial advisers and their licensees with the financial advice obligations, including the best interests duty and the ban on conflicted remuneration.

- › Over 700 surveillances in the corporations, market infrastructure and intermediaries sectors

These surveillances focused on areas such as fundraising; the conduct of annual general meetings; independent experts; handling confidential information; issuing retail over-the-counter derivatives; and managing conflicts of interest.

Through our surveillance, we identified and addressed 938 cases of failures, or potential failures, to comply with regulatory obligations.

We published several reports in response to findings of our surveillances. For example:

- › In January 2018, we published Report (REP) 562 *Financial advice: Vertically integrated institutions and conflicts of interest*. This contains findings on how well Australia's largest banking and financial services institutions manage conflicts of interest that arise when providing personal advice to retail clients as well as manufacturing financial products, under a vertically integrated business model.
- › In March 2018, we published REP 565 *Unfair contract terms and small business loans*, detailing the changes made by the big four banks to bring their small business loan contracts into compliance with the unfair contract terms laws and providing guidance to bank and non-bank lenders.
- › In June 2018, we published REP 575 *SMSFs: Improving the quality of advice and member experiences*. This report outlines our findings from a large research project that examined member experiences in setting up and running a self-managed superannuation fund (SMSF) and whether financial advisers are complying with the law when providing personal advice to retail clients to set up an SMSF.

- › In January 2018, we published REP 564 *Annual general meeting season 2017*. This report highlights emerging corporate governance issues and trends arising during the annual general meeting (AGM) season for S&P/Australian Securities Exchange (ASX) 200 listed companies in 2017.
- › In August 2017, we published REP 540 *Investors in initial public offerings*. Based on the findings from this project, we believe that our regulation of initial public offerings (IPOs) is largely sound; however, we will continue to enhance our regulation of IPOs.

Our surveillance of financial reports in 2017–18 led to material changes to 4% of the 320 reports of listed entities and other public interest entities reviewed. As a result of our surveillances, 14 entities recognised changes to reported net assets and profits totalling \$1.6 billion. ***For more information on our financial reporting surveillances, see Section 4.6.***

### Audit inspection program

An example of one of the types of surveillance work we do is reviewing and assessing audit quality. Auditors play a vital role underpinning investor trust and confidence in the quality of financial reports. In 2017–18, in order to improve and maintain audit quality, we reviewed a total of 65 audit files, in 243 key audit areas. We also reviewed the approaches of the six largest audit firm networks to analyse the underlying root causes of internal and external review findings where audit work was deficient, as well as the project management of audits. We intend to release a report on the results of our audit firm risk-based inspections for the 18 months to 30 June 2018, in December 2018.

Our reviews ensure that audit firms continue to focus on the sufficiency and appropriateness of the audit evidence they obtain, their professional scepticism, and their appropriate use of the work of experts and other auditors.

## Enforcement



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

Australians. We use a range of regulatory and enforcement sanctions and remedies, including punitive, protective, preservative, corrective or compensatory action. We also resolve matters through engagement with the relevant party or by issuing infringement notices. ***For further information on our regulatory tools, see Section 1.***

Examples of the enforcement action we took and the significant outcomes delivered in 2017–18 include the following.

### Punitive actions:

- › In 2017–18, we completed 111 civil court cases, covering such issues as dishonest conduct, false or misleading statements, breach of licence obligations, failing to comply with continuous disclosure obligations and unconscionable conduct. 99% of these cases were successful. The total value of penalties for these civil court cases was \$42.2 million. This includes:
  - › \$7.15 million imposed on three Melbourne-based companies – Wealth and Risk Management Pty Ltd, Yes FP Pty Ltd, and Jeca Holdings Pty Ltd – for breaches of Australian Financial Service (AFS) licensee obligations and engaging in unconscionable conduct. These companies were formerly directed by Joshua Fuoco, who was ordered by the Federal Court to pay a penalty of \$650,000. ***For further information on the civil proceedings against these companies, see Section 4.3.***
  - › \$5 million imposed on ANZ for failing to meet responsible lending obligations. ***For further information on ANZ's breach of responsible lending laws, see Section 4.1.***
  - › 22 people were convicted of financial crime, with 13 people receiving custodial sentences (including fully suspended).

- › In November 2017, following our investigations into Sherwin Financial Planners Pty Ltd and Wickham Securities Ltd, the former principal and chair of these companies (respectively), Bradley Sherwin, was sentenced by the Brisbane District Court to 10 years imprisonment. Mr Sherwin was charged with 24 counts of fraud by dishonestly causing detriment to a number of clients of Sherwin Financial Planners, to the value of nearly \$10 million, and 1 count of breaching his duties as director of Wickham Securities by falsely reporting that nearly \$4.5 million of loans made by the company had been repaid.
- › In November 2017, following dishonesty charges brought by ASIC, Lewis Fellowes, a former stockbroker from Perth, was sentenced by the Brisbane District Court to three years imprisonment.
- › In October 2017, following our investigations into a finance broking company trading as Myra Financial Services, Najam Shah was sentenced to five years imprisonment for conspiring to defraud financial institutions.
- › In May 2018, in civil proceedings brought by ASIC, the Federal Court found that Westpac engaged in unconscionable conduct by its involvement in setting the BBSW on multiple occasions. The court also found Westpac had inadequate procedures and training and had contravened its financial services licensee obligations. A further hearing of this proceeding on penalty and relief will be held at a later date.
- › In November 2017, we obtained declarations by consent that each of ANZ and NAB had attempted to engage in unconscionable conduct in connection with the supply of financial services by attempting to seek to change where the BBSW was set on multiple occasions. The Federal Court imposed pecuniary penalties of \$10 million on each of ANZ and NAB.
- › On 21 June 2018, we obtained declarations by consent in the Federal Court that CBA had attempted to seek to affect where the BBSW was set on multiple occasions. The Federal Court imposed a pecuniary penalty of \$5 million on CBA. As part of the resolution of these proceedings, CBA also agreed to

enter into a court enforceable undertaking on 9 July 2018, under which it will pay \$15 million, to be applied to the benefit of the community; and \$5 million towards our investigation and legal costs.

*For more information on convictions for financial crime, see Sections 4.3 and 4.6.*

#### Protective actions:

- › We banned, removed or restricted 92 people or companies from providing financial services.
- › We banned, removed or restricted 41 people or companies from providing credit services for failing to comply with their responsible lending obligations or engaging in unlicensed credit activity.
- › We took action against auditors who were in breach of the SIS Act requirements, including Australian auditing standards. We removed 155 SMSF auditors from the register. This includes 117 cancelled for failing to lodge annual statements and 12 disqualified for failing to comply with auditing standards, breaches of independence requirements, or fitness and propriety matters. The remaining 26 auditors voluntarily requested cancellation after concerns were raised with them by ASIC. We imposed conditions on the registrations of 9 other SMSF auditors.
- › Further, in late 2017, we established the ASIC Financial Services and Credit Panel to add a strong element of peer review to our process for taking administrative action against participants in the financial services and credit industries.

*For more information on the Financial Services and Credit Panel, see Appendix 8.1.*

#### Corrective actions:

- › We took action where credit licensees, superannuation trustees or responsible entities made misleading statements to consumers or investors. There were 51 instances of potentially misleading or deceptive promotional material withdrawn or amended in 2017–18.

## Compensatory actions:

- › Our actions in 2017–18 contributed to \$351.6 million of compensation and remediation paid, or ordered to be paid, to consumers. Taking enforcement action to ensure that consumers are appropriately compensated is a key ASIC priority.

## Settled outcomes:

- › In 2017–18, ASIC accepted 27 court enforceable undertakings. After accepting an enforceable undertaking, we work with companies and independent experts to improve culture and compliance practices. Our work with these companies has resulted in improved compliance with the law and positive, long-term behavioural change. On multiple occasions we took civil proceedings as well as accepting court enforceable undertakings.
- › We entered into court enforceable undertakings with each of ANZ and NAB in relation to their attempts to seek to change where the BBSW was set on multiple occasions. Each bank will pay \$20 million under these court enforceable undertakings, to be applied to the benefit of the community; and \$20 million towards our investigation and legal costs.
- › Foster Stockbroking Pty Ltd (FSB) entered into a court enforceable undertaking with ASIC to implement a number of changes to its systems and controls, including more stringent and effective conflicts of interest disclosure policies. FSB also agreed to make a community benefit payment of \$80,000 to The Ethics Centre.
- › In 2017–18, we issued 55 infringement notices and received a combined dollar value of \$2 million in payments pursuant to these infringement notices. Of these 55 notices, a significant proportion (20) were issued against Volkswagen Financial Services Australia for misleading advertising. **For more information on this case, see Section 4.1.** We also issued infringement notices against Sirtex Medical (\$100,000); Bellamy's Australia Ltd (\$66,000); and Adairs Limited (\$66,000).

1 Please note that compliance with infringement notices is not an admission of guilt or liability, and these entities are not taken to have contravened the law.

- › The ACCC delegated its functions and powers under the *Competition and Consumer Act 2010* and the Australian Consumer Law to ASIC to regulate conduct in relation to credit repair and debt collection. We issued two infringement notices to Clear Credit Solutions Pty Ltd under the ACCC delegation.
- › The Markets Disciplinary Panel issued seven infringement notices, specifying a total of \$1,173,000 in penalties for alleged breaches of the market integrity rules.<sup>1</sup>

**For more examples of court enforceable undertakings we have accepted this year, see Sections 3.3, 4.1, 4.3 and 4.5, and ASIC's compliance reports available on the enforceable undertakings register on our website.**

## Delivering timely enforcement action

Each year we report on the average time taken to complete our investigations and achieve a criminal, civil or administrative decision. We do so in support of our commitment to transparency and in line with our aim to increase the deterrence of wrongdoings by delivering timely enforcement actions.

The time taken to achieve enforcement outcomes is influenced by a variety of factors. This should be kept in mind when comparing the number of outcomes produced each year. For example, the average time taken to receive a court decision for civil matters decreased in 2017–18, from 27 to eight months. This decrease was mainly due to the amount of time to achieve outcomes in civil court decisions where we sought orders to appoint liquidators and to wind up companies. These typically do not take as long as other civil actions.

We are exploring ways to improve the efficiency and timeliness of our enforcement processes, such as by using e-surveillance, e-investigation and e-discovery to expedite investigation and discovery.

As shown in Table 3.2.1 above, the average time taken to complete criminal, civil and administrative actions all decreased this year. **For more information on the timeliness of enforcement actions, see Table 3.2.1.**

## Engagement



Engaging with key stakeholders, including both industry and the public, through regular meetings helps us to achieve our vision. We use engagement as a regulatory tool, alongside surveillance and enforcement, among others, to identify and resolve regulatory issues in the market. For example, by engaging with our advisory panels, we identify issues in the market and receive suggestions about how to address them. **For further information on our work with advisory panels, see Appendix 8.1.**

We have an extensive program of stakeholder engagement in place at both the staff and Commission levels.

At the Commission level, there is a Commission stakeholder engagement plan to ensure that we use Commission senior engagement to achieve our vision. This Commission-level engagement with industry leaders helps us understand market trends and emerging issues.

At the staff level, we hold frequent meetings with our diverse stakeholders. This is an important part of keeping our 'finger on the pulse' of the various sectors we regulate.

In 2017–18, we held 2,160 meetings with a number of key external stakeholders, including:

- › consumer and small business representatives, lenders, mortgage brokers, insurers, ADIs, payment product providers and industry bodies, as well as other regulators and government agencies, in relation to the deposit-taking and credit industry sector
- › companies, auditors, liquidators, market operators, market intermediaries and industry bodies in relation to the corporate and market infrastructure and intermediaries industry sectors
- › other government agencies, including the ACCC, the Australian Financial Security Authority (AFSA), APRA, the Council of Financial Regulators (CFR) and the Reserve Bank of Australia (RBA). **For further information on ASIC's work with the ACCC and the CFR, see Section 4.5.**

- › lawyers, corporate advisers and compliance professionals working in corporate finance and mergers and acquisitions
- › financial advisers and their licensees. For example, we maintained ASIC's Financial Advisers Consultative Committee. Committee members are practising advisers from a range of advice businesses across Australia. Issues discussed at these Committee meetings included SMSF advice, vertical integration across the financial advice industry and cyber security. We also engaged with industry associations such as the Association of Financial Advisers and the Financial Planning Association of Australia in relation to financial advice. Key issues discussed included the life insurance reforms and professional standards for financial advisers.

We also engage with stakeholders by releasing consultation papers seeking public comment on matters ASIC is considering, such as proposed relief and proposed regulatory guidance. In 2017–18, we released 11 consultation papers and finalised 14 consultations. Topics covered by these consultation papers included ASIC's review of relief for foreign financial services providers, options for reform to the sale of add-on insurance and warranties through carryard intermediaries, and implementing the financial benchmark regulatory regime.

We continue to improve our engagement with industry and other stakeholders in order to give all sectors the opportunity to provide input into our work.

## Guidance



We provide guidance to industry by publishing regulatory guides and information sheets. Guidance is an important tool that we use to respond and adapt to structural changes and complexity in the financial services industry. It can also help firms understand our expectations and tailor their systems and controls to meet expected requirements and standards.

In 2017–18, we published 36 regulatory guides and 32 information sheets on topics such as supporting small public companies and start-up businesses, initial coin offerings (ICOs) and cryptocurrency, and admission guidelines for exchange traded products. **For more information on our regulatory guides and information sheets, see Sections 3.2, 4.4, 4.5, 4.6 and 5.7.**

We also released 45 reports on topics such as improving practices in the retail over-the-counter (OTC) derivatives sector, reviewing of proxy adviser engagement practices and improving the quality of advice and member experiences in SMSFs. For example, in the financial advice sector we provided practical guidance to accountants to help them understand their new AFS licensee obligations.

**For more information on these reports, see Sections 3.2 and 4.**

### Guidance to benchmark administrators

In June 2018, ASIC published benchmarks rules, a significant benchmarks declaration and a regulatory guide, RG 268 *Licensing regime for financial benchmark administrators*, as part of a series of measures to establish a comprehensive regulatory regime for financial benchmarks. This is another significant step in ensuring continued market confidence in Australian financial benchmarks.

These rules and guidance followed legislation, passed in March 2018, that introduces a framework for licensing benchmark administrators and makes manipulation of any financial benchmark, or products used to determine financial benchmarks, a specific offence and subject to civil and criminal penalties.

### Other guidance

Examples of some of the publications we released this year to provide guidance to our stakeholders include:

- › RG 267 *Oversight of the Australian Financial Complaints Authority*, issued 20 June 2018
- › RG 266 *Guidance on ASIC market integrity rules for participants of futures markets*, issued 4 May 2018
- › RG 265 *Guidance on ASIC market integrity rules for participants of securities markets*, issued 4 May 2018
- › RG 264 *Sell-side research*, issued 21 December 2017
- › RG 263 *Financial Services and Credit Panel*, issued 16 November 2017
- › RG 262 *Crowd-sourced funding: Guide for intermediaries*, issued 21 September 2017
- › RG 261 *Crowd-sourced funding: Guide for public companies*, issued 21 September 2017
- › INFO 231 *Guidance on the duties of directors of mutual companies*, issued March 2018
- › INFO 230 *Exchange traded products: Admission guidelines*, issued December 2017
- › INFO 229 *Limited AFS licensees: Complying with your licensing obligations*, issued November 2017
- › REP 579 *Improving practices in the retail OTC derivatives sector*, released 28 June 2018
- › REP 578 *ASIC review of proxy adviser engagement practices*, released 27 June 2018.

To ensure our publications are aligned with recent changes, we also updated and reissued some of our publications – for example:

- › INFO 226 *Complying with the ASIC Client Money Reporting Rules 2017*, reissued on 4 April 2018
- › INFO 225 *Initial coin offerings and crypto-currency*, updated in May 2018.

## Education



ASIC is the lead agency for financial capability policy in Australia. We manage a number of financial capability initiatives to empower Australian investors and consumers to be in control of their financial lives.

Our financial capability program is informed by research, education and behavioural insights so that our materials reflect an understanding of how investors and consumers make decisions in practice.

Our education initiatives include the following:

- › ASIC's MoneySmart website and MoneySmart Teaching Program (**for more information on our MoneySmart achievements, see Sections 2.1 and 2.3**)
- › research conducted through the Australian Financial Attitudes and Behaviour Tracker, which is used to identify gaps in consumer knowledge so that we can design and implement effective solutions to improve the financial capability of all Australians (**for more information on the Behaviour Tracker, see Section 2.1**)
- › holding Community of Practice sessions to provide a platform for addressing vulnerable and financially disadvantaged audiences, including regional and remote communities, people with CALD backgrounds, and Indigenous Australians. Written and oral communication messages were also provided in different languages to support CALD communities (**for more information on these initiatives, see Sections 2.1, 2.3, 2.4 and 6.2**)
- › launching a new webpage to better educate the public on illegal phoenix activity and highlight the whole-of-government approach to combatting this illegal practice (**for more information on illegal phoenix activity, see Sections 4.6 and 5.6**).

Our financial capability program complements our surveillance and enforcement work by strengthening the capacity of Australians to make informed financial decisions and engage with financial services providers. This supports better financial outcomes.

This year, our financial capability efforts focused on informing consumers about:

- › government changes to superannuation contributions that commenced on 1 July 2017
- › ICOs
- › add-on insurance refunds
- › buy now, pay later services.

### Teachers' engagement with MoneySmart tools

Teachers' engagement with the professional development and resources on the MoneySmart website continues to grow. Teachers view more than double the number of pages and spend more than double the amount of time of a typical website user.<sup>1</sup> Teachers are also twice as likely to return to the website.

'I think for me it's about confidence ... If you don't know or you're not sure, it [MoneySmart] gives you suggestions, it gives you resources, it gives you worksheets.'

*Teacher*

'At least we know, with MoneySmart, it's a concrete resource that we can count on being there year after year, and also adapting as well.'

*Teacher*

<sup>1</sup> Source: EY Sweeney, *Independent evaluation of ASIC's MoneySmart Teaching Program, Volume 2: Case studies* (EY Sweeney Ref No. 24488), 10 November 2017: <http://download.asic.gov.au/media/4563530/ey-sweeney-case-studies.pdf>.

'[F]or us the Program has enabled us to do something that we didn't expect three or four years on. It's something we're absolutely committed to – we get too many benefits from it, the community side of things, the kids and their learning ... and just the event at the end of year. Everyone enjoys that.'

**MoneySmart Coordinator**

## Policy advice



ASIC takes an active role in policy advice and implementation directed to promoting investor and consumer trust and confidence in the financial system. In 2017–18, we engaged in discussions with the Treasury and provided policy advice, guidance and input into key law reforms proposed by the Government. *For more information on policy advice, see Section 1.5.*

Areas we provided input into include:

- › comprehensive credit reporting, credit card reforms, consumer leases and small amount credit contracts, and reverse mortgages and equity release products targeted at older Australians in the deposit-taking and credit industry sector
- › reforms proposed by the Government in relation to cooperatives, mutuals and member-owned firms in the corporate sector

- › reforms to the client money provisions, the regulatory framework for financial benchmarks, competition in clearing, and benchmarks and financial market infrastructure resolution in the market infrastructure and intermediaries sector (*for more information on these areas of reform, see Section 4*)
- › the new design and distribution obligations which will require issuers and distributors of financial products to have appropriate product governance processes and controls in place (*for more information on design and distribution obligations, see Section 1.5*)
- › the new product intervention power which will enable ASIC to better regulate, or if necessary ban, financial and credit products that fall within the scope of the power, where there is a risk of significant consumer detriment (*for more information on the product intervention power, see Section 1.5*)
- › the Phoenix Taskforce agencies on recommendations to Government and the Government's subsequent consultation on law reform to address illegal phoenix activity (*for more information on our work on illegal phoenix activity, see Sections 4.6 and 5.6*).

We also actively participate in Council of Financial Regulators working groups.

We continued to engage with and provide policy advice to international regulators. *For more information on our engagement with international regulators, see Section 5.1.*

We are committed to participating fully in regulatory reform, on both a national and a global level, to ensure a fair and efficient financial system and to help benefit all Australians.

## Understanding public perceptions of financial services



We use the Australian Financial Attitudes and Behaviour Tracker research (Wave 6)<sup>1</sup> to build our understanding of consumer

experiences and perceptions of financial services and to highlight areas where perceptions of trust and confidence could be improved. This tracker measures a number of financial attitudes and behaviours among adult Australians.

By engaging the broader community through our survey, we found that approximately 18% of respondents stated that they had a negative experience with their financial services providers (including banks, mortgage brokers, insurance companies, financial advisers and superannuation providers) during this six-month period. This included instances of:

- › poor customer service
- › overcharged or unexpected fees
- › being told something incorrect or untrue by their financial services provider
- › financial services providers not taking the time to understand their needs.

Approximately 82% of respondents reported not having had a bad experience with financial services providers between September 2017 and February 2018.

ASIC uses this research to better understand investor and consumer trust and confidence in the sectors and markets that we regulate. This helps us to carry out our regulatory mission, change behaviours to drive good consumer and investor outcomes, act against misconduct to maintain trust and integrity in the financial system, promote strong and innovative development of the financial system, and help Australians to be in control of their financial lives.

## Licensing



ASIC assesses applications for AFS licences and credit licences. We also maintain a number of professional registers for registered companies, SMSFs, auditors and liquidators.<sup>2</sup>

Our licensing and registration function is an important element of our regulatory framework as it governs entry into the financial system. We use a risk-based approach to assessment, with the aim of devoting the most resources to assessing the most complex and high-risk applications. This is to ensure that only suitable persons and organisations are licensed or registered.

In 2017–18, we assessed over 3,000 applications for AFS licences and credit licences. We approved over 750 AFS licences, 23 limited AFS licences and 430 credit licences.

In addition, 316 AFS and credit licence applications were withdrawn. Applications were often withdrawn following a discussion in which we informed applicants that our assessment had indicated they are unlikely to meet the statutory requirements necessary to obtain a licence. In addition to the withdrawals, due to material deficiencies in the information provided, we also did not accept 268 applications.

We assessed over 694 applications for registration as auditors (including company auditors and SMSF auditors). Of these applications, we approved 195, and 95 were withdrawn. We also cancelled or suspended 632 registrations. **For more information on licensing and professional registration, see Appendix 8, Table 8.2.7.**

<sup>1</sup> The Australian Financial Attitudes and Behaviour Tracker, Wave 6, was conducted in February 2018. The total sample size of 1,537 adult Australians has a maximum margin error of ±2.5% at the 95% level of confidence. This means ASIC can be 95% confident that the survey estimates will reflect the real world to within ±2.5%.

<sup>2</sup> As a result of the *Insolvency Law Reform Act 2016*, from 1 March 2017 a committee, rather than ASIC, became responsible for assessing liquidator applications. ASIC continues to have responsibility for administering and maintaining the register of liquidators.

## Market licensing reform

Following amendments to the Australian market licence (AML) exemption regime in March 2017, ASIC revised its approach to administering the AML requirements. In May 2018, we published an updated version of RG 172 *Financial markets: Domestic and overseas operators* to reflect our revised approach.

ASIC now applies a risk-based assessment to designate market venues as Tier 1 or Tier 2, with Tier 1 venues subject to enhanced regulatory oversight. Tier 1 market venues

are, or are expected to become, significant to the Australian economy or the efficiency and integrity of, and investor confidence in, the financial system. Tier 2 market venues will be able to facilitate a range of market venues, including specialised and emerging market venues.

This new approach reflects best regulatory practice and represents the most significant change to the AML regime since 2001.

## 3.4 Registry services and outcomes

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



ASIC's registers are the official source of information for business names, companies and financial professionals registered to operate in Australia.

The ASIC registry is a critical part of Australia's economic infrastructure. The work we do ensures information on our registers is accurate, up to date and available to those using the information, enabling business and consumer stakeholders to make informed decisions.

ASIC is responsible for the administration of 31 registers and a range of professional and other registers.

In carrying out our registry activities, we aim to make it easier to engage with ASIC and comply with the law, and to enhance commercial certainty. We aim to provide services that are online and accessible to all Australians. We work to continuously improve our services to support efficient registration.

### Performance objectives

ASIC's performance reporting in 2017–18 was guided by *ASIC's Corporate Plan 2017–18 to 2020–21* (at page 37) and our Portfolio Budget Statement (at pages 147–148), which set out our objectives and targets related to providing efficient registry services, including the companies register, Business Names Register and professional registers.

**Table 3.4.1 Key results – efficient registration services**

Outcome	2017–18	2016–17
Total companies registered	2.6m	2.5m
New companies registered	244,510	249,394
Total business names registered	2.25m	2.19m
New business names registered	366,181	348,268
Calls and online inquiries responded to by our Customer Contact Centre	678,697	818,928
Registry lodgements	3.0m	2.9m
Percentage of registry lodgements online	93%	91%
Number of searches of ASIC registers	122.5m	90.6m

## Accessing registry information

In the last financial year, there were 122.5 million searches of ASIC's registers, 99.9% of which were conducted online. Around 96% of searches of the ASIC registers are provided free of charge, consistent with the Government's open data policy.

The companies and business names registers are our two largest registers. They contain details of more than 2.6 million companies and 2.25 million business names. These are also the two most searched registers.

In 2017–18, the cost of registering/renewing a business name was \$35 for one year and \$82 for three years.

- › *Quality recertification* – A commitment to quality underpins our registry activities. This year, we were re-certified under ISO 9001:2015 by Bureau Veritas, an external auditing agency. By meeting this external auditing objective, we demonstrated our strong customer focus, process improvement, and sound understanding of the value in documenting and standardising interactions.
- › *Increased online lodgements* – This year, we worked closely with our customers to increase their use of online lodgement of financial statements. Online lodgement assists customers in meeting their compliance obligations and ensures that the information contained in financial statements can be searched more quickly.
- › *International representation* – Rosanne Bell, Senior Executive Leader of ASIC Registry Services, was appointed President of the Corporate Registers Forum (CRF). The CRF is an association of corporate registries from more than 60 international jurisdictions. ASIC's involvement with the CRF provides an opportunity to work collaboratively with international registries to strengthen cross-border ties and share expertise to improve corporate registries around the world.

## Analysis of key outcomes

Key outcomes achieved by ASIC's registry in 2017–18 include:

- › *Modernisation of registers* – We upgraded our IT infrastructure to improve the stability and performance of our registry for customers and business partners.

We have also been working on registry modernisation as part of the Government's commitment to modernising its business registers in an evolving digital economy.

**For more information on this initiative, see Section 1.5.**

- › *Liaison and information exchange* – ASIC held an annual liaison meeting with the New Zealand Companies Office, as well as exchanging information with and hosting various international regulators, benchmarking the efficiency and effectiveness of our registry.

The ASIC website is the most highly used inquiry channel for our registry. It provides comprehensive information on all registry activities. This year, we continued to simplify the most highly accessed webpages, expanded our web chat inquiry channel across more inquiry types, and increased our video content, publishing new videos, including guidance on 'Closing your company'.

Almost 100% of all business name transactions were performed online through the various channels we provide. These channels include:

- › ASIC Connect – accessed directly through the ASIC website
- › ABR/ASIC joint registration service available from abr.gov.au
- › private service providers, which provide online registration services with ASIC
- › business.gov.au – a government website administered by the Department of Industry. This provides access to a streamlined business registration service. This service was available in a 'beta' version from April 2017 and was formally released in June 2018.

## 692,088

### TOTAL INQUIRIES ANSWERED IN 2017–18



**373,148**  
companies inquiries



**211,096**  
business names inquiries



**107,844**  
other inquiries



**122.5m**  
searches of ASIC  
registers



**2% (50,000)**  
increase in number of  
online lodgements

## Customer service through digital assistance

Our registry digital assistance team facilitated more than 12,000 calls across the year, assisting customers with transitioning from paper forms to online transactions and supporting existing customers in using online services – that is, helping to get customers online and keep them there.

2017–18 was the first full year of this team's operation, and customers have provided positive feedback on their assistance efforts. Strategies such as this have contributed to an increase in online lodgement from 91% to 93%. The digital assistance team is a clear example of ASIC's commitment to the delivery of efficient online registry services.

*'The process was amazing. It was so helpful. I have never had such a helpful customer service officer.'*

*ASIC Registry customer*

## Deterring misconduct – scams affecting ASIC customers

During 2017–18, ASIC answered 21,000 inquiries about scams, and our dedicated webpage was visited more than 180,000 times.

Like many organisations, ASIC is working to manage the effects of scams targeting our customers. Scams pose a significant threat to the public, the business community and ASIC.

Typically scam emails, which look like genuine ASIC notifications, claim to be seeking the renewal of a business name or an annual review of a company. The emails ask customers to click a link or make a payment.

In 2017–18, we worked on a range of fronts to combat these scams and raise awareness of the issue, including by:

- › posting alerts on the ASIC website and social media when a new scam is detected
- › publishing a media release advising customers to be wary of scammers targeting ASIC customers
- › preventing the spread of email scams by working with email providers and internet domain registrars
- › implementing a technical standard to help protect email senders and recipients from scam emails
- › providing guidance and support to customers through the Customer Contact Centre
- › collaborating with government agencies such as the ACCC, via its Scamwatch program, to multiply the reach of our messages related to scams, and the Australian Cyber Security Centre.

## Improving transparency

Economically significant proprietary companies must lodge financial reports with ASIC so that we can provide public access for users such as creditors and employees. This year, we obtained information from tax returns to assist us in identifying and contacting proprietary companies that appeared to meet the associated size criteria but had not lodged financial reports with ASIC.

We also established systems and processes to accept reports from the ATO related to significant global entities (SGEs) and make them accessible to the public. This is due to a new ATO requirement that SGEs (parts of groups with global revenue in excess of A\$1 billion) must lodge general purpose financial reports. The intention is to provide greater transparency that might assist in identifying tax minimisation by these entities.

## 3.5 ASIC Service Charter results



The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. The table below sets out our performance against the key measures outlined in the Service Charter for the 2017–18 financial year.

**Table 3.5.1 ASIC Service Charter performance, 2017–18**

Service	Measure	Target	Result
<b>When you contact us</b>			
General telephone queries	We aim to answer telephone queries on the spot	80%	92.8%
General email queries	We aim to reply to email queries within 3 business days	90%	92.1%
<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 between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.6%
Lodging company, business name or other data online	We aim to ensure you can lodge registration forms and other information online between 8.30 am and 7.00 pm AEST Monday to Friday, excluding public holidays	99.5%	99.8%
<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 1 business day of receiving a complete application	90%	99.2%
Registering a company via paper application	We aim to register the company within 2 business days of receiving a complete application	90%	98.6%
Registering a business name via paper application	For paper applications lodged by mail – complete applications for business name registrations within 7 business days	90%	100%
Updating company, business name or other ASIC register information online	For applications lodged online – enter critical information and status changes to company or business name registers within 1 business day	90%	99.2%
Updating company, business name or other ASIC register information via paper application	For paper applications lodged by mail – enter critical information and status changes to company or business name registers within 5 business days	90%	94.0%

Service	Measure	Target	Result
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	80%	62% <sup>1</sup>
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances	100%	100%
Applying for or varying an AFS licence <sup>2</sup>	We aim to decide whether to grant or vary an AFS licence within 150 days	70%	Granted: 74% Varied: 75%
	We aim to decide whether to grant or vary an AFS licence within 240 days	90%	Granted: <sup>3</sup> 88% Varied: <sup>4</sup> 86%
Applying for or varying a credit licence	We aim to decide whether to grant or vary a credit licence within 150 days	70%	Granted: 87% Varied: 90%
	We aim to decide whether to grant or vary a credit licence within 240 days	90%	Granted: 93% Varied: 94%
Applying for relief	We aim to give an in-principle decision within 28 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues	70%	71%
	We aim to give an in-principle decision within 90 days of receiving all necessary information and fees for applications for relief from the Corporations Act that do not raise new issues <sup>5</sup>	90%	87%
Complaints about misconduct by a company or individual	If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information	70%	72%
<b>When you have complaints about us</b>			
About ASIC officers, services or actions	We aim to acknowledge receipt of complaints within 3 working days of receipt. We aim to resolve a complaint within 28 days	70%	Resolved within 28 days: 96%

<sup>1</sup> Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review.

<sup>2</sup> The Service Charter standards for AFS licences and credit licences was updated in November 2017 to reflect the fact that we are now targeting the making of decisions on applications within 150 days of receipt of a complete application in 70% of cases and 240 days in 90% of cases.

<sup>3</sup> The decrease in applications finalised in 2017–18 is mainly a follow-on effect from the large number of limited AFS licence applications received at the end of 2015–16 which remained on hand at the start of 2016–17 and were finalised in that year. There was no similar pool of applications on hand at the start of 2017–18.

<sup>4</sup> See footnote above.

<sup>5</sup> This result includes applications where we did not initially receive all the information we needed to make a decision.

## 3.6 Banking Act, Life Insurance Act, unclaimed money and special accounts

ASIC reunites people with their unclaimed money, as we are responsible for the administration of unclaimed money from banking and deposit taking institutions and life insurance institutions. This is set out on Page 159 of ASIC's Portfolio Budget Statement 2017–18.

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

In 2017–18, ASIC received \$89.6 million in unclaimed money, this was more than the \$79 million we received in 2016–17. This was due to an unanticipated increase in lodgements from life insurance companies.

We paid out a total of \$68.3 million in claims in 2017–18, compared with \$ 82.3 million in the previous year. This considerable decrease was due to the fact that we did not conduct an unclaimed money media campaign in 2017–18. We paid claimants interest (\$3.4 million of the \$68.3 million) on unclaimed money from periods from 1 July 2013 onwards at a rate of 2.5% for 2013–14, 2.93% for 2014–15, 1.33% for 2015–16, 1.31% for 2016–17 and 2.13% for 2017–18.

**Table 3.6.1 Amount paid to owners of unclaimed money**

Claims by type	2017–18 (\$)			2016–17 (\$) <sup>1</sup>
	Principal	Interest	Total	
Company	35,039,506	1,309,134	36,348,640	32,675,335
Banking	26,182,348	1,926,589	28,108,937	42,865,801
Life insurance	3,380,284	228,802	3,609,086	6,418,460
Deregistered company trust money	224,983	n/a	244,983	325,024
<b>Total</b>	<b>64,827,121</b>	<b>3,464,525</b>	<b>68,311,645</b>	<b>82,284,619</b>

<sup>1</sup> Includes principal and interest.



# 4

## ASIC's achievements by sector

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# Purpose and structure

This section of the report discusses activities and outcomes achieved in each industry funding sector this financial year. Under industry funding, there are six such sectors (deposit-taking and credit; insurance; financial advice; investment management; superannuation and related services; market infrastructure and intermediaries; corporate). Within these six broad sectors, there are 48 subsectors.

This year, to provide more transparency to our stakeholders, and help industry participants to understand the regulatory effort we expended on their subsector, we have outlined our achievements per industry funding sector. **For ASIC achievements by regulatory tool, see Section 3.**

## Industry funding

The new industry funding model for ASIC became effective on 1 July 2017. This model will provide greater stability and certainty in our funding and ensure we are adequately resourced to carry out our regulatory mandate. The model is about ensuring those who create the need for regulation bear the costs of that regulation, and providing the economic incentives to drive the Government's desired regulatory outcomes for the financial system.

Entities will pay a share of their subsector costs based on a range of business activity metrics. In March 2018, ASIC published 2017–18 indicative levies for 36 out of 48 industry subsectors. ASIC does not yet have access to the business activity metrics required to calculate and publish indicative levies for the remaining 12 subsectors (around 20% of the population of 47,000 regulated entities). These entities will not receive indicative levies until ASIC tables in Parliament a legislative instrument outlining our actual costs, population and business activity metrics for all subsectors in 2017–18. This is scheduled to take place in November 2018.

The 2017–18 indicative levies document, published in June 2018, builds on our Cost Recovery Implementation Statement, released for consultation in October 2017 and released in final form in May 2018.

### Levy types

An organisation's levy for a financial year will be equal to its share of the flat and graduated levies for each subsector it is a part of in the financial year:

- › Flat levy – A flat levy will share the total cost of regulating a subsector equally among each entity operating in that subsector.



- › Graduated levy – A graduated levy will include two components: a minimum amount paid by all entities in a subsector, and a graduated amount based on each entity's size or level of business activity.

### Fees for service

Fees for service is the second phase of industry funding. Fees for service came into force on 4 July 2018. Fees will be reviewed periodically to ensure they remain accurate and reflective of effort.

## Fee-for-service activities

We undertake a range of activities for specific entities at their request. These regulatory activities, for which we charge fees for service, include:

- › licensing and registration
- › compliance reviews of documents
- › requests for changes to market operating rules
- › applications for relief.

These services impact a range of industry subsectors, including Australian credit licensees, AFS licensees, market infrastructure providers, responsible entities, registered liquidators, and companies. The fee for lodgement of certain forms will not be recovered under fees for service, nor will costs associated with maintaining our registry business.

For more information about the industry funding model, see our website: [ASIC.gov.au/industry-funding](http://ASIC.gov.au/industry-funding).

## 4.1 Deposit-taking and credit



The deposit-taking and credit sector includes **credit licensees** (credit providers, small amount credit providers, and credit intermediaries); **deposit product providers**; **payment product providers**; and **margin lenders**.

ASIC's work in this sector during 2017–18 focused on continuing to improve consumer outcomes by ensuring compliance by lenders and brokers with the responsible lending obligations. We also took action to reduce the extent to which consumers were sold financial products that did not meet their needs.

Lenders or brokers that sell or arrange unsuitable products may place their customers at risk of substantial financial hardship.

### Credit licensees

#### **Unfair contract terms and small business loan contracts**

Following engagement with ASIC and the Australian Small Business and Family Enterprise Ombudsman, ANZ, CBA, NAB and Westpac committed to improving terms of their small business loans to reduce the likelihood that particular terms in their contracts are unfair.

In March 2018, we released REP 565 *Unfair contract terms and small business loans*, which sets out the changes that were made and provides guidance to lenders about compliance with the unfair contract terms laws as they relate to small business.

We have also commenced a review of lending contracts by lenders outside these banks to check for compliance with the unfair contract terms laws.

## Enforcing compliance with responsible lending laws

We continued to act against non-compliance with responsible lending obligations under consumer credit laws.

Our enforcement outcomes for the year in this area include the following:

- › In February 2018, the Federal Court ordered ANZ to pay a penalty of \$5 million for breaches of the responsible lending provisions by its former car finance business, Esanda. The court found that ANZ failed to take reasonable steps to verify the income of consumers. This judgment followed ASIC's announcement of a package of actions, including \$5 million in remediation, against ANZ for contraventions of various responsible lending provisions of the *National Consumer Credit Protection Act 2009*.
- › In January 2018, we obtained a court enforceable undertaking from Thorn Australia Pty Ltd to pay consumers over \$5 million in refunds and write-offs of default fees for its failure to make adequate inquiries and verify consumers' expenses in respect of 278,683 consumer leases. Thorn Australia also gave an undertaking to have an independent compliance review completed.
- › In May 2018, the Federal Court also ordered a \$2 million penalty against Thorn Australia for contravening responsible lending obligations. The court found that Thorn Australia failed to take steps to verify the financial situation of its customers and conduct a proper assessment of the suitability of the leases it provided. The breaches related to more than 270,000 leases entered between January 2012 and May 2015.

## Misleading advertising

ASIC took action against entities where we had concerns about misleading statements being made to consumers in relation to financial products. For example:<sup>1</sup>

- › In November 2017, Volkswagen Financial Services Australia Pty Ltd paid a penalty of \$216,000 after we issued it with 20 infringement notices for alleged misleading statements made in an advertising campaign for Volkswagen vehicles. ASIC was concerned that those advertisements did not give sufficient prominence to important conditions applying to the finance offers or adequately explain how some of these conditions operated.
- › In May 2018, we issued three infringement notices to debt management firm Fox Symes and Associates Pty Ltd for making potentially misleading claims, such as 'Free Debt Assistance', 'Reduce debt in minutes' and '15 second approval'. The company has paid a total of \$37,800 in penalties. ASIC was concerned that the statements misrepresented the cost and speed of Fox Symes and Associates' debt management services.

## Compensation and remediation

This year, our actions in the credit space contributed to more than \$194 million being ordered or agreed to be refunded or compensated to consumers. For example:

- › In early 2018, Westpac provided more than \$11 million in remediation to around 3,400 credit card customers who experienced financial difficulty after being granted credit card limit increases. This remediation was provided as part of Westpac's commitment to ASIC to improve its lending practices when providing credit card limit increases to customers.

<sup>1</sup> Compliance with infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

- › In February 2018, ANZ announced it would refund over \$10 million to 52,135 of its 'Business One' business credit card accounts after it reported to ASIC that it failed to properly disclose various fees and interest charges, as well as the amount payable for overseas transactions with foreign merchants or financial institutions.
- › In December 2017, Westpac announced it would refund or discount interest rates for 13,000 owner-occupier borrowers who had interest-only home loans. The refunds were made following an error in Westpac's systems which failed to automatically switch these loans to principal and interest payments at the end of the contracted interest-only period. The refunds amounted to \$11 million for 9,400 of those customers.
- › In July 2017, King Quartet Pty Ltd, trading as The Rental Guys, paid \$100,000 to regional customers to address concerns by ASIC that they had not met their responsible lending obligations by failing to make proper inquiries, conduct verification or carry out unsuitability assessments when arranging leases.

## Poor debt collection practices

In May 2018, an ASIC surveillance revealed that Cash Converters Personal Finance Pty Ltd (Cash Converters) had routinely failed to follow RG 96 *Debt collection guideline: For collectors and creditors*, which recommends that consumers be contacted regarding a debt no more than three times per week or 10 times per month. This guideline is based on legislative prohibitions on harassment and coercion. Cash Converters also provided incorrect information to a consumer credit reporting agency, which may have resulted in up to 38,500 customers being reported with inaccurate amounts owing over a one-month period.

The following steps have been taken in response to our concerns:

- › Cash Converters has commenced outsourcing all debt collection work to a specialist third-party debt collector.
- › We imposed licence conditions on Cash Converters to require it to obtain our consent before resuming debt collection activity in-house.
- › Cash Converters has worked with the credit reporting agency to ensure all incorrect listings have been removed.

Cash Converters also made a \$650,000 community benefit payment to the National Debt Helpline.

## Payday lending

In October 2017, ASIC entered into court enforceable undertakings with two payday lenders, Web Moneyline Pty Ltd and Good to Go Loans Pty Ltd, in response to an ASIC investigation of the payday lenders' loan product OACC2. We identified that OACC2 loans were provided to consumers on terms which fell outside the definition of a small amount credit contract, among other issues identified.

The court enforceable undertakings require that both payday lenders write off all outstanding OACC2 loans, including any outstanding debts that had arisen as a result of entering into those loans, notify the relevant credit reporting body that these loans have been settled, and refrain from entering into the OACC2 loan product with new consumers.

## 4.2 Insurance



The insurance sector includes life and general insurance. The insurance subsectors consist of **insurance product providers** (including friendly societies); **insurance product distributors**; and **risk management product providers**.

### Insurance product providers

#### Life insurance claims handling

In May 2018, ASIC and APRA published new data on life insurance claims and claims-related disputes for the period 1 January 2017 to 30 June 2017. This reflects our continued collaboration with APRA, insurers and other stakeholders to establish a consistent public reporting regime for claims data following the release of REP 498 *Life insurance claims: An industry review* in October 2016.

ASIC and APRA have made significant progress with industry to improve the comparability and reliability of data in the life insurance industry. We aim to benefit consumers, insurers and regulators through increased transparency of life insurance claims practices and increased quality of information underpinning public debate and policy making. This should help to drive accountability in the sector and enable better understanding of the claims performance of particular insurers or policies. **For information on life insurance advice, see Section 4.3.**

### Insurance product distributors

#### Preventing sale of inappropriate add-on insurance products

This year, ASIC continued to act to secure refunds for consumers for the sale of inappropriate insurance products.

ClearView Life Assurance Limited will refund approximately \$1.5 million to consumers and stop selling life insurance directly to consumers, after we found that unfair and high-pressure sales practices were at times used on sales calls made to consumers, without personal financial advice.

TAL Direct Pty Ltd offered refunds totalling \$900,000 to around 1,200 Insuranceline funeral insurance customers, as a result of its failure to switch off annual cost of living increases to premiums and cover.

#### Sale of add-on products with car loans

In August 2017, we released Consultation Paper (CP) 294 *The sale of add-on insurance and warranties through caryard intermediaries*. This paper sought feedback on proposals to introduce a deferred sales model for the sale of add-on insurance products and warranties by intermediaries who are also assisting with the purchase of a motor vehicle, and enhanced supervision obligations on insurers over their authorised representatives. This proposed reform is intended to address systemic poor practices in this sales channel.

Across the period 2017–18, we finalised refund programs totalling \$117 million with insurers QBE, Swann, Allianz and Suncorp for insurance products sold by motor vehicle dealers, including consumer credit insurance (CCI) and tyre and rim insurance. These insurers provided refunds for the sale of insurance that provided low or no value to customers (e.g. because they were ineligible to claim at the time the policy was sold to them or where unnecessary life insurance was sold to young consumers with no dependants). In some cases, the cover was sold to consumers who were unlikely ever to be able to claim.

## Consumer credit insurance

Addressing the inappropriate sale of CCI has been a key focus of ASIC because it has long been associated with poor consumer outcomes in Australia and overseas. This includes consumers being unaware that they have purchased CCI and consumers being ineligible to make a claim on their CCI policy.

In August 2017, we established a CCI Working Group with representatives from the banking industry and consumer advocates, to improve consumer outcomes in relation to CCI.

Following discussions with ASIC, the banks committed to a range of measures to improve consumer outcomes in relation to CCI, including a deferred sales model for CCI that is sold with credit cards applied for over the telephone and in branches. This means that consumers cannot be sold a CCI policy for their credit card until at least four days after they have applied for their credit card over the telephone or in a branch. This reduces the risk that a consumer will feel pressured to purchase the CCI product or purchases a CCI product that does not meet their needs.

In August 2017, the CBA refunded approximately \$10 million to 65,000 customers following the sale of unsuitable CCI for credit cards. The bank also refunded \$586,000 to around 10,000 customers after over-insuring and overcharging premiums for home loan protection CCI.

## Misleading insurance advertising

ASIC's proactive advertising monitoring project reviewed over 8,000 banner, print, television, radio, billboard and website advertisements for insurance to ensure compliance with financial services laws. Some of our public outcomes, following significant ASIC activity, include:

- › In March 2018, RAA Insurance Limited (RAA) paid \$43,200 in penalties, following our concerns that RAA's television advertisements, which made representations about the 'lifetime vehicle replacement' benefit of RAA's comprehensive car insurance policy, did not adequately disclose or explain the eligibility criteria.
- › In December 2017, CommInsure paid \$300,000 towards a consumer advice service and had its advertising sign-off processes independently reviewed after we raised concerns about its life insurance advertising. We found that its advertising may have misled a policyholder to believe they would be entitled to a lump sum payment if they suffered any heart attack. In fact, only heart attacks that met certain medical criteria were covered. CommInsure also updated the definition of 'heart attack' in its trauma life insurance products.
- › In November 2017, AAMI paid \$43,200 in penalties and amended its advertising after we raised concerns that statements on AAMI's website and in radio commercials for its home building insurance 'Complete Replacement Cover' suggested that AAMI would repair or rebuild an insured house, no matter the cost. The statements did not disclose that AAMI could choose to arrange the repair of the house or choose to pay the policyholder the assessed cost of repairing or rebuilding the house, leaving the policyholder to arrange this themselves.

## 4.3 Financial advice



The financial advice sector includes AFS licensees that provide personal advice to retail clients on financial products (other than basic banking products, and general and consumer credit insurance products); general advice only; and personal advice to wholesale clients only.

ASIC's work in this sector during 2017–18 focused on managing conflicts of interest and the quality of SMSF and life insurance advice. ASIC devotes significant resources to surveillance and enforcement in the financial advice sector, due to the history of misconduct in this sector.

### Charging clients without providing advice

In 2017–18, we continued to, amongst other actions, supervise the remediation of affected consumers by ANZ, AMP, CBA, NAB and Westpac where the firms had charged clients annual fees for services, including an annual advice review, which were not provided. These entities had continued to deduct fees for advice and other services from customers' accounts in circumstances where the adviser was no longer attached to the customer or where the customer had given instructions for the deductions to stop.

As at 30 June 2018, customer compensation paid or offered by these entities, since the commencement of ASIC's project, had risen to approximately \$222.3 million, including interest. Since then, the level of customer compensation paid or offered by these entities has increased and it is expected to continue to do so over the coming period.

We further highlighted the systemic problems we identified in this area, and how they may be addressed, through submissions and evidence we provided to the Royal Commission.

### Review of vertical integration and conflicts of interest

Managing conflicts of interest is an important part of how AFS licensees who provide financial product advice can help to ensure their customers have trust and confidence in their advice.

In January 2018, ASIC published the findings of its project, which examined how well Australia's largest banking and financial services institutions manage the conflicts of interest that inherently arise as a result of engaging in both the provision of personal advice to retail clients and the manufacturing of financial products under a vertically integrated business model. We assessed the quality of advice in relation to an in-house superannuation platform provided to new customers of AMP, ANZ, CBA, NAB and Westpac. These findings are found in REP 562 *Financial advice: Vertically integrated institutions and conflicts of interest*.

Our findings include that there was:

- › a strong bias towards selling related party products across advice licensees
- › a failure by advisers in 75% of client files reviewed to demonstrate compliance with the best interests duty and related adviser obligations.

We are requiring licensees to review and remediate affected clients. We are also undertaking a series of other regulatory actions in response to the findings of this project to ensure customers receive advice that is in their best interests, is appropriate and prioritises their interests.

## Self-managed superannuation fund advice

In 2017–18, we undertook a research project to examine member experiences in setting up and running an SMSF, as well as whether advice providers are complying with the law when providing personal advice to retail clients to set up an SMSF.

On 28 June 2018, we released REP 575 SMSFs: *Improving the quality of advice and member experiences*, which summarises the findings of our work.

Our findings include the following:

- › a large number of advice providers are currently not complying with the best interests duty and related obligations
- › many SMSF members do not properly understand the advantages and disadvantages associated with setting up and running an SMSF.

To assist advice providers in complying with their obligations in the context of SMSFs, we have included a number of practical tips in our report. We have also provided these tips to relevant industry associations for circulation to their members.

ASIC and the ATO are working together to help consumers better understand the advantages and disadvantages of setting up and running an SMSF, with a view to enhancing current relevant communication material and encouraging individuals to undertake SMSF trustee education.

We will also be requiring licensees to review their advice and remediate SMSF clients affected by non-compliant advice.

## Life insurance advice

Improving the quality of life insurance advice is a key focus for ASIC. We want to ensure that consumers who want advice on life insurance can obtain good quality financial advice that prioritises their needs.

To assist us with our work, we are analysing exception reports relating to policy replacement from life insurers and using a range of risk indicators to identify advisers who might be providing life insurance advice that does not comply with the law. We commenced collecting policy replacement data in September 2016, and this work is ongoing.

To date, we have completed a number of surveillances on advisers identified as part of the ongoing ‘exception reporting’ by life insurance companies. As a result, we have banned one financial adviser, we have entered into a court enforceable undertaking with another adviser and we are pursuing administrative action against a further five advisers.

We anticipate taking further enforcement action once we have finalised the surveillances from our latest exception reporting analysis. **For more information on life insurance claims, see Section 4.2.**

## Court enforceable undertaking entered into under ASIC’s Life Insurance Lapse Data Project

Our Life Insurance Lapse Data Project receives reports from life insurers that list advisers who have passed thresholds relating to lapsed policies. We analyse these reports and other data to identify a group of high-risk advisers. These reports, used in conjunction with other data, enable us to target our surveillance activities with the ultimate aim of improving the life insurance advice provided to Australian consumers.

In January 2018, we entered into the first court enforceable undertaking under this project. Through our surveillance, we identified that one financial adviser, Duane Wright:

- › failed to undertake adequate inquiries
- › failed to provide adequate replacement product advice
- › advised clients to purchase life insurance that was too expensive
- › failed to consider the long-term impact on retirement savings of placing insurance within superannuation
- › failed to provide accurate information within statements of advice.

Under this court enforceable undertaking, Mr Wright and his business, First National Home Loans and Insurance Pty Ltd, will undergo additional training in relation to the provision of financial product advice and adhere to strict supervision requirements for 12 months, with all advice to be audited by the authorising licensee before it is provided to clients.

› Following ASIC's investigation, in February 2018 we permanently banned Brenton Poynter, a former authorised representative of Charter Financial Planning Ltd (Charter), from providing financial services. We found that, between January 2015 and June 2016, Mr Poynter deducted a total of \$39,700 in fees from 10 clients' investment accounts for financial advice which he had not provided. Mr Poynter received a personal benefit of \$25,610 from these transactions. We also found that Mr Poynter directed three clients of Charter to deposit a total of \$26,990 directly into his personal bank account for financial services he had not provided. Charter and Mr Poynter's practice have refunded advice fees charged to the relevant clients.

› In November 2017, ASIC banned former financial adviser with BBY Ltd, Sergio Belardo, from providing financial services for 10 years. Mr Belardo was an authorised representative of BBY Ltd and provided advice and dealing services to BBY retail clients in relation to financial products, including securities and derivatives. We found that Mr Belardo had engaged in unauthorised trading on multiple client accounts, engaged in trading on client accounts that was inconsistent with, or contrary to, the investment strategy agreed in the Statement of Advice, or otherwise agreed with the clients, and provided clients with inaccurate information in relation to their accounts.

## Dishonest conduct

Financial advisers are in a position of trust and must act honestly in their dealings with investors' money. In 2017–18, ASIC took enforcement action against financial advisers who breached this trust by engaging in dishonest conduct. For example:

- › In November 2017, following dishonesty charges brought by ASIC, Lewis Fellowes, a former stockbroker from Perth, was sentenced by the Brisbane District Court to three years imprisonment. Mr Fellowes pleaded guilty to one charge of dishonestly using his position with the intention of directly gaining an advantage for someone else and two charges of dishonestly using his position with the intention of directly gaining an advantage for himself, totalling \$1,595,000. Under Mr Fellowes' sentence he was to be released immediately upon entering into a \$30,000, five-year good behaviour bond. The Commonwealth Director of Public Prosecutions (CDPP) prosecuted the matter and has lodged an appeal against this sentence.

## Best interests duty and related obligations

Retail clients who rely on personal advice may suffer significant loss if the advice is conflicted or is not of good quality. This year, ASIC took action against financial advisers who are failing to adhere to their obligation to act in the best interests of their clients and related obligations, which were introduced under the Future of Financial Advice (FOFA) reforms. Our actions included bringing civil court proceedings and making banning orders.

## First civil proceedings for breach of best interests duty against NSG Services Pty Ltd

In October 2017, in civil proceedings brought by ASIC, the Federal Court imposed a civil penalty of \$1 million on Melbourne-based financial advice firm NSG Services Pty Ltd (currently named Golden Financial Group Pty Ltd) for breaches of its obligation to act in the best interests of its clients. The clients were sold insurance and advised to roll over superannuation accounts that committed them to costly, unsuitable and unnecessary financial arrangements. This was the first civil penalty imposed on a financial services licensee for breaches of the best interests duty.

## Civil proceedings against three Melbourne-based companies and former company director

In February 2018, the Federal Court found that three Melbourne-based financial services companies – Wealth and Risk Management Pty Ltd, Yes FP Pty Ltd and Jeca Holdings Pty Ltd – engaged in numerous contraventions of financial services and consumer protection laws and ordered them to pay penalties totalling \$7,150,000. The companies had business models which involved offering and giving cash payments to financially vulnerable clients in connection with the provision of financial advice. This often resulted in a substantial erosion of the clients' superannuation balances. The court also found that a former director of the companies, Joshua Fuoco, was knowingly concerned in the breaches and ordered him to pay a penalty of \$650,000.

## Banning order against Christopher Ramsay

In February 2018, ASIC banned Brisbane-based financial adviser Christopher Ramsay for a period of five years for failing to act in the best interests of his clients and giving advice that was not appropriate.

We found that Mr Ramsay failed in his obligations when he provided advice to his Westpac and GWM Adviser Services Limited clients to switch their superannuation and insurance products. For example, he included:

- › misleading fee comparison tables in advice documents which suggested the recommended fund was cheaper than the client's existing fund, when either this was not the case or Mr Ramsay was not comparing similar fee structures
- › a misleading statement in an advice document which stated the client's existing insurer did not offer income protection insurance when it did.

We found that, as a consequence of Mr Ramsay's failings, his clients paid substantially more for some products than they had previously paid and had understood they would pay. In some cases, this significantly reduced the clients' superannuation savings without the clients' knowledge.

## Banning order against Lawrence Toledo

On 8 September 2017, ASIC banned Lawrence Toledo from providing financial services for seven years. We found that Mr Toledo failed to act in the best interests of his clients when advising them to establish SMSFs to purchase properties. Mr Toledo failed to:

- › properly identify what his clients wanted advice on and to reasonably investigate what financial products would best suit their needs
- › understand what was required of him to comply with the best interests duty
- › provide advice that was appropriate to the clients.

We continue to take action to protect consumers where financial advisers are not acting in the best interests of their clients.

## Infringement notices<sup>1</sup> for misleading consumers

In July 2017, Financial Choice Pty Ltd paid two ASIC infringement notice penalties totalling \$21,600 in relation to ASIC's concerns it was misleading consumers.

The first infringement notice related to a representation made by Financial Choice in bulk emails the company sent to around 215,000 consumers in 2016. The emails falsely stated that Financial Choice had been asked by the consumer's superannuation fund to conduct a survey about their superannuation.

The second infringement notice related to misleading representations on the website [findmysuper.com.au](http://findmysuper.com.au), which is operated by Financial Choice. ASIC considered that those representations would lead consumers to believe that they needed to use Financial Choice's services.

As a result of ASIC's concerns that Financial Choice was misleading consumers, Financial Choice has:

- › agreed to stop sending communications that state or imply that Financial Choice is seeking consumers' opinions because superannuation funds have asked it to do so
- › removed the misleading statements from the Find My Super website.

## Approval and oversight of compliance schemes for financial advisers

This year, ASIC continued to take an active role in policy advice and implementation in the financial advice sector. For example, in May 2018, we released a consultation paper outlining our proposed approach to approving and overseeing compliance schemes for financial advisers. Under the new legislative regime for adviser professional standards, compliance with a new code of ethics, which is being developed by the Financial Adviser Standards and Ethics Authority (FASEA), will be enforced by ASIC-approved compliance schemes. A draft version of the code was released by FASEA in March 2018.

<sup>1</sup> Compliance with the infringement notices is not an admission of guilt or liability, and these entities are not taken to have contravened the law.

## 4.4 Investment management, superannuation and related services



The investment management, superannuation and related services sector includes **superannuation trustees; responsible entities; wholesale trustees; custodians; investor-directed portfolio service (IDPS) operators; managed discretionary account (MDA) providers; traditional trustee company service providers; and crowd-sourced funding (CSF) intermediaries.**

We use a range of regulatory tools, including surveillance, enforcement, guidance and stakeholder engagement to address and prevent inappropriate conduct by responsible entities (REs), superannuation trustees, fund managers and wholesale trustees and custodians.

Our work in the managed funds sector ranges from investigating illegal conduct and pursuing compensation for investors, to identifying compliance failures and monitoring the rectification process, and working with industry to facilitate good business practices.

### Superannuation trustees

ASIC is primarily responsible for ensuring superannuation trustees meet their obligations in their dealings with consumers, including disclosure and advice to members and ensuring members have access to complaints processes. ASIC's approach to the regulation of superannuation takes into account the role of APRA as a superannuation regulator, as well as the role of the ATO and other entities such as dispute resolution schemes.

In 2017–18, we actively pursued entities that were providing misleading product disclosure statements and advertising.

#### OnePath

OnePath (an ANZ subsidiary) provided \$53.5 million in rectification and remediation to 1.3 million customers in connection with failure to provide disclosure documentation, and inadequate systems and processes. OnePath also paid an additional \$10.5 million in compensation for 160,000 superannuation customers affected by breaches caused by the OnePath group between 2013 and 2016. We confirmed the finalisation of all recommendations made by an independent review of OnePath's business activities. Our work achieved redress for affected consumers while also ensuring that the ongoing business practices of the entity meet expected standards.

#### Tidswell Financial Services Ltd / Spaceship Financial Services Pty Ltd

In April 2018, Spaceship Financial Services Pty Ltd and Tidswell Financial Services Ltd each paid \$12,600 under infringement notices for misleading and deceptive conduct in their advertising and changed the advertising on their fund's website.<sup>1</sup> This penalty was imposed as a result of our increased regulatory focus on new entrants to the superannuation industry, particularly those who target younger investors with potentially lower levels of financial literacy. We were concerned the fund's website prioritised marketing over accurate disclosure, which could mislead prospective members of the fund.

<sup>1</sup> Compliance with infringement notices is not an admission of guilt or liability and these entities are not taken to have contravened the law.

## **Death benefits by superannuation funds**

The Superannuation Complaints Tribunal (SCT) referred several complaints regarding the failure of some superannuation trustees to provide adequate reasoning in their written responses to claims and complaints related to death benefits. Our investigation and analysis confirmed that some superannuation trustees need to improve their practices in this area. We asked those trustees to demonstrate how they are meeting their legal obligations to provide appropriate reasons for decisions, and to provide evidence of policies and procedures, and communicated our expectations more broadly to the industry. We will continue to engage with any trustee that fails to provide adequate written reasons for its decision on complaints.

## **Investment management responsible entities**

### **Pursuing compensation for investors involved in a Ponzi scheme**

We identified and took court action to shut down the unregistered and illegal Courtenay House managed investment scheme. The subsequent appointment of liquidators has enabled the pursuit of compensation for the over 600 investors affected by one of the largest Ponzi schemes in Australia's history, with losses estimated at over \$150 million. The liquidator has conducted public examinations of the operators of the scheme and we are continuing our own investigation of the case.

### **Significant compliance and disclosure overhaul by a responsible entity**

Following a tip concerning poor conduct by a managed investment scheme involved in property development, we engaged with the responsible entity (RE) to minimise potential harms to consumers. As a result, the RE appointed an external consultant to review and improve its compliance framework and processes, changed several product disclosure statement (PDS) disclosures, revised its website advertising and removed two PDSs from the market.

## **Misleading advertising**

In July 2017, Huntley Management Ltd was ordered by the Federal Court to pay a penalty of \$50,000 for false and misleading advertising to the effect that its investment activities were 'approved by the Australian Securities and Investments Commission'. Huntley Management made the statements on its website and in two advertisements in a national newspaper.

## **Risk profiled entities**

We undertake annual risk-based conduct reviews of REs to assess compliance with their AFS licensee obligations. One RE applied to have its licence cancelled following a finding of non-compliance that it was unable to rectify. We also issued three interim stop orders on PDSs from another RE.

This year, we undertook 54 risk-based reviews and again found that, while most REs are generally committed to complying with their obligations, there are particular areas where non-compliance remains an issue, including professional indemnity insurance, financial requirements, conflicts of interest, breach reporting, and custody and risk management (cyber security and scheme liquidity management). We required all non-complying REs to address all areas of non-compliance and are continuing to follow up with them on this.

## **Exchange traded funds**

Exchange traded funds (ETFs) continue to increase in popularity due in part to strong retail SMSF participation. During 2017–18, we assessed the overall state of this market, considering both issuer compliance with general regulatory obligations and specific ETF requirements, as well as market making, buy–sell spreads and how the ETFs are calculating their indicative net asset values. We identified potential improvements, made recommendations to ETF issuers about ways to better inform investors about the operation of the market, and will continue to monitor developments in this area.

## Wholesale investment management trustees

We monitor AFS licensees' compliance with their licence conditions and any conduct that may result in harms to investors.

For example, we required an entity operating a wholesale property fund targeting overseas investors to withdraw and correct its misleading disclosures and advertising. It also applied more resources to its compliance arrangements to prevent such breaches from occurring in the future.

In another matter, we found that a licensee of a foreign group failed to meet licensing requirements by not maintaining a responsible manager based in Australia. The licensee applied to have its licence cancelled.

## Managed discretionary account providers

ASIC conducted four surveillances in response to a licensee's alleged use of past performance returns to advertise managed discretionary accounts. The advertisements claimed that returns of up to 30% per annum had been achieved by MDAs offering trading in foreign currency, contracts for difference and derivatives. Our surveillance established that these past performance figures were inaccurate, and we intervened to have the advertising removed.

We also made clear to licensees that they must ensure information on their representatives' websites complies with the law, and highlighted our concerns about the use of past performance data by MDA providers in an industry publication. We will continue to focus on the MDA sector in the new financial year.

## Crowd-sourced funding intermediaries

The new crowd-sourced funding (CSF) regime came into effect in September 2017 and ASIC began accepting licence applications from CSF intermediaries. The CSF regime is designed to balance the need for regulatory oversight with support for innovation and investment.

We released two regulatory guides, for public companies and for those looking to offer a platform for CSF offers and investments (RG 261 and RG 262). We have licensed nine intermediaries to provide CSF services and engaged with all newly licensed CSF intermediaries on a one-on-one basis to ensure they understand and comply with the new regime, including ensuring that their promotional and disclosure material complies with our new requirements.

We will collect data on the progress of this initiative to assist our ongoing evaluation of the industry.

## 4.5 Market infrastructure and intermediaries



The market infrastructure and intermediaries sector includes **market infrastructure providers** (Australian market licensees, various types of market operator; clearing and settlement (CS) facility operators; Australian derivative trade repository operators; exempt market operators; and credit rating agencies); and **market intermediaries** (including market participants; securities dealers; corporate

advisers and over-the-counter (OTC) traders; retail OTC derivatives issuers; and wholesale electricity dealers).

ASIC's work in this sector during 2017–18 continued to focus on improving the effectiveness of Australia's capital markets. Australia's financial market infrastructure

is trusted, internationally competitive and respected. It also supports efficient capital raising, investment and risk management.

Our work also focused on ensuring that disruptive innovation benefits issuers and end-investors and that technological developments support investor trust and confidence.

## Market infrastructure providers

### Benchmarks reform

ASIC has continued working on reforms to enhance oversight of the administration of financial benchmarks in Australia.

In March 2018, the Parliament passed legislation that introduces a framework for licensing benchmark administrators and makes manipulation of any financial benchmark, or products used to determine financial benchmarks, a specific offence and subject to civil and criminal penalties.

Following passage of this legislation, in June ASIC published benchmarks rules, a significant benchmarks declaration and a regulatory guide, RG 268 *Licensing regime for financial benchmark administrators*, as part of a series of measures to establish a comprehensive regulatory regime for financial benchmarks. This is another significant step in ensuring continued market confidence in Australian financial benchmarks.

Another important benchmarks reform is the new bank bill swap rate (BBSW) calculation methodology, which was introduced in May 2018. We have been overseeing the implementation of this reform, including by ensuring the methodology is effective and fair. The benchmark will now be calculated directly from market transactions during a longer rate-set window and with a larger number of participants, addressing the previous concern about low trading volumes during the rate-set window. The benchmark is now anchored to real transactions at traded prices. This transaction-based approach aims to support the market's trust in the robustness and reliability of the BBSW.

### Assessment of National Stock Exchange's listing standards

Listing standards are critical to the integrity of the Australian equities market and the trust and confidence investors have in it. During 2016 and 2017, we undertook targeted assessments of listing standards across the three Australian listing markets. This culminated in the publication of REP 538 *Assessment of National Stock Exchange of Australia Limited's listing standards* in August 2017.

This report made a number of recommendations, aiming to ensure that:

- › persons who can influence the National Stock Exchange (NSX) are of good repute, are sufficiently knowledgeable and will act in the best interests of the NSX market as well as the wider Australian market
- › the NSX market attracts issuers with legitimate motives and connection to Australia and ensures listings occur under Australian-regulated disclosure documents
- › the NSX market operates with integrity and its users are informed.

NSX agreed to have an independent third-party review of the effectiveness of its implementation of the actions from our assessment. This review was completed and published in March 2018.

### Competition in settlement

In September 2017, ASIC worked with other members of the CFR and the ACCC to publish guidance and regulatory expectations on safe and effective competition in the settlement of Australian cash equities.

The published policy guidance clarified and extended the policy framework on competition in clearing services established by the CFR in October 2016 and focuses on:

- › regulatory expectations for the conduct of monopoly clearing and settlement service providers
- › requirements for safe and effective competition in the clearing and/or settlement of Australian cash market equities.

ASIC, with the CFR and the ACCC, is continuing to work with the Government to develop the changes to the Corporations Act to include rule-making powers for ASIC and arbitration powers for the ACCC to enforce the CFR's flexible policy framework on competition.

## Cyber resilience assessments

ASIC published REP 555 *Cyber resilience of firms in Australia's financial markets* in November 2017. This report provides an analysis of the results of cyber resilience self-assessments from over 100 stockbrokers, investment banks, market operators, post-trade infrastructure providers and credit rating agencies.

The report demonstrated that there is a growing understanding that cyber risk is a strategic, enterprise-wide issue, with larger firms in particular demonstrating a relatively high degree of cyber resilience.

While there is a disparity in the amount of money, skill and time that has been invested in cyber security between large firms and small and medium firms, the small and medium firms are investing to develop stronger cyber resilience, which ASIC will continue to monitor, assess and measure.

## Admission guidelines for exchange-traded products

In December 2017, we issued INFO 230 *Exchange traded products: Admission guidelines* to provide clear and consistent guidance on the standards for market operators seeking to admit exchange-traded products (ETPs) to their market, including managed funds, ETFs and structured products.

INFO 230 largely reflects our existing expectations and current market operator practices relating to approving ETP issuers, pricing of underlying assets of ETPs, exposure to derivatives, disclosure of portfolio holdings, liquidity provision and market making, securities lending, ongoing supervision of ETPs and issuers, waivers, product-naming considerations, and other types of ETPs.

During 2017, we worked with the ASX to improve the admission process for ETPs on the ASX market. In contrast to the previous admission process, where ASIC assessed ETP referrals on a case-by-case basis, since December 2017 ASX has taken full responsibility for the day-to-day admission process as it does with the admission of listed companies under its governance and oversight model. Our role is now focused on broader policy issues associated with the continuing growth and evolution of the ETP market.

## Market intermediaries

### Regulatory Guide 264 Sell-side research

We recognise that the integrity of research directly affects the integrity of our financial markets and investor confidence.

In December 2017, ASIC released RG 264 *Sell-side research*, which is directed towards AFS licensees that provide sell-side research. This regulatory guidance examines the conflicts of interest that arise in the provision of sell-side research, such as inappropriate use of inside information and potential preferential treatment of clients.

The guide outlines the obligations imposed on AFS licensees to manage conflicts during each stage of the capital raising process, including by avoiding, controlling and disclosing these conflicts; and the obligation to manage research teams, including by implementing appropriate remuneration structures and coverage decisions.

We provided this guidance in response to our findings of inappropriate arrangements to manage conflicts of interest concerning inside information and research independence that was identified in our August 2016 publication REP 486 *Sell-side research and corporate advisory: Confidential information and conflicts*.

We expect licensees to manage and, where possible, avoid conflicts of interest in sell-side research to ensure the research provided has credibility and integrity and can reasonably be relied on by investors. The handling of confidential information is an ongoing focus for us. Licensees were expected to comply with this guidance by 1 July 2018.

## Enforcing the proper management of conflicts of interest

This year, ASIC achieved regulatory outcomes where licensees did not adequately manage their conflicts in the provision of sell-side research.

An ASIC investigation into the capital markets and research business of the investment banking and stockbroking service provider, Foster Stockbroking Pty Ltd (FSB), identified several issues with its management, including the failure to adequately manage conflicts of interests by giving preferential treatment when allocating shares to its directors.

ASIC found that FSB was scaling back the IPO subscription bids for Reffind Limited (RFN) – a company of which FSB was the sole lead manager. ASIC found that FSB was scaling back the IPO subscription bids made by FSB's directors disproportionately less than subscription bids made by other investors, including FSB retail clients, and did not fully disclose to RFN the shares allocated to FSB directors.

FSB entered into a court enforceable undertaking with ASIC to implement a number of changes to its systems and controls, including more stringent and effective conflicts of interest disclosure policies. FSB agreed to have the implementation of its undertakings independently assessed and also to make a community benefit payment of \$80,000 to The Ethics Centre.

## Retail over-the-counter derivatives

Retail OTC derivatives are speculative, high-risk products which can be complex and difficult to understand.

## Binary options

In this sector, binary options result in the highest losses for consumers. In May 2018, we released a binary options warning campaign through our MoneySmart website and social media channels.

This campaign aims to inform consumers of the reality that, while binary options promise high returns quickly, they are high-risk, unpredictable investments with a likeness to gambling.

Most binary option providers operate through online platforms and mobile apps, but not all binary options providers operating through these platforms are licensed. ASIC's warning to consumers provided a reminder to always check that entities are licensed to trade binary options in Australia on ASIC's professional registers.

This year we worked closely with Google and Apple to remove over 330 unlicensed binary options apps from their app stores. In addition to the unlicensed activity undertaken by these apps, ASIC was concerned that:

- › many of the mobile app descriptions contained statements which appeared to be misleading about the profitability of trading and the amount of profit that could be made
- › the majority of these apps failed to outline the risks of trading binary options, with 80% having no risk warning at all
- › some apps made it appear that the introducing broker was the issuer of the binary option and did not clearly inform investors if and how the broker would be compensated for referral business
- › some binary option review and education sites were merely collecting personal information which could be used for high-pressure cold-call selling.

Apple and Google acted quickly to remove the apps that we identified. Apple has now banned binary options trading apps, and Google has now banned advertising of binary options. We continue to collaborate with the digital community to protect consumers from risky products and unlicensed operators.

## Client money reforms

On 4 April 2018, ASIC's Client Money Reporting Rules 2017 became effective. As part of this reform, we released RG 212 *Client money relating to dealing in OTC derivatives*, which is the updated guidance for AFS licensees that hold client money for trading in retail OTC derivatives.

Our guidance ensures that AFS licensees are aware of the effects of the reforms, which includes the restriction of circumstances in which an AFS licensee may use client money, and the imposition of new record-keeping, reconciliation and reporting requirements.

Restrictions imposed on AFS licensees holding client money for trading in retail OTC derivatives include the inability to withdraw and use derivative retail client money for a range of purposes, such as for a licensee's own working capital or for hedging.

These reforms aim to strengthen the protection of derivative retail client money, ensure greater transparency in relation to an AFS licensee's receipt and use of derivative retail client money and, in turn, increase investor trust and confidence in our financial system.

## Trade repository data

ASIC continues to monitor OTC derivative trade repository operators to support the integrity of OTC trade data reported to us and other Australian financial regulators. The trade repository data reporting requirements improve the transparency of information in OTC transactions. This better enables us, and other regulators, to identify systemic risk concerns and potential market abuse by OTC traders. It also assists our surveillance and enforcement activities and the development of policy for benchmark reforms.

## Credit rating agencies review

Credit rating agencies play an important role in our markets by giving market users a better understanding of credit risks, resulting in more informed investment and financing decisions.

On 31 October 2017, we completed a market-wide surveillance of credit rating agencies. The surveillance commenced in January 2016. It primarily focused on the governance, transparency and disclosure arrangements of credit rating agencies.

Observations made through our surveillance resulted in recommendations to improve compliance of credit rating agencies with their AFS licensee obligations, as outlined in REP 566 *Surveillance of credit rating agencies*, released in February 2018. We are monitoring credit rating agencies' implementation of the recommendations.

## Consolidation of ASIC's market integrity rule books and regulatory guides

We are committed to reducing red tape for market participants by administering the law efficiently with a minimum of procedural requirements.

After public consultation, in November 2017 we released consolidated market integrity rules which merge 13 of the 14 previous rule books into four rule books, creating a common set of rules for securities markets and a common set of rules for futures markets.

On 4 May 2018, we also published two regulatory guides that consolidate and replace seven regulatory guides for securities and futures markets participants, which, for example, introduce new guidance on management structures.

Most market operators and market participants were required to comply with the consolidated market integrity rules from 7 May 2018.

## 4.6 Corporate



The corporate sector includes auditors and liquidators, which are subject to separate fees and levies.

The corporate subsectors include **corporations** (listed corporations; unlisted public companies; large proprietary companies; and small proprietary companies<sup>1</sup>); **auditors of disclosing entities**; **registered company auditors**; and **registered liquidators**.

The report highlighted strong shareholder input and engagement evidenced by material 'against' votes on changes to remuneration structures, despite a decrease in the number of remuneration strikes from the 2016 season. There was continued, active scrutiny of governance practices by proxy advisers and a focus on gender diversity and specific environmental, social and governance issues such as climate risk.

The report showcased concerns about a lack of significant changes to the structure of AGMs, with 25 companies in the ASX 200 continuing to decide resolutions by a show of hands rather than by conducting a poll. A poll more democratically reflects the principle of 'one share one vote'.

The report included recommendations about good corporate governance practices.

### Independent experts

This year we conducted surveillances of a select number of independent experts. Independent expert reports provide an independent assessment of the value of an offer to help investors decide whether to accept an offer for their shares or to approve a transaction affecting control of their company. AFS licensees active in the provision of independent expert reports have heightened responsibilities as financial system gatekeepers.

We identified a number of significant concerns, such as system failings in key procedures, which raised concerns that the advice being provided to shareholders was not reliable and independent and that the firms were failing to satisfy their obligations as AFS licensees.

### 2017 AGM season report

We actively monitor AGMs of listed companies to identify emerging trends and corporate governance issues and observe the extent to which AGMs are used by companies as a forum to meaningfully engage with their shareholders. This is because shareholder engagement is a cornerstone of good corporate governance.

In January 2018, we published REP 564 *Annual general meeting season 2017*. This provided our overview of the AGM season for S&P/ASX 200 (ASX 200) listed companies in 2017, including our examination of the voting outcomes of resolutions considered at AGMs held by ASX 200 companies in 2017.

<sup>1</sup> Small proprietary companies will be charged through an increase to the annual review fee for proprietary companies in the Corporations (Review Fees) Regulations 2003.

## **Voluntary variation of the AFS licence of HLP Mann Judd Corporate Finance Pty Ltd**

As part of this surveillance program, we undertook a review of HLB Mann Judd Corporate Finance Pty Ltd. We were not satisfied that it had met its obligations as an AFS licensee or complied with RG 111 *Content of expert reports* and RG 112 *Independence of experts* in relation to the provision of independent expert reports.

In January 2018, we accepted a voluntary variation from HLB Mann Judd Corporate Finance of its AFS licence. The variation excluded the firm from providing advice as an independent expert. This means that it can no longer prepare or provide independent expert reports, opinions or valuations in connection with corporate transactions, including takeover bids, corporate schemes of arrangement and corporate restructures.

## **Takeover and control transactions**

This year, we continued to scrutinise takeover and control transactions to ensure they were structured fairly and that investors were provided with sufficient information to make properly informed decisions. We took action against companies and individuals that we found to be in breach of their obligations under the Corporations Act.

### **Takeover transactions**

In April 2018, we were involved in the filing of charges in takeover matters in the Brisbane Magistrates Court:

- › Charges against former chair of G8 Education Limited

Charges against Jennifer Hutson, the former director and chair of education provider G8 Education Limited, following our investigation of a takeover bid the company made in 2015 for Affinity Education Group Limited. The 30 charges were for breaches of directors' duties, attempting to pervert the course of justice, and providing or authorising the provision of false and misleading information in relation to the takeover bid.

- › Charges against Clive Palmer and Palmer Leisure Coolum Pty Ltd

Following our investigations of a proposed takeover of The President's Club Ltd (TPC), charges were filed against both Palmer Leisure Coolum Pty Ltd (Palmer Leisure Coolum) and Clive Palmer as director of the company. The charges relate to Palmer Leisure Coolum publicly proposing to make a takeover bid for securities in TPC but not making an offer for those securities within two months as required under section 631(1) of the Corporations Act. Mr Palmer is charged with aiding, abetting, counselling or procuring the company to commit that offence.

### **Control transactions and shareholder rights**

In monitoring control transactions, ASIC seeks to ensure fairness to all shareholders. A key area of our focus is rights issues and other fund raisings that may impact the control of an entity.

Where we have concerns about the control impact of a transaction, we often require changes to be made to deal structures to ensure shareholders have a meaningful say over whether the company should proceed with the transaction or are provided with a fairer opportunity to participate in the transaction. For example, this year we raised concerns with a listed entity that was proposing a large fundraising in several tranches, where only the final tranche was subject to shareholder approval.

We raised concerns with the entity that the underwriter of the fundraising could potentially acquire a majority interest in the company. In addition, by the time shareholders voted on the control of the entity, they would be left with little meaningful choice. This was because alternative arrangements were in place that had the practical effect of passing control if shareholders did not vote in favour of the transaction.

In response to ASIC raising concerns, the entity restructured its transaction to ensure no party would acquire control of the entity under the fundraising.

## Fundraising

ASIC continues to review fundraising documents to ensure that they are clear, concise and effective and provide investors with enough information to make a good investment decision.

ICOs and fundraising by unlisted development companies have both been key focuses of our work in 2017–18.

### Initial coin offerings

There is global interest in crypto-assets, including the use of ICOs by entities to raise funds. We have provided guidance to the market in INFO 225 *Initial coin offerings and crypto-currency*. On 19 April 2018, ASIC also received delegated powers from the ACCC that enabled ASIC to take action under the Australian Consumer Law for misleading or deceptive conduct in the marketing or selling of ICOs, even if the ICO does not involve a financial product.

In May 2018, we took action to protect investors where we identified fundamental concerns with the structure of an ICO, the status of the offeror and the lack of regulated disclosure. As we considered the tokens being offered were legally preference shares, the offer required prospectus disclosure and was being made by a proprietary limited company (proprietary limited companies are not permitted to make offers of securities requiring disclosure). The transaction was subsequently withdrawn.

### Fundraising by unlisted development companies

Throughout the year, we observed several small property developers seeking funding from the public through the issue of preference shares.

Given the potential appeal of the high rates of interest to retail investors and the risks associated with property development, we engaged extensively with issuers to ensure that relevant, important information about the value, costs and status of the development were included in the prospectus.

We also issued orders under section 294 of the Corporations Act directing related operating companies to produce and lodge financial accounts. This was to ensure transparency for investors when a project was under construction, which may not otherwise have been the case.

## Financial reporting and audit

### Financial reporting surveillance

We review reports of listed entities and other significant entities with the aim of improving the quality of financial reporting.

Audit firm inspections and auditor surveillances are key compliance tools used by ASIC to change the behaviour of registered company auditors and audit firms. We do so by contacting the relevant auditor where our reviews raise concerns that the entity inspected is non-compliant with the audit requirements of the Corporations Act, Australian auditing standards or professional and ethical standards.

Examples of entities responding to our concerns and changing their behaviour to remedy audit deficiencies are discussed below.

### Myer writes down intangible assets by \$515 million in its half-year financial report

ASIC raised concerns on the value of assets in Myer Limited's financial report for the full-year ended 29 July 2017. Our concerns included the reasonableness and supportability of the cash flow forecasts used in testing the assets for impairment.

After ASIC raised these concerns, on 21 March 2018 Myer announced its decision to write down the value of its goodwill and brand name intangible assets by \$515 million in its financial report for the half-year ended 27 January 2018. Myer has stated that this write-down in the value of its assets reflects its adoption of lower cash flow forecasts, as well as the deterioration in trading during the first half of the 2018 financial year.

The impairment of non-financial assets remains a focus in ASIC's surveillance of financial reports.

## Genworth Mortgage Insurance Australia Limited changes the recognition of premium revenue in its financial report

ASIC raised concerns about the basis used by Genworth Mortgage Insurance Australia Limited (Genworth) to recognise premium revenue in the financial reports for the year ended 31 December 2016 and the half-year ended 30 June 2017, having regard to the pattern of historical claims experience in earlier underwriting years.

After ASIC raised these concerns and engaged in discussions with Genworth about its premium earning pattern, on 15 December 2017 Genworth announced it would change the recognition of premium revenue in its financial report for the year ending 31 December 2017.

Genworth announced that the change would:

- › negatively impact net earned premium by approximately \$40 million
- › reduce the net earned premium for the fourth quarter of 2017 by approximately 17–19%, instead of the previous guidance of 10–15%
- › affect the recognition of revenue for the fourth quarter of 2017 as well as for subsequent reporting periods.

Revenue recognition remains a focus area of our financial reporting surveillances.

## Request to cancel registration as a registered company auditor

- › In November 2017, we accepted a request from Stephen James Bourke of PricewaterhouseCoopers to cancel his registration as a registered company auditor following his decision to retire as an auditor.
- › Mr Bourke was lead auditor for the audit of the financial report of Vocation Limited for the year ended 30 June 2014. ASIC found that Mr Bourke should have gathered further audit evidence post balance date and before signing the audit opinion concerning Vocation's dispute with the Victorian Department of Education and Early Childhood Development. In our view,

Mr Bourke should have obtained this further evidence in connection with the recognition and recoverability at year end of a material accrued revenue asset and consideration of any possible impact on goodwill.

## Promoting financial report quality

ASIC continues to highlight the areas we will focus on in our surveillance of financial reports by major reporting entities. These releases inform preparers of financial reports so that they can address key reporting matters before issuing their financial reports and ensure that the market is properly informed on a consistent and comparable basis.

In December 2017 and May 2018, we issued media releases outlining our focus areas for financial reports at 31 December 2017 and 30 June 2018.

In the May media release, we explained that we would be focusing on the introduction of major new accounting standards that will have the greatest impact on financial reporting for many companies since the adoption of International Financial Reporting Standards in 2005.

Full-year reports at 30 June 2018 must disclose the future impact of these new accounting standards. Half-year financial reports at 30 June 2018 must comply with the new requirements for revenue recognition and financial instrument valuation.

We also issue media releases on our findings from our reviews.

Auditors play a vital role underpinning investor trust and confidence in the quality of financial reports. **For more information on our surveillances of auditing firms, see Section 4.6.**

**For information on our international cooperation to improve financial reporting and audit quality, see Section 5.1.**

**For information on ASIC's use of breach reports from licensees and auditors to identify and respond to misconduct, see Section 5.7.**

# Registered liquidators

## Implementation of insolvency law reform

Following the introduction of the *Insolvency Law Reform Act 2016* in September 2017, we successfully implemented the second and final tranche of the reform, which focused on registered liquidators' conduct of external administrations.

The reforms aim to increase efficiency, reduce administration costs and promote market competition in personal and corporate insolvency in Australia.

To assist the implementation of this reform, we:

- › delivered updates to information technology (IT) systems, including our corporate register and the published notices website
- › updated regulatory guides, information sheets and forms, helping registered liquidators to comply with their new obligations under the Act following law reform.

We also worked closely with third-party software suppliers to ensure the industry was ready for the reforms.

## Applying ASIC's new powers under the Insolvency Law Reform Act 2016

### Registering liquidators

Following changes brought about by the *Insolvency Law Reform Act 2016* (Reform Act), decisions in relation to the registration of liquidators, variation of conditions of registration and disciplinary matters in relation to registered liquidators are determined by a committee convened by ASIC. Each committee must consist of ASIC as Chair, a registered liquidator chosen by the Australian Restructuring Insolvency and Turnaround Association and a person appointed by the Minister.

When ASIC receives an application for registration as a liquidator, it must refer that application to a committee to decide whether the applicant should be registered. ASIC must give effect to the committee's decision.

During the 2017–18 year, committees were convened to consider 16 applications for registration as a liquidator. Committees determined that four of those applicants ought to be registered without conditions, seven should be registered but conditions be imposed on that registration and the remaining five should not be registered. Of the five applicants who were unsuccessful in seeking registration, three have sought a review at the Administrative Appeals Tribunal (AAT). In the first such matter considered by the AAT, the decision was to register the applicant but apply strict conditions to that registration. The AAT is yet to consider the remaining two applications.

Committees were also convened to consider five applications to vary conditions previously imposed on registrations. The committee determined that in four of those matters the condition in place should be varied, and in the remaining matter the condition was removed.

### Directions to comply

Under the Reform Act, we were given a new power to provide a liquidator with a direction to remedy a failure to lodge documents and give information or documents that are otherwise required to be lodged with ASIC. We have successfully used this power on several occasions during the year either to resolve our concerns by achieving compliance or to advance our investigations.

### Show cause notices

Under the Reform Act, we received a power to issue a 'show cause' notice to a registered liquidator, which requires liquidators to give us a written explanation as to why the liquidator should continue to be registered, if we believe certain circumstances exist.

This year we used this new power on two occasions. One of these matters is ongoing. We referred the other matter to the disciplinary committee, which determined that the liquidator should continue to be registered subject to a condition that he undertake specified training.

## Automatic cancellation and appointment of another liquidator

Under the Reform Act, ASIC was conferred power under section 40-111 of Schedule 2 to appoint a replacement liquidator if a liquidator's registration is suspended or cancelled.

Under section 40-20(1), a liquidator's registration is automatically cancelled if a person becomes an insolvent under administration. On 8 June 2018, former registered liquidator Justin James Cadman was declared bankrupt. We used our powers to remove Mr Cadman from the Register of Liquidators on 13 June 2018. This cancellation caused vacancies in all of Mr Cadman's external administration appointments. On 19 June 2018, we used our new powers to appoint replacement liquidators to the 15 vacant external administrations previously administered by Mr Cadman.

## Cancellation of a liquidator's registration

On 19 April 2018, the AAT affirmed a decision to cancel the registration of Randall Joubert as a liquidator. This decision was made by the (former) Companies Auditors and Liquidators Disciplinary Board (CALDB) following an investigation and referral by ASIC. We appeared in the AAT and submitted evidence in support of the CALDB's concerns.

The AAT found that Mr Joubert's actions as a registered liquidator of several companies were deliberate and dishonest and that he was not a fit and proper person to be a registered liquidator.

The AAT further expressed concern that Mr Joubert had failed to notify ASIC of concerns about the companies so that we could consider whether to conduct investigations of possible breaches of the Corporations Act.

Mr Joubert did not appeal the AAT decision. Subsequently, we made an application to the Federal Court to fill the vacancies created by the AAT decision.

## Appearing in insolvency court proceedings

ASIC may intervene in any proceeding relating to a matter arising under the Corporations Act or we may seek leave to appear as 'friend of the court' in proceedings where we consider that the court would be assisted by hearing from ASIC. For example, during the year we appeared in the following matters.

### Channel 10 – independence of administrators

ASIC appeared as 'friend of the court' in the matter of Ten Network Holdings Ltd. The matter concerned apprehended bias arising from a significant pre-appointment engagement undertaken by the administrators for Channel 10, KordaMentha, which were paid more than \$1 million for their work.

The facts and circumstances of each appointment will determine if apprehended bias exists and the circumstances of this matter were quite unique. Importantly, disclosure does not cure apprehended bias and, in these circumstances, was remedied by the court appointing other independent liquidators to undertake specific tasks in the administration.

### Provident Capital Ltd – reasonableness of remuneration

In *Australian Executor Trustee Ltd v Provident Capital Ltd* [2018] FCA 439, the Federal Court reaffirmed key principles about the review of the reasonableness of remuneration claimed by registered liquidators.

The court invited ASIC to assist in the review and provide a written submission. The court acknowledged the complexity of the administration and that the receivers had undertaken a great deal of work diligently, professionally and competently.

The decision provided guidance about the engagement of external consultants and whether they should be engaged as employees or consultants of the company under administration rather than consultants to the receiver's firm. The court found that the amount claimed in remuneration for a consultant was not reasonable because the consultant's cost to the administration included a margin to recover the overheads of the receiver's firm, incidental to engaging the consultant.

The court made a deduction of \$220,000 from total remuneration claimed in the receivership, representing approximately 63% of the margin amount, totalling \$347,824.50, added by the receivers to the fees charged by the consultant.

### **Report on our public notice website and lodgement project**

On 13 June 2018, we published a report outlining the results of our industry-wide project, conducted over a three-year period to June 2017, to review how registered liquidators complied with their obligations to lodge forms with ASIC and publish notices on ASIC's published notices website.

Lodging forms and publishing notices is an integral part of informing creditors and other external stakeholders about key information and events in the conduct of an insolvency administration, including reporting what money they receive and how it is used.

The project identified that registered liquidators are mostly complying with their lodgement and publication obligations, although 70% of registered liquidators were identified as having minor non-compliance issues. We reviewed around 26,000 external administrations and found that only 3.3% of required forms were not lodged and 7% of the required notices were not published.

Key outcomes achieved by the project included guidance to registered liquidators to help them improve their practice management and efficiency regarding compliance with lodgement and publication requirements.

### **Targeting illegal phoenix activity**

The Government announced law reforms to address illegal phoenix activity, building on, among other things, the work of the Phoenix Taskforce, of which we are a member.

We also launched a new webpage to better educate the public on illegal phoenix activity and undertook market engagement in this space through numerous presentations, panel discussions and meetings. *For more information on our work on illegal phoenix activity, see Sections 4.6 and 5.6.*

### **ASIC's enforcement action against illegal phoenix activity**

In April 2018, ASIC's investigations resulted in the conviction of a former Noodle Box franchisee for engaging in illegal phoenix activity. ASIC alleged that the franchisee transferred company assets and business to another company without the company receiving payment for those assets. The court sentenced the franchisee to two months imprisonment with an automatic disqualification from managing corporations for five years.

# 5

## ASIC cooperation

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# ASIC cooperation

In order to further ASIC's work in the financial sector for the benefit of all Australians, we place emphasis on efficient cooperation with peer agencies and the public, including:

- › Our work with our international counterparts ensures that we are on top of international developments and provides us with the opportunity to influence global regulatory policy.
- › Our Innovation Hub assists innovative Australian businesses to comply with regulatory requirements and provides a platform for international engagement on financial technology (fintech) and regulatory technology (regtech) ideas.
- › Our data strategy supports our alignment with whole-of-government initiatives, including the Public Data Policy and the Digital Continuity Policy 2020.
- › Our Office of Small Business assists, engages with, and helps protect small business in Australia.
- › Our Office of the Whistleblower acts as a central coordination point within ASIC for ensuring that we record and action reports from whistleblowers.
- › Our Criminal Intelligence Unit assists us to identify, understand and counter serious and organised crime.
- › We participate in the Government's Phoenix Taskforce, Serious Financial Crime Taskforce and Black Economy Taskforce to address misconduct, including illegal phoenix activity.
- › The intelligence that we receive from the public as reports of misconduct, and from industry as breach notifications, is critical in informing our regulatory work.

## 5.1 Cooperation – regional and international engagement

ASIC engages closely with peer regulatory authorities and international organisations to develop international regulatory policy. This engagement is crucial to ensuring that ASIC remains a world-leading regulator and can positively influence the operation and regulation of global financial markets.

In 2017–18, we contributed to international policy development in a variety of areas. We had a particular focus on advocating for global regulatory coordination and harmonisation in the areas of fintech and regtech. We also advocated for deeper levels of regional integration through initiatives such as the Asia Region Funds Passport (ARFP).

We are also involved in international policy in trade and investment. We provided advice and support to the Department of Foreign Affairs and Trade (DFAT) regarding the financial services aspects of free trade agreements.

Importantly, we continue to offer our technical expertise to regulatory authorities in emerging markets. This critical work seeks to assist these regulators in building their capability to regulate effectively.

Our principal international engagement is through the International Organization of Securities Commissions (IOSCO). ASIC is a member of the IOSCO Board and has representatives on its policy committees and taskforces.

We also participate extensively in other global policy forums relevant to areas within our jurisdiction, including insurance, accounting standards and supervision, consumer protection, cyber risk, data, and financial markets, particularly derivatives markets.

Some of the forums we participated in during 2017–18 included:

- › the International Association of Insurance Supervisors (IAIS) (we currently chair IAIS's Market Conduct Working Group)
- › the International Forum of Independent Audit Regulators (IFIAR) and the International Accounting Standards Board (ASIC is a board member of IFIAR)
- › the International Financial Consumer Protection Organisation (IFCPO) (ASIC is a member of the IFCPO's Governing Council)
- › the Financial Consumer Protection Taskforce (established by the Organisation for Economic Co-operation and Development (OECD))
- › the working group established by the World Economic Forum on consumer data protection.

Consistent with the global nature of the markets that ASIC regulates, we are also actively engaged with international policy-setting and standard-setting forums. In some instances, we engaged in the forums mentioned above, such as IOSCO and the IAIS, with the clear objective of improving global regulatory standards. In other cases, we have sought to establish information-sharing networks, such as IOSCO's Data Analytics Group, on novel or complex topics.

## International Forum of Independent Audit Regulators

This year, through IFIAR and together with eight other regulators, we met with the six largest firm networks worldwide on initiatives to improve audit quality. We also work with other IFIAR members on measures such as improved information sharing, improved auditing and ethical standards, and information sharing on enforcement approaches. We chaired the International Co-operation Working Group up to April 2018 and led work on the mobility of auditors across borders and the use of supervisory colleges by regulators.

## Asia-Pacific cooperation

### Asia Region Funds Passport

In 2017–18, in close cooperation with Treasury, we continued to support the implementation of the ARFP legislation and regulations. The ARFP is intended to support the development of an Asia-wide funds management industry through improved market access and regulatory harmonisation. Participating economies include Australia, Japan, the Republic of Korea, New Zealand and Thailand.

We are also working with Treasury to support the development of legislation to implement the proposed regime for corporate collective investment vehicles (CCIVs). The regime is intended to support Australia's fund management industry in making offers of investments in the Asia region. We are developing guidance for each of these initiatives.

ASIC represents Australia on, and is the current Chair of, the Joint Committee, which is the governing body of the ARFP and is responsible for its implementation.

### ARFP Pilot Program

The ARFP Pilot Program launched in 2018, with the objectives of:

- › testing regulator processes and systems needed for the ARFP
- › identifying areas that may require further development of the Passport Rules before the ARFP goes live
- › identifying any remaining barriers to offering interests in the passport fund in another participating economy.

Australian fund managers are testing the ARFP application process with ASIC. We worked with the fund managers and their advisers to help them to understand how to apply using ASIC's Regulatory Portal and how ASIC would assess their applications. We are also providing feedback on the quality of their applications to help them with future applications.

## **Asia-Pacific Regional Supervisory Colleges**

In March 2018, ASIC co-hosted the third annual Asia-Pacific Regional Supervisory College in Sydney with the Securities and Futures Commission of Hong Kong.

Eleven regulators were represented at the college, which reviewed two firms with significant regional footprints. Compliance, conduct and culture, cyber risk strategies and geopolitical risks consistently emerged as areas of supervisory focus. We have participated in the three Asia-Pacific Regional Supervisory Colleges held since 2016, two of which were hosted by us. We regard these as important components of our regulatory toolkit for supervisory cooperation across borders. We continue to participate actively in these colleges and other global supervisory colleges.

## **IOSCO Asia-Pacific Regional Committee**

ASIC has sought to create closer regional ties through international forums. In 2017–18, we focused on strengthening IOSCO's Asia-Pacific Regional Committee (APRC).

Through the APRC, IOSCO members within our region can speak with a unified voice. This has been an important element of ASIC's regulatory strategy, given the implementation of significant regulatory changes with extraterritorial effect from other parts of the world.

ASIC has encouraged APRC members to raise emerging concerns in their domestic jurisdictions at the regional level through the APRC.

## **Fintech**

Technology is rapidly reshaping financial services around the world. This highlights the value to Australian consumers and industry of ASIC engaging internationally in this area. For example, ASIC continues to engage with peer regulators and international organisations on the issue of cryptocurrencies and ICOs. Shared international perspectives have informed ASIC's own regulatory response.

ASIC presented on numerous occasions at fintech conferences and forums organised by international institutions, such as the International Monetary Fund (IMF), World Bank and OECD.

## **Capacity building**

Capacity building in overseas markets offers ASIC a unique perspective on how financial markets are changing in emerging economies and the regulatory challenges that this poses. It also allows us to share our expertise with some of our key global partners.

## **Capacity building in Indonesia**

ASIC assists the Indonesian Financial Services Authority, OJK, in a wide range of capacity-building initiatives. The objective of this program is to strengthen OJK's capacity to develop and implement global standards and practices; build a culture of responsive, skill-based surveillance and risk-focused supervision; and respond to emerging regulatory issues.

In 2017–18, our assistance focused on regulating the activities of investment banks, enforcement approaches to financial reporting fraud, professional standards and regulation of financial advisers.

## **Capacity building through APEC Financial Regulators Training Initiative**

ASIC contributes to the Asia-Pacific Economic Cooperation (APEC) Financial Regulators Training Initiative (FRTI) by providing speakers at training seminars in the region. ASIC is in its second year of chairing the FRTI advisory group of securities regulators.

## International assessments

### IOSCO assessment committee

In 2017–18, as part of an IOSCO Standards Implementation Monitoring Review Committee, we reviewed self-assessments from a range of jurisdictions on their compliance with the IOSCO Principles relating to secondary markets.

This process of peer review provides important assistance for regulatory authorities that are seeking to update their standards in accordance with global best practice.

### Financial Sector Assessment Program

In 2018, Australia underwent a Financial Sector Assessment Program (FSAP) review conducted by the IMF. The FSAP provides a comprehensive analysis of a country's financial sector and regulatory frameworks.

ASIC, working under the auspices of the CFR, contributed to Australia's FSAP response effort. This cross-agency CFR working group comprised members from the Australian Treasury, APRA, the RBA and ASIC.

The 2018 FSAP is focused closely on Australia's implementation of the Core Principles for Effective Banking Supervision, the Insurance Core Principles and Australia's financial market infrastructure.

## Multilateral cooperation

In 2018, we became one of the first signatories to IOSCO's Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (EMMoU). The EMMoU is built upon the current MMoU (signed in 2002). It provides additional tools to facilitate greater cross-border enforcement cooperation and assistance among securities regulators, enabling them to respond to the risks and challenges posed by globalisation and advances in technology since 2002.

## International cooperation requests

In 2017–18, we made 393 international cooperation requests and received 495 requests on activities such as supervision, surveillance, intelligence, enforcement, policy and benchmarking licensing and capacity building.

This included 145 requests to ASIC for assistance in enforcement matters, including 22 requests seeking ASIC's assistance to compel material from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

## Bilateral cooperation

In 2017–18, ASIC hosted 29 international delegations from 18 jurisdictions. The delegations included authorities from Mongolia, Malaysia, Abu Dhabi, Korea, Japan, Hong Kong, the United Kingdom and the United States.

A number of these visits built on strong and existing relationships. For example, there were meetings with the US Securities and Exchange Commission, the New Zealand Financial Markets Authority and the UK Financial Conduct Authority to discuss strategic issues such as innovation and markets regulation. Others resulted in new bilateral cooperation agreements such as the signing of a fintech agreement with the Abu Dhabi Global Market Financial Services Regulatory Authority.

Topics discussed across other meetings included regulatory responses to fintech, data analytics and applications in regulatory supervision and enforcement contexts, corporate governance, market conduct issues and financial stability issues, and approaches to enhancing cross-border supervision and cooperation.

## 5.2 Innovation Hub

ASIC is committed to promoting the strong and innovative development of the financial system. Our Innovation Hub provides the opportunity for innovative start-up businesses to understand how regulation might affect them without compromising regulatory objectives, including consumer protection. It also helps us to monitor and understand developments.

We also drive some of our major projects, including our regulatory sandbox framework and our regtech initiatives, through the Innovation Hub.

The most common business models we saw were crowd-sourced equity funding, payments and remittance, markets in financial products and combined business models (hybrids of two or more other categories). This work remains central to the Innovation Hub.

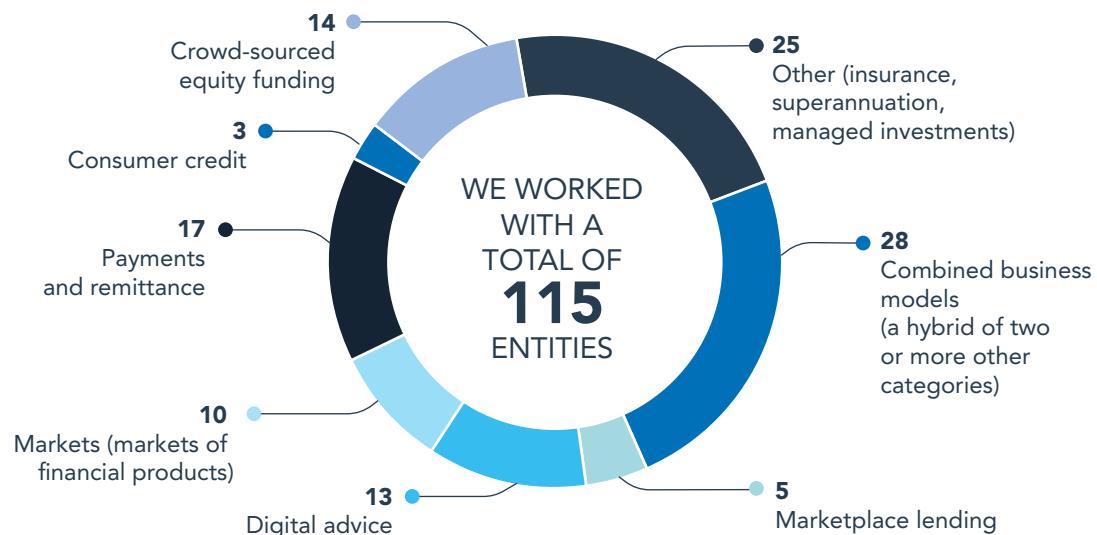
During 2017–18, in relation to Innovation Hub matters, we granted 16 new AFS licences or credit licences and varied one. New fintech businesses that have engaged with the Innovation Hub before submitting their licence application generally receive approval faster than those that have not done so.

In 2017–18, we presented at 19 events for the financial services start-up community on topics including:

- › ICOs and cryptocurrencies
- › licensing innovative business models
- › ASIC's approach to regtech and fintech.

### Informal assistance and guidance

In 2017–18, the Innovation Hub provided informal assistance to 105 start-up firms to help them to consider regulatory issues early and, where relevant, prepare licence or relief applications.



## Communication

In 2017–18, there were 18,700 visits to the Innovation Hub webpages. Most queries related to the regulatory sandbox. There were also 48,600 visits to the ICOs page in 2017–18.

In 2017–18, ASIC issued a number of publications for innovative businesses on a range of topics, including ICOs; crowd-sourced funding; and the Innovation Hub and our approach to regulatory technology. *For more information on our published policy advice, see Section 3.3.*

## Coordination and cooperation

ASIC continues to coordinate a network with the Treasury and other domestic regulators and agencies, including the RBA, APRA, AUSTRAC, DFAT, the ATO, the ACCC, the OAIC and Austrade, to discuss innovation in financial services and markets, and the opportunities, developments and emerging risks for start-up fintech and regtech businesses.

## Regulatory sandbox framework

The regulatory sandbox, which allows innovative start-up businesses to develop and test their ideas, includes a tailored, individual licensing exemption to facilitate product or service testing.

In 2017–18, six entities made use of ASIC’s fintech licensing exemption. Two of those entities have since been licensed by ASIC.

## Regtech and fintech

Regtech has enormous potential to help organisations build a culture of compliance, identify learning opportunities and save time and money on regulatory matters.

In 2017–18, we met with 17 regtech stakeholders and solution providers to discuss developments and provide informal assistance to them.

In February, we released a set of trials to understand and encourage the application of natural language processing tools in resolving regulatory problems. These trials explored potential efficiencies in supervision, including through automation and prediction, and presented a learning opportunity for ASIC.

In 2017–18, we played an active role in supporting regtech in Australia by facilitating collaboration and sharing information through hosting a showcase event, establishing a Regtech Liaison Forum and conducting regtech trials.

### Hosting a problem-solving event – ASIC’s Regtech Showcase and Regtech Liaison Forum

This year, our Regtech Showcase attracted developers, financial institutions, law and professional service firms and other regulators.

We focused on two key regtech topics:

- › the future of regulatory reporting – the use of new technologies to provide for more efficient and effective provision and access to regulatory information
- › understanding and meeting regulatory obligations – how software and algorithms can help firms to understand and meet their regulatory obligations more efficiently and effectively.

Regtech developers were also provided with an opportunity to present on solutions that they have already developed.

## International engagement

In 2017–18, we continued to meet with our international regulatory counterparts to discuss developments and policy proposals concerning fintech (such as advanced data analytics, artificial intelligence and machine learning) and continued to engage with IOSCO, the IMF, the World Economic Forum and the Financial Stability Board to contribute to the global discourse on fintech and regtech.

In 2017–18, we expanded our existing network of bilateral fintech cooperation agreements to include the Abu Dhabi Global Market Financial

Services Regulatory Authority, the Swiss Financial Markets Authority, the China Securities Regulatory Commission, the Dubai Financial Services Authority and participating Canadian provincial securities regulators.

We also reaffirmed our commitment to collaborate and cooperate with the New Zealand Financial Markets Authority on the expanding opportunities in fintech and innovation, and signed an enhanced fintech cooperation agreement with the United Kingdom's Financial Conduct Authority.

## 5.3 Data strategy

We launched ASIC's Data Strategy 2017–2020 on 19 September 2017. Our Data Strategy describes our objectives and our approach to improving how we capture, share and use data.

Ensuring we have good-quality, well-governed data is fundamental to our activities related to:

- › monitoring behaviour and outcomes
- › registration and licensing
- › regulated entity reporting and regulatory activities
- › data sharing with partner regulators and other third parties.

This strategy supports ASIC's alignment with whole-of-government initiatives, including the Public Data Policy and the Digital Continuity Policy 2020. We will review our progress against our strategy and publish an update annually.

Since we published ASIC's Data Strategy, we have met with a range of government agencies and financial institutions to discuss our strategy and our approach to data governance, data management and analytics. These have included the Hong Kong Securities and Futures Commission, the ACCC, APRA, the RBA, the Australian Bureau of Statistics (ABS), the Department of Education and Training, the Clean Energy Regulator and the Department of Human Services.



ASIC's Chief Data Officer, John Wallace (second from right), participating in a panel discussion at the ATO Technical Conference with representatives from the CDPP, Department of Industry, Innovation and Science and ATO.

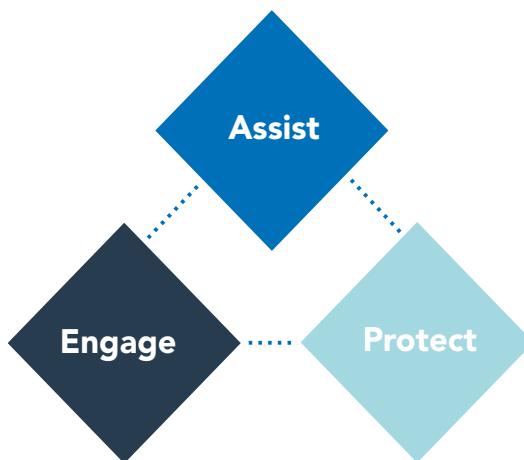
## 5.4 Office of Small Business

ASIC's Office of Small Business launched our Small Business Strategy 2017–2020 in August 2017. This strategy has enabled us to better focus and coordinate ASIC's efforts and initiatives to help small business.

ASIC's REP 571 *ASIC and small business*, published in April 2018, explains ASIC's Small Business Strategy and the ways in which we assist, engage with and help to protect (as consumers) small business in Australia.

We do this by:

- › assisting small business through our registry services and providing information and guidance
- › engaging with small business and government bodies, so that we can understand and respond to the challenges and opportunities faced by small business
- › helping to protect small business. We are working to level the playing field for small business through surveillance, enforcement and policy work so that everyone is playing by the same rules.



**Assist:** The Small Business Hub on our website draws together useful information for people starting, operating or closing a small business. It includes ASIC publications relevant to small business as well as guides, webinars and links to other government agency websites.

**Engage:** ASIC teams attended approximately 150 forums, exhibitions and meetings related to small business across Australia. We maximise our impact in the small business community by working with key stakeholders, such as the ACCC, the ATO, the Fair Work Ombudsman, the Australian Small Business and Family Enterprise Ombudsman and state small business commissioners, to present to CPA Australia members. The roadshow, entitled 'Navigating the maze of regulation', was well attended by more than 600 accountants. The roadshow recognised the important role that accountants play in supporting small business and enabled CPA members to have access to representatives of all the partnering agencies.

At Government Business Network events and small business festivals, we provided information about ASIC's registry work to people considering starting a small business.

**Protect:** In March 2018, ASIC released a report setting out the details of the changes made by the big four banks to remove unfair terms from their small business loan contracts of up to \$1 million. The report, REP 565 *Unfair contract terms and small business loans*, provides guidance to bank and non-bank lenders about compliance with the unfair contract terms laws as they relate to small business. The report follows the announcement in August 2017 that the big four banks had committed to improving the terms of their small business loans following work with ASIC and the Australian Small Business and Family Enterprise Ombudsman.

## 5.5 Office of the Whistleblower

We value the information we receive from whistleblowers. ASIC's Office of the Whistleblower is a central point within ASIC for ensuring that we record and action whistleblower matters appropriately.

We assess all information we receive; however, not every matter brought to our attention requires regulatory action. We will consider any breaches that have been disclosed and provide information on statutory protections that may be available to the whistleblower.

In 2017–18, we dealt with 228 disclosures by whistleblowers. Around 63% of these related to corporations and corporate governance (including internal company disputes). We also dealt with matters related to credit and financial services and the conduct of licensees (26%), markets (8%) and other issues (3%).

Following preliminary inquiries, approximately 5% of matters were referred for compliance, surveillance or investigation, including to assist ongoing activities.

Around 95% of disclosures were assessed as requiring no further action by ASIC, 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.

In 2017–18, we also continued to support the Government's work to reform Australia's corporate whistleblowing regime. **For more information on whistleblower reforms, see Section 1.5.**

## 5.6 Serious financial crime

### Countering crime – ASIC's Criminal Intelligence Unit

ASIC's Criminal Intelligence Unit (CIU) supports ASIC to identify, understand and counter serious and organised crime. The unit was formed to strengthen ASIC's connections and support joint work with Australian law enforcement and regulatory agencies on serious and organised crime.

Serious financial crime affects all Australians. The threats are real and increasing in complexity and harm. The CIU undertakes intelligence assessments to understand these threats and led ASIC's contribution to the Australian Criminal Intelligence Commission report *Serious financial crime in Australia 2017*, which provides an insight to the national threat picture (available on [www.acic.gov.au](http://www.acic.gov.au)).

### Game changers – regulatory transformation and analytics

ASIC's Regulatory Transformation program and data analytics will be game changers in ASIC's ability to detect serious and organised crime. The consolidation of ASIC's data holdings and significant enhancements in ASIC's analytics capabilities are providing ASIC with a platform to better understand and counter the evolving threats of serious and organised crime.

## Serious Financial Crime Taskforce

ASIC participates in the Serious Financial Crime Taskforce (SFCT) – a multi-agency effort targeting offences related to serious fraud, money laundering and defrauding the Commonwealth. The taskforce's priorities for 2017–18 included crimes related to international tax evasion, illegal/phoenix activity, trusts and superannuation. The CIU supports our work with the SFCT.

In supporting the SFCT, we undertook a sophisticated analysis of key datasets to detect and understand potentially serious and organised crimes. We continue to refine and apply our approach to managing incoming data from partner agencies.

## The Phoenix Taskforce

ASIC continued its collaboration with the Phoenix Taskforce – a taskforce the Government established in 2014.

Illegal phoenix activity involves creating a new company to continue the business of an existing company which a director deliberately liquidates to avoid paying taxes, creditors and employee entitlements. Directors who engage in illegal phoenix activity intentionally and dishonestly

deny unsecured creditors (e.g. employees, subcontractors and suppliers) fair access to their entitlement to the company's assets.

ASIC's collaboration with other regulators through the Phoenix Taskforce and SFCT aims to minimise this harm. The CIU assists the whole-of-ASIC approach, including through analysis of professional facilitators and providing intelligence assistance to support enforcement outcomes. That approach led to enforcement action and referral of matters to the SFCT.

Collaboration continued in 2017–18 on recommendations to the Government and the Government's subsequent consultation on law reform to address illegal phoenix activity. The Government announced law reforms in the area, including in the 2018–19 Budget.

ASIC launched a new webpage to better educate the public on illegal phoenix activity and highlight the whole-of-government approach to combatting this issue.

We undertook market engagement through numerous presentations, panel discussions and meetings with a wide variety of stakeholders, including fellow regulators, insolvency practitioners, professional bodies, small business and industry groups.

ASIC will continue its focus on countering illegal phoenix activity.

## 5.7 Misconduct reporting

### Misconduct reports from the public

ASIC encourages members of the public to report concerns about corporate and financial services to us. We use this information to direct our regulatory activities to identify and address harms to investors and consumers. The intelligence we receive from the public is critical in supporting our work.

Our 27 information sheets, which explain our role in relation to the most frequently reported concerns, were read online more than

130,000 times in 2017–18. Our 14 YouTube video clips, which serve a similar purpose, were also viewed more than 7,000 times in 2017–18.

In 2017–18, we dealt with 9,567 reports of alleged misconduct – 6% more than in 2016–17. The increase in reports occurred in the second half of the year, largely as a result of increased awareness flowing from the Royal Commission. This has halted the trend of decreases in reports of misconduct that has been evident since the peak in 2010–11 (15,634 reports).

## Breach reports from licensees and auditors

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

The Corporations Act requires AFS licensees to tell us in writing, within 10 business days, about any significant breach (or likely breach) of their obligations. Failure to report a significant breach is an offence and may result in penalties.

We also receive breach reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by the company, managed investment scheme or AFS licensee they are appointed to audit.

In 2017–18, we dealt with:

- › 491 auditor breach reports – 4% fewer than in 2016–17
- › 1,394 breach reports about managed investment schemes and AFS licensees – a 16% increase from 2016–17.

## Suspicious activity reporting

Suspicious activity reporting obligations are a key component of ASIC working together with our regulated population to promote market integrity and keep our markets clean.

Under ASIC Market Integrity Rule 5.11.1, a market participant must notify ASIC if it has reasonable grounds to suspect that a person has placed an order or entered into a transaction:

- › while in possession of inside information; or
- › which has the effect of creating or maintaining an artificial price or a false and misleading appearance in the market or price for trading in financial products.

Suspicious activity reports (SARs) provide ASIC with valuable market intelligence to supplement our existing market surveillance activities. Market participants are best placed to know their clients' trading behaviour and identify activity which may be indicative of market misconduct and trigger reporting obligations to ASIC. Importantly, ASIC does not expect market participants to investigate reportable matters,

rather, that upon identification, these matters are reported to ASIC without undue delay, as approximately 15% of all SARs result in formal enforcement investigations or other regulatory outcomes following action by relevant ASIC stakeholder teams.

In the financial year 2017–18, ASIC received a total of 124 SARs – this is the highest figure since reporting obligations commenced in 2013. ASIC values the reporting made by market participants and continues to encourage our regulated population to closely monitor market activity and report SARs accordingly.

## Statutory reports from liquidators, administrators and receivers

When we request a supplementary report from a liquidator, we can use the supplementary report to determine whether to start a formal investigation.

We received 6,840 initial reports from external administrators related to suspected offences by company officers (including liquidators reporting if the return to unsecured creditors may be less than 50 cents in the dollar).

We assessed 931 supplementary reports related to alleged misconduct. These supplementary reports typically set out the results of the external administrator's inquiries and the evidence they believe supports the alleged offences. We referred 13% of these for compliance, investigation or surveillance, compared with 18% in 2016–17.

More than 25% of the cases we identified as 'analysed and assessed for no further action' resulted from ASIC having insufficient evidence to warrant commencing a formal investigation and being unlikely to obtain further evidence. In another 20% of assessed cases, we requested a further report from the external administrator. All 'no further action' cases are retained for intelligence purposes for possible future use.



# 6

## ASIC's people

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# ASIC's people

Our People Strategy focuses on ensuring that we recruit and retain exceptional staff with the relevant skills, experience and capabilities that our organisation needs now and into the future.

## 6.1 Workforce planning

### Recruitment

As part of our workforce planning activities, we continue to leverage the core set of capabilities needed to position ASIC for the future and to meet our objectives as Australia's financial conduct regulator. We seek to recruit individuals from a variety of disciplines, including law, finance, economics, statistics and analytics, business and accounting, mathematics, arts and social science, and information technology and computer science.

### Graduate Program

ASIC has a well-established national 18-month Graduate Program. We aim to develop graduates through a balance of on-the-job training, structured development programs and rotations through different departments. During the program, graduates receive significant professional development in business and interpersonal skills, including stakeholder management, communication and presenting.

Graduates go through a multi-staged recruitment process to ensure a broad mix of quality candidates. In 2018, we introduced a new process of video interviewing to improve the assessment and selection of graduates from across Australia. In 2017–18, we had over 2,000 applications.



ASIC's Graduate Program attracts talented graduates from a range of relevant disciplines. Shown here is the 2018 graduate group, during their induction program in January 2018.

## Testimonials from recent ASIC graduates

Graduate 2017 –  
Nathan Miller

'Being an ASIC graduate has provided me with the chance to learn different skills and utilise them while operating in diverse teams throughout the program. From day one, you're part of the team, given real work and able to see real outcomes.'

I love the variety of work that ASIC offers. I've had the opportunity to work as part of a team reviewing a corporate merger worth millions of dollars, provide assistance to members of the public and participate in projects that have real impact on the lives of all Australians.'



Graduate and Indigenous Cadet 2018 – Katie Jones

'In 2012, I began an Indigenous Cadetship with ASIC while completing a Business/Law degree. As a cadet, I completed multiple rotations across the organisation where I gained a clearer understanding of how the law is applied. I've been involved in regulatory work, enforcing the law, as well as educating and ensuring compliance. When I first started university, I was completing a business degree. After two years of involvement in ASIC's various legal work, I realised I also wanted a career in law. ASIC gave me the support and flexibility necessary to complete both degrees while allowing me to gain valuable hands-on experience.'



I am currently a graduate in the ASIC 2018 Graduate Program, having completed my first rotation in Misconduct & Breach Reporting, and currently working in Financial Capability.'

## Learning

ASIC team members participated in more than 15,000 learning activities covering regulatory practice, data analysis, legal, enforcement, and accounting and auditing professional and technical learning. Our focus continues to be on developing our future capabilities in data analytics, emerging technologies and stakeholder engagement skills.

Our professional networks, 'Communities of Practice' and 'Team Learning Champions', continue to drive capability development, including on-the-job learning and information sharing across the organisation.



ASIC offers a wide range of learning and professional development activities, including a number of 'Communities of Practice' to enhance on-the-job learning and information sharing

**Table 6.1.1 Learning initiatives**

Category	Number of initiatives	Number of completions
Compliance	15	9,553
Professional and technical	184	4,246
Leadership	2	56
Behavioural	16	494
Business	49	849
<b>Total 2017–18</b>	<b>266</b>	<b>15,198</b>
<b>Total 2016–17</b>	<b>260</b>	<b>19,205</b>

## Learnhub

In September 2017, we launched our new learning management system, Learnhub. The system provides our team members with access to online just-in-time and face-to-face learning activities. Learnhub is flexible and on-demand, and it helps team members to manage their own professional development, making learning part of their work.

Using Learnhub, we are implementing individual capability assessments and plans across the organisation. The capability plans enable team members and managers to discuss and identify capability areas and areas for development, based on an individual's current role and future career aspirations at ASIC and beyond.

## Working at ASIC

The 2017 Australian Public Service Employee Census was conducted in May and June 2018, with 77% of staff taking part. The results showed employees are engaged and committed to the work we do: 87% of those who participated strongly believe in ASIC's purpose and objectives and 86% consider themselves committed to ASIC's goals. This is 10% higher than the APS average.

ASIC's commitment to creating a diverse workforce was also evident through the survey results, with 87% of us responding positively compared to the APS average of 77%. ASIC scored above the APS average across all three indices.

The ASIC Enterprise Agreement 2016–19 is ongoing. The final 2% per annum salary increase of this agreement was delivered in May 2018.

*For more information on employment data, see Appendix 8.1.3–8.1.8.*

## Staff benefits

We continued to provide professional development and other benefits for staff in 2017–18, such as:

- › up to 15.4% superannuation contribution
- › annual performance bonus paid to ASIC 4 and executive level employees (*for ASIC's 2017–18 performance payments, see Table 8.1.8*)
- › reward and recognition programs, including individual and team awards
- › payment of relevant professional association membership
- › study assistance program with employees supported in their studies across a range of disciplines, including IT and data analytics, leadership, applied finance and law
- › flexible working arrangements.

## Mentoring

ASIC team members have the opportunity to participate in a range of mentoring programs. In 2017–18, these included:

- › **ASIC's Mentoring Program:** This develops the capability of team members in areas such as regulatory professionalism, learning agility, technological adeptness, communication skills, business and leadership skills.
- › **Women in Banking and Finance:** This is an externally led mentoring program for senior female team members. The program assists talented women to develop their readiness for senior leadership.
- › **Women in Law Enforcement Strategy:** This is designed to encourage women to pursue careers and senior positions in Australian law enforcement and regulatory agencies, sponsored by Heads of Commonwealth Operational Law Enforcement Agencies.

## Senior Manager and 20-year milestone recipient – Christine Galea



'Reaching my 20-year milestone of service was a surprise to me, as I feel like my time in ASIC has flown by. I've been lucky enough to have had the opportunity to work in over 10 different and interesting roles across many teams, and I know that this is only made possible by the breadth of ASIC's responsibility and the culture of supporting the development of our staff. I am grateful for the support that ASIC has provided for me to undertake postgraduate studies. Working alongside people with different skills and experience continues to give me an opportunity to grow further in my career.'

## Flexible working at ASIC

We recognise that individual needs vary depending on a person's stage in their life or personal circumstances.

In 2017–18, we launched our new Working Flexibly Guide as part of our commitment to ensuring our team members have the opportunity to use flexible working arrangements. The 2017 Australian Public Service Employee Census results for ASIC reported that 84% of employees believe that their supervisor actively supports the use of flexible work arrangements by all staff, regardless of gender.

## Example of ASIC's flexible working arrangements

Conrad Gray is Special Counsel for Civil Litigation in ASIC's Chief Legal Office. He has been working part-time at ASIC for over 15 years as he shares caring responsibilities for his children. On the benefits of working flexibly, Conrad says:



'Working flexibly has allowed me to have more of a connection with my kids' day-to-day lives ... Being able to help out in class and around the school, and to get to know my kids' teachers a little better, has been very positive for both me and the kids. I did struggle to fit in with the P&C meetings, but I found my niche putting books away in the school library on a

Thursday morning. It is not for everyone, but being able to spend more time with the kids (both the good stuff, and the difficult) is an experience I would not swap for anything.'

## Work health and safety

We continued our focus on staff wellbeing and early intervention as key pillars of our work health and safety program. This, coupled with proactive in-house case management, ensured that the rate of accepted claims has remained low.

We continued to strengthen our work health and safety system with the appointment of new Health and Safety Representatives, First Aid Officers and Harassment Contact Officers.

## 6.2 Diversity and inclusion at ASIC

We are committed to an inclusive and diverse workplace where all our staff, our stakeholders and our communities are treated with fairness and respect.

### Diversity Council

ASIC's Diversity Council provides leadership on all of ASIC's inclusion and diversity activities. Our Inclusion and Diversity Strategy was launched in March 2018 and sets out our key priorities.

The launch of this strategy raised awareness and supported improvements in our diversity and inclusion outcomes.

In 2017–18, we improved our performance against key inclusion and gender targets, placed a greater emphasis on embedding diversity of thought in the way we make decisions in our training modules, and continued to provide a full range of flexible benefits and services to staff, including promotion of flexible working to all team members.

This year, we also focused on creating greater awareness of our inclusion and diversity initiatives in the external market – for example, by joining the Australian Network on Disability and participating in Pride in Diversity's Australian Workplace Equality Index. These outcomes are highlighted further in the following section.

## Women in ASIC

A significant part of our inclusion and diversity strategy is supporting women in leadership and senior positions.

In 2017–18, we met our voluntary 50% calendar-year targets for women in leadership roles at the Executive Level 1 and for the first year met our Executive Level 2 target. Our financial year result at the Senior Executive Service (SES) level has improved significantly, with 45% of women in leadership roles. These are our best results since the targets were established in 2013.

We support the development of women in senior roles through participation in the Women in Law Enforcement Strategy and Women in Banking and Finance mentoring programs. Importantly, 149 team members across all levels are participating in ASIC's broader Mentoring Program.

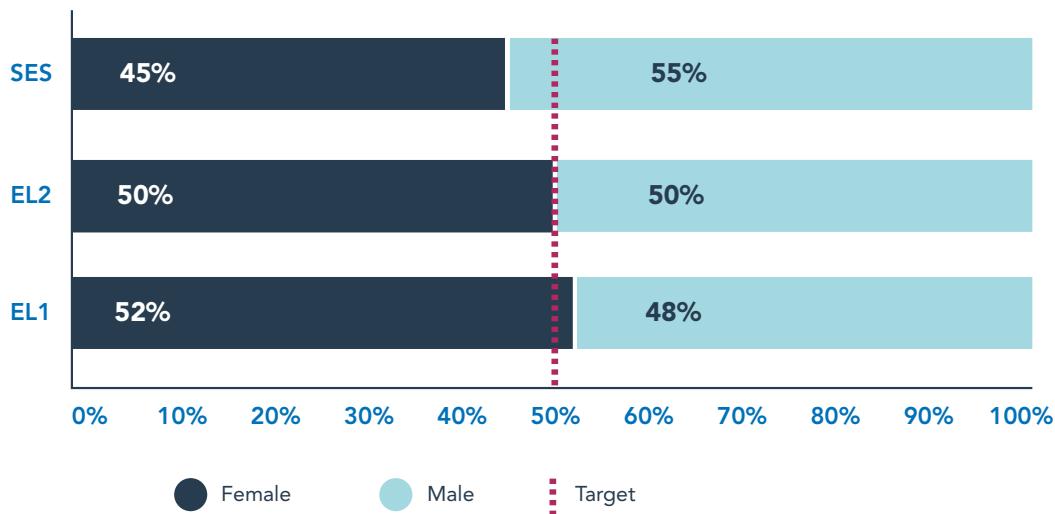
In 2017–18, the Women in ASIC Committee (WIA) launched a comprehensive Action Plan, delivering a range of educational, development and networking events for ASIC staff.

They include:

- › continuing the 'Keeping You Connected' events for those women and men on long-term leave
- › creating opportunities for staff to engage in inter-agency events, such as the ATO's Women in Leadership summit
- › establishing the WIA Community of Practice – a forum for ASIC staff to discuss topics about increasing the participation of women in the workplace and in leadership
- › continuing to celebrate the women of the future with 'Bring Your Daughters to Work Day' events held in Sydney and Melbourne.

We celebrated International Women's Day with an event in March 2018 with Ming Long as ASIC's special guest speaker. Ming is a non-executive director in funds management, property and professional associations, including the Diversity Council of Australia. The event closed with the announcement of the recipient of the 2018 ASIC Women in Leadership award.

### Progress towards ASIC's targets for women in leadership



## **Senior Executive Leader – Laura Higgins**

'As a new executive for Financial Capability, I have had the opportunity to spend time thinking about leadership and my place in the organisation. I want to achieve results through supporting the people I work with – instil confidence, grow capability and provide opportunities. Every person in ASIC contributes in unique ways and I believe in promoting and valuing individual talents. The sign of a thriving workplace is one that is complex and diverse.'



As a woman in a senior role I feel incredibly supported at ASIC and importantly I feel that there is a real awareness of the benefit of diversity of thought in the decisions we make and the work that we do every day.'

As parents, we often feel responsible for all kinds of aspects of our children's lives, so hopefully by the time my children enter the workforce diversity will simply be a given – in the meantime these kinds of initiatives are so important. I felt very honoured to be nominated, and to receive the award this year, it has certainly given me additional positivity to carry throughout the year.'



WA Regional Commissioner Natalie Dürr with Danielle Abbott, recipient of the ASIC Women in Leadership Award for 2018.

## **Rainbow Network**

ASIC recognises the importance of lesbian, gay, bisexual, trans and intersex (LGBTI) inclusion. Through our Rainbow Network, we aim to raise awareness about LGBTI issues and provide support to our staff.

In March 2018, we made our second submission to Pride in Diversity's Australian Workplace Equality Index (AWEI) – a benchmark for LGBTI inclusion for Australian workplaces. ASIC continues to be a participating member of the AWEI. We achieved a total score of 59, which is a significant improvement on our result the previous year.

As part of the 2018 Sydney Gay and Lesbian Mardi Gras, ASIC held a MoneySmart stall on Fair Day which focused on providing information about budgeting for a wedding.

We also held events commemorating Transgender Day of Remembrance (November 2017) and International Day Against Homophobia, Biphobia, Intersexism and Transphobia (May 2018). These events were well attended by ASIC staff and colleagues from APRA and the RBA.

## Indigenous employment initiatives at ASIC

The employment of Aboriginal and Torres Strait Islander peoples continues to be a significant part of our Inclusion and Diversity Strategy and is also a key objective of our stretch Reconciliation Action Plan 2017–20.

In 2017–18, our specific Indigenous employment strategies included:

- › participating in various Indigenous graduate, cadetship and apprenticeship programs (e.g. the Indigenous Australian Government Development Programs and the APS Indigenous Graduate Program) to recruit Indigenous employees

- › advertising appropriate job opportunities using Indigenous media
- › in collaboration with the Australian Public Service Commission Indigenous Capability team, contributing to the development of an Australian Government Law Enforcement Secondment Pilot Program
- › promoting our commitment to Indigenous employment by encouraging Indigenous Australians to apply for all advertised roles on our careers website
- › supporting two staff members to undertake professional placements in the remote and regional Indigenous communities of West Kimberley and Cape York, as part of the Jawun secondment program.

At 30 June 2018, 18 employees (nearly 1% of ASIC staff) identified as Aboriginal and/or Torres Strait Islander. This is a 12.5% increase since 2016–17. We aspire to increase our employment of people who identify as Indigenous to 3% of ASIC staff by December 2018.



ASIC's MoneySmart stall at Fair Day for the 2018 Sydney Gay and Lesbian Mardi Gras.

## Department of Human Services Indigenous Apprenticeship Program – Ashley McAllister

'I came to ASIC as the first ever candidate to be recruited through the Indigenous Apprenticeship Program. I have been working in the Financial Services Enforcement team as an Enforcement Support Officer in Sydney since October 2016. I completed a Diploma in Government through my employment and am always encouraged to further my training and expertise.

I have enjoyed working in a professional and supportive team that has taught me a lot along the way. I feel like I will learn lessons here that will last a lifetime.'



Key highlights of our RAP progress to date include the following:

- › ASIC's Indigenous staff have created an internal Indigenous staff network to connect and support each other across the organisation.
- › We have continued to grow our Indigenous workforce through ongoing commitment to Indigenous recruitment initiatives.
- › We have continued to hold RAP functions throughout the year to highlight significant events in the Indigenous calendar and to raise awareness of Indigenous issues among ASIC staff.
- › We have engaged additional ASIC business areas with the RAP commitments to stretch our organisation's capability and commitment to the reconciliation process.

## Jawun secondment program

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.



Secondees to the Jawun West Kimberley program from ASIC and other government and private sector organisations, February 2018.

## Multicultural access and equity

We recognise that we can engage with culturally and linguistically diverse (CALD) communities to help to improve access to ASIC's services.

In 2017–18, we continued to enhance staff training and engagement on cultural awareness and understanding. Our achievements and initiatives include the following:

- › Our cultural awareness learning module has been completed by 98.1% of team members.
- › Over 50 team members participated in ASIC's register of those who speak languages other than English to assist with translations work.
- › We celebrated Diversity Week in March 2018, which this year focused on multicultural access and equity. Eddie Woo – mathematics teacher and Australia's Local Hero 2018 – was our keynote speaker. He spoke about the importance of inclusion and diversity in schools and the workplace as well as improving the financial literacy of all Australians.

### Telephone interpreting

At ASIC, we use the national Translating and Interpreting Service (TIS National) to help us communicate with customers who speak languages other than English. TIS National has over 3,000 translators who speak 160 languages. ASIC's Customer Contact Centre receives around 40 TIS calls a month.

#### **ASIC Customer Service Officer Elizabeth Lane**

*'It feels good to help someone understand something they previously didn't. I think it is great that these customers could be new to the country and have gone to the effort to make a TIS call because they want to make sure they are doing the right thing in relation to their obligations with ASIC.'*



*Australia's Local Hero 2018, Eddie Woo, with Katie Davis-Hall-Watson, at the launch of ASIC's Diversity Week, March 2018.*

## Accessibility

We aim to eliminate barriers to accessibility, promote disability awareness initiatives across ASIC and encourage training and career development opportunities for staff with disability.

We continue to make progress against our Accessibility Action Plan. In 2017–18, we:

- › launched a Disability Awareness e-learning module for staff
- › joined the Australian Network on Disability in June 2018
- › continued to access the Government's RecruitAbility program to recruit graduates in our 2018 intake.

The International Day of People with Disability event was celebrated in December 2017, with Disability Discrimination Commissioner, Alastair McEwin, as ASIC's keynote speaker. We also had a special presentation on mindful communications.

ASIC continues to support 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.



Alistair McEwin, Disability Discrimination Commissioner, presenting at an ASIC event for International Day of People with Disability, December 2017.

## Equitable gender briefing

Over the last three years, ASIC has taken proactive steps to ensure that it briefs female barristers equitably. As a result, the proportion of female barristers briefed by ASIC has increased significantly in recent years. ASIC has exceeded three of the four targets set by the Law Council of Australia and, as of 1 July 2018, the targets contained in the *Legal Services Directions 2017*.

In 2017–18, the proportion of female barristers briefed by ASIC was as set out in the chart below.

ASIC, as a signatory to the Law Council of Australia's Equitable Briefing Policy, took steps to meet the interim target for 1 July 2018:

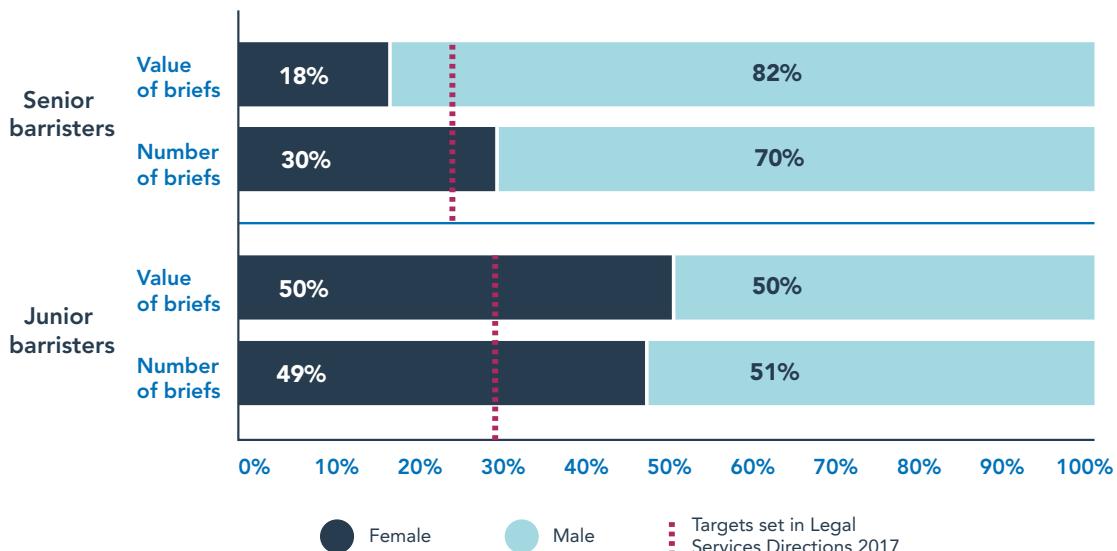
- › to brief or select senior women barristers accounting for at least 20% of all briefs and/or 20% of the value of all brief fees paid to senior barristers
- › to brief or select junior women barristers accounting for at least 30% of all briefs and/or 30% of the value of all brief fees paid to junior barristers.

The targets set out in the *Legal Services Directions 2017* are in similar terms, with a higher target for senior female barristers of 25% of all briefs and/or the value of all briefs.

ASIC has significantly exceeded the target for junior barristers and exceeded the target for the number of briefs for senior female barristers. While ASIC has not met the target for the value of briefs to senior female barristers, the steps ASIC has taken in recent years will assist in meeting this target in the future.

In addition to signing up to the Law Council of Australia's Equitable Briefing Policy, ASIC is a founding signatory to the Charter of Commitment to achieve gender equitable briefing practices in commercial litigation. This charter forms part of a joint initiative by the Commercial Bar Association of Victoria, members of the judiciary and the Victorian Equal Opportunity and Human Rights Commission.

ASIC briefings to barristers 2017–18, by gender





# 7

## Financial Statements

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# Independent Auditor's Report



## INDEPENDENT AUDITOR'S REPORT

To the Minister for Revenue and Financial Services

### Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission for the year ended 30 June 2018:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Australian Securities and Investments Commission as at 30 June 2018 and its financial performance and cash flows for the year then ended.

The financial statements of the Australian Securities and Investments Commission, which I have audited, comprise the following statements as at 30 June 2018 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement;
- Overview; and
- Notes to and forming part of the financial statements.

### Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Australian Securities and Investments Commission in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Accountable Authority's Responsibility for the Financial Statements

As the Accountable Authority of the Australian Securities and Investments Commission the Chair 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 – Reduced Disclosure Requirements and the rules made under that Act. The Chair is also responsible for such internal control as the Chair 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.

In preparing the financial statements, the Chair is responsible for assessing the Australian Securities and Investments Commission's ability to continue as a going concern, taking into account whether the entity's operations will cease as a result of an administrative restructure or for any other reason. The Chair is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

# Independent Auditor's Report

## Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Bola Oyetunji

Senior Executive Director

Delegate of the Auditor-General

Canberra

14 August 2018

# Statement by the Accountable Authority and Chief Financial Officer

In our opinion, the attached financial statements for the year ended 30 June 2018 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Australian Securities and Investments Commission will be able to pay its debts as and when they fall due.



J.R.F. Shipton  
Chair  
14 August 2018



E. L. Hodgson  
Chief Financial Officer  
14 August 2018

# Statement of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2018

	Notes	2018 \$'000	2017 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	1.1A	<b>209,526</b>	214,535
Suppliers	1.1B	<b>149,915</b>	133,081
Depreciation and amortisation	3.2A	<b>40,709</b>	43,609
Finance costs – unwinding of restoration provision		<b>30</b>	149
Write-down and impairment of assets	1.1C	<b>930</b>	1,170
<b>Total expenses</b>		<b>401,110</b>	392,544
<b>LESS:</b>			
<b>Own-source revenue</b>			
Rendering of services		<b>1,943</b>	2,004
Operating sublease rent and property recoveries		<b>2,674</b>	1,531
Other revenue	1.2A	<b>36,258</b>	3,726
<b>Total own-source revenue</b>		<b>40,875</b>	7,261
<b>Gains</b>			
Reversal of write-downs and impairment	3.1B	<b>1,294</b>	84
<b>Total gains</b>		<b>1,294</b>	84
<b>Net Cost of Services</b>		<b>358,941</b>	385,199
<b>Total revenue from Government</b>	1.2B	<b>348,041</b>	341,641
<b>Surplus/(Deficit)</b>		<b>(10,900)</b>	(43,558)
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Items not subject to subsequent reclassification to net cost of services</b>			
Changes in asset revaluation reserve		–	–
<b>Total comprehensive income/(loss)</b>		<b>(10,900)</b>	(43,558)

The above statement should be read in conjunction with the accompanying notes.

# Statement of Financial Position

AS AT 30 JUNE2018

	Notes	2018 \$'000	2017 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	3.1A	62,703	37,199
Trade and other receivables	3.1B	122,430	123,171
<b>Total financial assets</b>		<b>185,133</b>	<b>160,370</b>
<b>Non-financial assets</b>			
Leasehold improvements	3.2A	26,057	33,667
Plant and equipment	3.2A	22,102	24,764
Computer software	3.2A	90,445	78,246
Prepayments		13,846	16,573
<b>Total non-financial assets</b>		<b>152,450</b>	<b>153,250</b>
<b>Total assets</b>		<b>337,583</b>	<b>313,620</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	3.3A	42,485	47,521
Other payables	3.3B	40,540	36,649
<b>Total payables</b>		<b>83,025</b>	<b>84,170</b>
<b>Provisions</b>			
Employee provisions	6.1A	68,455	69,039
Other provisions	3.4A	14,685	13,620
<b>Total provisions</b>		<b>83,140</b>	<b>82,659</b>
<b>Total liabilities</b>		<b>166,165</b>	<b>166,829</b>
<b>Net assets</b>		<b>171,418</b>	<b>146,791</b>
<b>EQUITY</b>			
Contributed equity		404,419	364,970
Reserves		17,137	17,137
Accumulated deficit		(250,138)	(235,316)
<b>Total equity</b>		<b>171,418</b>	<b>146,791</b>

The above statement should be read in conjunction with the accompanying notes.

# Statement of Changes in Equity

FOR THE YEAR ENDED 30 JUNE 2018

	Notes	2018 \$'000	2017 \$'000
<b>CONTRIBUTED EQUITY</b>			
Opening balance		<b>364,970</b>	314,305
Transactions with owners			
Contributions by owners			
Equity injections – Appropriations		<b>22,185</b>	26,570
Departmental capital budget		<b>17,264</b>	24,095
<b>Total transactions with owners</b>		<b>39,449</b>	50,665
Closing balance as at 30 June		<b>404,419</b>	364,970
<b>RETAINED EARNINGS</b>			
Opening balance		<b>(235,316)</b>	(191,758)
s51 withholding of prior year appropriations		<b>(3,922)</b>	–
Comprehensive income			
Surplus/(Deficit) for the period		<b>(10,900)</b>	(43,558)
<b>Total comprehensive loss</b>		<b>(10,900)</b>	(43,558)
Closing balance as at 30 June		<b>(250,138)</b>	(235,316)
<b>ASSET REVALUATION RESERVE</b>			
Opening balance		<b>17,137</b>	17,137
Comprehensive income		–	–
Other comprehensive income		–	–
<b>Total comprehensive income</b>		<b>–</b>	–
Closing balance as at 30 June		<b>17,137</b>	17,137
<b>TOTAL EQUITY</b>			
Opening balance		<b>146,791</b>	139,684
s51 withholding of prior year appropriations		<b>(3,922)</b>	–
Comprehensive income		–	–
Other comprehensive income		(10,900)	(43,558)
<b>Total comprehensive loss</b>		<b>(10,900)</b>	(43,558)
Transactions with owners			
Contributions by owners			
Equity injections – Appropriations		<b>22,185</b>	26,570
Departmental capital budget	5.1A	<b>17,264</b>	24,095
<b>Total transactions with owners</b>		<b>39,449</b>	50,665
Closing balance as at 30 June		<b>171,418</b>	146,791

The above statement should be read in conjunction with the accompanying notes.

# Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2018

	Notes	2018 \$'000	2017 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		390,181	306,930
Operating cash received		1,920	2,189
Net GST received		15,882	13,432
Cost recoveries		32,649	2,420
Other cash received		11,449	1,409
<b>Total cash received</b>		<b>452,081</b>	<b>326,380</b>
 <b>Cash used</b>			
Employees		210,220	202,136
Suppliers		164,096	140,763
Transfers to the Official Public Account		47,827	7,238
<b>Total cash used</b>		<b>(422,143)</b>	<b>(350,137)</b>
<b>Net cash from/(used by) operating activities</b>		<b>29,938</b>	<b>(23,757)</b>
 <b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of leasehold improvements, plant and equipment and intangibles		46,448	35,410
<b>Net cash (used by) investing activities</b>		<b>(46,448)</b>	<b>(35,410)</b>
 <b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity		42,014	50,665
<b>Net cash from financing activities</b>		<b>42,014</b>	<b>50,665</b>
 <b>Net increase/(decrease) in cash held</b>		<b>25,504</b>	<b>(8,502)</b>
Cash and cash equivalents at the beginning of the reporting period		37,199	45,701
<b>Cash and cash equivalents at the end of the reporting period</b>	3.1A	<b>62,703</b>	<b>37,199</b>

The above statement should be read in conjunction with the accompanying notes.

# Administered Schedule of Comprehensive Income

FOR THE YEAR ENDED 30 JUNE 2018

	Notes	2018 \$'000	2017 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Grants	2.1A	3,552	3,154
Write-down and impairment of assets	2.1B	53,948	52,993
Claims for Unclaimed Monies	2.1C	65,813	41,677
Promotional costs for MoneySmart initiatives		547	548
<b>Total expenses</b>		<b>123,860</b>	<b>98,372</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Supervisory cost recovery levies		247,372	-
Fees		760,857	740,122
<b>Total taxation revenue</b>		<b>1,008,229</b>	<b>740,122</b>
<b>Non-taxation revenue</b>			
Fees and fines	2.2A	219,023	180,119
Unclaimed monies	2.2B	88,477	77,464
<b>Total non-taxation revenue</b>		<b>307,500</b>	<b>257,583</b>
<b>Total revenue</b>		<b>1,315,729</b>	<b>997,705</b>
<b>Net contribution by services</b>		<b>1,191,869</b>	<b>899,333</b>

The above schedule should be read in conjunction with the accompanying notes.

# Administered Schedule of Assets and Liabilities

AS AT 30 JUNE 2018

	Notes	2018 \$'000	2017 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents		1,641	1,781
Cost recovery levies receivable	4.1A	247,372	–
Fees and fines receivable	4.1A	137,812	128,920
Trade and other receivables	4.1B	6,424	7,066
<b>Total assets administered on behalf of Government</b>		<b>393,249</b>	<b>137,767</b>
<b>LIABILITIES</b>			
<b>Payables and provisions</b>			
Suppliers and other payables	4.2A	29,872	26,758
Other provisions	4.2B	348,936	351,452
<b>Total liabilities administered on behalf of Government</b>		<b>378,808</b>	<b>378,210</b>
<b>Net assets/(liabilities)</b>		<b>14,441</b>	<b>(240,443)</b>

The above schedule should be read in conjunction with the accompanying notes.

# Administered Reconciliation Schedule

AS AT 30 JUNE 2018

	2018 \$'000	2017 \$'000
<b>Opening assets less liabilities as at 1 July</b>	<b>(240,443)</b>	<b>(284,125)</b>
<b>Net contribution by services:</b>		
Administered income	1,315,730	997,705
Administered expenses	(123,860)	(98,372)
	<b>1,191,870</b>	<b>899,333</b>
<b>Transfers (to)/from the Australian Government</b>		
Appropriation transfers from Official Public Account:		
Special (unlimited) and ordinary appropriations		
Appropriation Act No. 1	5,566	6,165
Banking Act unclaimed monies	28,109	42,866
Life Insurance Act unclaimed monies	3,609	6,418
Section 77 PGPA Act	39,011	37,480
Total of appropriation transfers from Official Public Account	<b>76,296</b>	<b>92,929</b>
Administered transfers to Official Public Account	(1,013,282)	(948,580)
<b>Closing assets less liabilities as at 30 June</b>	<b>14,441</b>	<b>(240,443)</b>

The above schedule should be read in conjunction with the accompanying notes.

# Administered Cash Flow Statement

FOR THE YEAR ENDED 30 JUNE 2018

	2018 \$'000	2017 \$'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	920,811	865,094
Corporation Act unclaimed monies	63,652	66,430
Banking Act unclaimed monies	6,512	9,112
Life Insurance Act unclaimed monies	18,312	1,921
<b>Total cash received</b>	<b>1,009,287</b>	<b>942,557</b>
<b>Cash used</b>		
Refunds paid to:		
Company shareholders	36,613	32,675
Deposit-taking institution account holders	28,109	42,866
Life insurance policy holders	3,609	6,418
Promotion expenses for MoneySmart Initiatives	560	1,411
Grants	3,578	3,718
Net GST paid	(28)	103
<b>Total cash used</b>	<b>(72,441)</b>	<b>(87,191)</b>
<b>Net cash from operating activities</b>	<b>936,846</b>	<b>855,366</b>
<b>Cash from Official Public Account for:</b>		
Appropriations	76,296	92,929
<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	924,806	871,117
Corporations Act unclaimed monies	63,652	66,430
Banking Act unclaimed monies	6,512	9,112
Life Insurance Act unclaimed monies	18,312	1,921
<b>Total cash to Official Public Account</b>	<b>(1,013,282)</b>	<b>(948,580)</b>
<b>Net (decrease) in cash held</b>	<b>(140)</b>	<b>(284)</b>
Cash and cash equivalents at the beginning of the reporting period	1,781	2,065
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>1,641</b>	<b>1,781</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 2018

## 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*. In addition, ASIC collects taxation revenue under the *ASIC Supervisory Cost Recovery Levy Act 2017*, the *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017*, the *ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Act 2017*, the *ASIC Supervisory Cost Recovery Levy Regulations 2017*; and the *ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Regulations 2017*. This revenue is not available to ASIC and is remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items. Administered items are distinguished by shading in these financial statements.

ASIC is structured to deliver a single outcome, and the result is in the Statement of Comprehensive Income:

*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 programs is dependent on Government policy and on continuing funding by Parliament for ASIC's administration and programs.

### Basis of preparation

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

The financial statements and notes have been prepared in accordance with the:

- › *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR) for reporting periods ending on or after 1 July 2015; and
- › Australian Accounting Standards – Reduced Disclosure Requirement issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

## Overview continued

### Change in Accounting Policy

In 2017–18, Corporations Law fines and infringements, late fees, late payment fees, information brokers fees and search fees were reclassified as Non-taxation revenue and recognised as either current revenue (similar to other penalties on taxes and fines) or sales of goods and services. The balance of the Corporations Law revenue received is classified as Taxation revenue, due to the compulsory and unrequited nature of the receipts. The prior year figures in the financial statements have been amended to reflect this change.

### New Australian Accounting Standards

All new accounting standards, amendments to standards and interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect, and are not expected to have a future material effect on ASIC's financial statements.

### Taxation

ASIC is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

#### Reporting of Administered activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Administered Schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

#### Events after the reporting period

There were no events occurring after balance date that had a material effect on the Departmental or Administered financial statements.

## Note 1. Departmental financial performance

This section analyses the financial performance of ASIC for the year ended 30 June 2018

### 1.1 Expenses

	2018 \$'000	2017 \$'000
<b>1.1A: Employee benefits</b>		
Wages and salaries	155,664	154,907
Superannuation <sup>1</sup>		
Defined-benefit schemes	11,380	11,681
Defined-contribution schemes	19,684	18,359
Leave and other entitlements	19,974	18,573
Separation and redundancies <sup>2</sup>	2,824	11,015
<b>Total employee benefits</b>	<b>209,526</b>	<b>214,535</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 16.2% (2017: 16.2%), the Public Sector Superannuation Plan was 16.8% (2017: 16.8%), the PSS Accumulation Scheme was 15.4% (2017: 15.4%), and the superannuation productivity benefit was approximately 2.0% to 3.0% (2017: 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 Note 6 People and relationships.

## Note 1. Departmental financial performance continued

	2018 \$'000	2017 \$'000
<b>1.1B: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
Office computer and software expenses	28,394	25,805
Legal and forensic costs	27,835	25,004
Consultants and specialist services	27,249	20,144
Property-related outgoings	9,161	7,705
Information costs	9,489	6,790
Travel	5,048	4,780
Postage and freight	2,951	2,754
Security	1,985	2,381
Communications	2,227	2,349
Learning and development	3,445	3,663
Recruitment	1,463	1,879
Other goods and services	6,698	5,632
<b>Total goods and services supplied or rendered</b>	<b>125,945</b>	<b>108,886</b>
Goods supplied	2,244	2,894
Services rendered	123,701	105,992
<b>Total goods and services supplied or rendered</b>	<b>125,945</b>	<b>108,886</b>
<b>Other suppliers</b>		
Operating lease rentals	21,926	21,687
Workers compensation expense	1,930	2,285
Fringe benefits tax	114	223
<b>Total other suppliers</b>	<b>23,970</b>	<b>24,195</b>
<b>Total suppliers</b>	<b>149,915</b>	<b>133,081</b>
<b>Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:</b>		
Within 1 year	26,902	29,471
Between 1 to 5 years	43,445	63,131
More than 5 years	32,597	39,505
<b>Total operating lease commitments</b>	<b>102,944</b>	<b>132,107</b>

### Leasing commitments

ASIC, in its capacity as lessor, sublets premises in Brisbane, Hobart, Melbourne and Sydney.

#### 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.

## Note 1. Departmental financial performance continued

	2018 \$'000	2017 \$'000
<b>1.1C: Write-down and impairment of assets</b>		
Impairment of trade receivables <sup>1</sup>	859	1,010
Write-off of leasehold improvements	–	14
Write-off of plant & equipment	71	146
<b>Total write-down and impairment of assets</b>	<b>930</b>	<b>1,170</b>

1. Comparatives have changed for Impairment of trade receivables and Reversal of write-downs and impairment, separately disclosing the movement in the doubtful debts provision as an expense and the amount of doubtful debts recovered as a gain.

### 1.2 Own-source revenue

#### Accounting Policy

##### Rendering of services

Revenue from rendering of services is recognised by reference to the stage of completion of projects at the reporting date. Revenue is recognised when:

- › The amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- › The probable economic benefits associated with the transaction will flow to ASIC.

##### Operating lease revenue

Operating sublease revenue is recognised as revenue on commencement of the lease under the Memorandum of Understanding. The leases terms are on a 12 month rolling basis.

#### 1.2A: Other revenue

Cost recoveries <sup>2</sup>	34,094	2,420
Royalties	168	185
Professional and witness fees	37	30
Resources received free of charge – auditors' remuneration	360	360
Other	1,599	731
<b>Total other revenues</b>	<b>36,258</b>	<b>3,726</b>

2. Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

#### Accounting Policy

##### 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 those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

## Note 1. Departmental financial performance continued

	Notes	2018 \$'000	2017 \$'000
<b>1.2B: Revenue from Government</b>			
Appropriations:			
Departmental appropriations		321,762	314,826
Departmental special appropriations	5.2	26,279	26,815
<b>Total revenue from Government</b>		<b>348,041</b>	<b>341,641</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.

## Note 2. Income and expenses administered on behalf of Government

This section analyses the activities that ASIC does not control but administers on behalf of the Government.

Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 2.1 Administered – expenses

#### 2.1A: Grants

Rendering of services

Insolvency practitioners <sup>1</sup>	3,552	3,154
<b>Total grants</b>	<b>3,552</b>	<b>3,154</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.

## Note 2. Income and expenses administered on behalf of Government continued

	2018 \$'000	2017 \$'000
<b>2.1B: Write-down and impairment of assets</b>		
Impairment of receivables	51,251	48,935
Waiver of fees and charges owing	2,697	4,058
<b>Total write-down and impairment of assets</b>	<b>53,948</b>	<b>52,993</b>
<b>2.1C: Unclaimed Monies</b>		
Claims – Bank and deposit taking institution account holders	2,969	829
Claims – Life Insurance policy holders	13,133	1,084
Claims – Corporations Act 2001	49,711	39,764
<b>Total other expenses</b>	<b>65,813</b>	<b>41,677</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.

Refer to Note 2.2 for the policy pertaining to the impairment of receivables and fee waivers.

In determining whether a fee should be waived in whole or part, ASIC considers the extent to which the company's officers or its representatives contributed to the circumstances of the matter, in accordance with Part 7 of the Finance Minister's Delegation under section 63 of the PGPA Act.

## Note 2. Income and expenses administered on behalf of Government continued

### 2.1 Administered – income

#### Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by ASIC on behalf of the Government.

Administered revenue is generated from fees and fines under the following legislation:

- › Corporations (Fees) Act 2001
- › Corporations (Review Fees) Act 2003,
- › National Consumer Credit Protection (Fees) Regulation 2010,
- › Business Names Registration (Fees) Regulation 2012 and
- › Superannuation Industry (Supervision) Act 1993.

Administered fee revenue is recognised on an accruals basis when:

- › the client or the client group can be identified in a reliable manner;
- › an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions; and
- › the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Administered taxation revenue is recognised at its nominal amount due and an expense is recognised for impaired debts.

- › ASIC undertakes the collection of certain levies on behalf of the Government. These comprise of:
- › the ASIC Supervisory Cost Recovery Levy Act 2017;
- › the ASIC Supervisory Cost Recovery Levy (Collection) Act 2017;
- › the ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Act 2017;
- › the ASIC Supervisory Cost Recovery Levy Regulations 2017; and
- › the ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Regulations 2017.

Administered revenue arising from levies is recognised on an accrual basis.

The collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less, rather than more, likely.

#### Non-taxation revenue

##### 2.2A: Fees and fines

	2018 \$'000	2017 \$'000
Fines <sup>1,2</sup>	155,196	118,530
Searches and information brokers fees <sup>1</sup>	63,827	61,590
<b>Total fees and fines</b>	<b>219,023</b>	<b>180,120</b>

1. 2017 comparatives have been changed to reflect revenues reclassified into Taxation and Non-taxation revenue.
2. Fines include late fees, court fines, penalties and infringement notices.

##### 2.2B: Unclaimed monies

Corporations Act 2001 unclaimed monies	63,652	66,430
Banking Act 1959 unclaimed monies	6,513	9,113
Life Insurance Act 1995 unclaimed monies	18,312	1,921
<b>Total unclaimed monies</b>	<b>88,477</b>	<b>77,464</b>

## Note 2. Income and expenses administered on behalf of Government continued

### Accounting Policy

ASIC receives non-taxation revenue for unclaimed monies under the *Banking Act 1959*, *Life Insurance Act 1995* and *Corporations Act 2001*, as well as fines and search fees. This revenue is not available to ASIC and is transferred to the OPA.

## Note 3. Departmental financial position

This section analyses ASIC's assets used to conduct its operations and the operating liabilities incurred as a result.

Employee related information is disclosed in the People and Relationships section.

### 3.1 Financial assets

	2018 \$'000	2017 \$'000
<b>3.1A: Cash and cash equivalents</b>		
Cash in special accounts	59,135	33,064
Cash on hand or on deposit	3,568	4,135
<b>Total cash and cash equivalents</b>	<b>62,703</b>	<b>37,199</b>
<b>3.1B: Trade and other receivables</b>		
<b>Goods and services receivables:</b>		
Goods and services	1,551	1,503
<b>Total goods and services receivables</b>	<b>1,551</b>	<b>1,503</b>
<b>Appropriations receivables:</b>		
Appropriations receivable	117,407	118,207
<b>Total appropriations receivable</b>	<b>117,407</b>	<b>118,207</b>
<b>Other receivables:</b>		
GST receivable from the Australian Taxation Office	4,088	4,512
<b>Total other receivables</b>	<b>4,088</b>	<b>4,512</b>
<b>Total trade and other receivables (gross)</b>	<b>123,046</b>	<b>124,222</b>
<b>Less impairment allowance</b>	<b>616</b>	<b>1,051</b>
<b>Total trade and other receivables (net)</b>	<b>122,430</b>	<b>123,171</b>
<b>Trade and other receivables are expected to be recovered:</b>		
No more than 12 months	122,430	123,171
Credit terms for goods and services were within 30 days (2017: 30 days)		

## Note 3. Departmental financial position continued

### 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.

	2018 \$'000	2017 \$'000
<b>Reconciliation of the movement in the impairment allowance account</b>		
As at 1 July	1,051	125
Amounts recovered and reversed	(1,294)	(84)
Increase recognised in net cost of services	859	1,010
<b>Total as at 30 June</b>	<b>616</b>	<b>1,051</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.

## 3.2 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 \$'000	Total \$'000
<b>As at 1 July 2017</b>				
Gross book value	90,386	61,204	307,121	<b>458,711</b>
Accumulated depreciation/ amortisation and impairment	(56,719)	(36,440)	(228,875)	<b>(322,034)</b>
<b>Total as at 1 July 2017</b>	<b>33,667</b>	<b>24,764</b>	<b>78,246</b>	<b>136,677</b>
Additions:				
by purchase	694	4,536	9,210	<b>14,440</b>
internally developed	–	–	28,267	<b>28,267</b>
Total additions	<b>694</b>	<b>4,536</b>	<b>37,477</b>	<b>42,707</b>
Depreciation/amortisation expense	(8,304)	(7,127)	(25,278)	<b>(40,709)</b>
Write-offs recognised in the operating result	–	(71)	–	<b>(71)</b>
<b>Total as at 30 June 2018</b>	<b>26,057</b>	<b>22,102</b>	<b>90,445</b>	<b>138,604</b>
<b>Total as at 30 June 2018 represented by:</b>				
Gross book value	91,079	58,939	344,598	<b>494,616</b>
Accumulated depreciation/ amortisation and impairment	(65,022)	(36,837)	(254,153)	<b>(356,012)</b>
<b>Total as at 30 June 2018</b>	<b>26,057</b>	<b>22,102</b>	<b>90,445</b>	<b>138,604</b>

The carrying value of leasehold improvements, plant & equipment and computer software was reviewed at 30 June 2018. No indicators of impairment were found.

## Note 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, 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. As an independent valuation of ASIC's assets was undertaken as at 30 June 2016, a desktop valuation was undertaken this year.

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:

	2018	2017
Leasehold improvements	Residual lease term	Residual lease term
Plant and equipment	2 to 80 years	2 to 80 years

## Note 3. Departmental financial position continued

### Accounting Policy

#### Impairment

All assets were assessed for impairment at 30 June 2018. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the entity were deprived of the asset, its value in use is taken to be its current replacement cost.

#### Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

#### 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 (2017: 2 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2018.

#### 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 current replacement cost as determined by an independent valuer and is subject to management assessment between formal valuations.

## Note 3. Departmental financial position continued

### 3.3 Payables

		2018 \$'000	2017 \$'000
<b>3.3A: Suppliers</b>			
Trade creditors and accruals	7.2A	32,723	35,802
Operating lease rent payable		9,762	11,719
<b>Total suppliers</b>		<b>42,485</b>	<b>47,521</b>
Supplier payables are settled per the terms of the purchase order or contract.			
<b>3.3B: Other payables</b>			
Other unearned revenue		7,176	181
Property lease incentives <sup>1</sup>		19,335	23,666
Salaries and bonuses		12,335	11,348
Separations and redundancies		1,674	1,378
Other		20	76
<b>Total other payables</b>		<b>40,540</b>	<b>36,649</b>

1. Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2018.  
Lease incentives are amortised over the lease term.

### 3.4 Other provisions

#### 3.4A: Other provisions

	Provision for restructuring \$'000	Provision for restoration costs \$'000	Provision for settlement costs \$'000	Total other provisions \$'000
As at 1 July 2017	1,394	8,843	3,383	13,620
Additions	–	–	1,287	1,287
Amounts reversed	(252)	–	–	(252)
Amortisation of restoration provision discount	–	30	–	30
<b>Total as at 30 June 2018</b>	<b>1,142</b>	<b>8,873</b>	<b>4,670</b>	<b>14,685</b>

### Accounting Policy

#### Restoration costs

ASIC currently has seven lease agreements (2017: seven) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. The provision reflects the current best estimate of these future restoration costs discounted to reflect the present value of the future payments.

#### Settlement costs

ASIC recognises a provision for the estimated costs that will be paid on settlement of current legal proceedings based on past history of settlement costs.

The accounting policy for the provision for restructuring is contained in Note 6 People and relationships.

## Note 4. Assets and liabilities administered on behalf of the Government

This section analyses assets used to conduct operations and the operating liabilities incurred as a result of activities that ASIC does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 4.1 Administered – financial assets

	2018 \$'000	2017 \$'000
<b>4.1A: Taxation receivables</b>		
Cost recovery levies receivable	247,372	–
Fees and fines receivable <sup>1</sup>	207,414	195,924
<b>Total taxation receivables (gross)</b>	<b>454,786</b>	195,924
Less: impairment allowance account:		
Fees and fines	69,602	67,004
<b>Total taxation receivables (net)</b>	<b>385,184</b>	128,920

Taxation receivables are due from entities that are not part of the Australian Government. Credit terms for goods and services were within 30 days (2017: 30 days)

### 4.1B: Trade and other receivables

Information brokers' fees <sup>1</sup>	6,241	6,855
GST receivable <sup>1</sup>	183	211
<b>Total receivables (gross)</b>	<b>6,424</b>	7,066

1. 2017 comparatives have been changed to reflect revenues reclassified into Taxation and Non-taxation revenue.

### Reconciliation of the movement in the impairment allowance account

As at 1 July	67,004	65,693
Amounts written off	(48,653)	(47,624)
Amounts waived	(2,697)	(4,058)
Increase in impairment allowance recognised in net contribution by services	53,948	52,993
<b>Total as at 30 June</b>	<b>69,602</b>	67,004

## Note 4. Assets and liabilities administered on behalf of the Government continued

### 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

	2018 \$'000	2017 \$'000
<b>4.2A: Payables</b>		
Supplier payables	191	202
Refund of fees payable	15,295	12,625
Unallocated monies	6,634	6,587
Grants payable <sup>1</sup>	1,290	1,316
Other non-current payables <sup>2</sup>	6,462	6,028
<b>Total payables</b>	<b>29,872</b>	<b>26,758</b>

All payables are for entities that are not part of the Australian Government.

All payables, with the exception of Other non-current payables, are expected to be settled within 12 months. Settlement is usually made within 30 days.

1. Settlement is made according to the terms and conditions of each grant. This is usually within 30 days of performance and eligibility.
2. Other non-current payables are over payments of fees, where the settlement period is expected to be greater than 12 months.

## Note 4. Assets and liabilities administered on behalf of the Government continued

	2018 \$'000	2017 \$'000
<b>4.2B: Non-taxation provisions</b>		
Corporations Act 2001 claims	192,054	178,954
Banking Act 1959 claims	130,233	155,373
Life Insurance Act 1995 claims	26,649	17,125
<b>Total other provisions</b>	<b>348,936</b>	<b>351,452</b>
 <b>Reconciliation of the opening and closing balance of other provisions</b>		
As at 1 July	351,452	391,734
Amounts recognised	65,815	41,678
Amounts used	(68,331)	(81,960)
<b>Total as at 30 June</b>	<b>348,936</b>	<b>351,452</b>

### 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 taking into account the historic claims pattern experienced since 2002 and the outstanding lodgements. The estimate reflects the volatility of unclaimed monies lodgements and claims from year to year, which is impacted by factors including economic events, legislative change, media exposure and the behaviour of claimants, each of which has differed significantly from year to year and over time. The estimated future flow of refunds over time has been discounted to present value at a risk-free rate of interest based on government bond rates with similar terms to the expected refunds. Allowance has been made for payment of compounding interest for all claims from 1 July 2013 on unclaimed balances in accordance with actual legislated interest rates and estimated future interest rates based on economist expectations for inflation in the medium to longer term, noting legislated interest rates are linked to movements in the CPI.

## Note 5. Funding

This section identifies ASIC's funding structure.

### 5.1 Appropriations

#### 5.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2018	Annual appropriation <sup>1</sup> \$'000	Adjustments to appropriation <sup>2</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2018 (current and prior years) \$'000	Variance \$'000
<b>Departmental</b>					
Ordinary annual services	348,041	47,827	<b>395,868</b>	364,885	<b>30,983</b>
Capital Budget	20,868	–	<b>20,868</b>	14,236	<b>6,632</b>
Other Services					
Equity Injections	22,185	–	<b>22,185</b>	27,777	<b>(5,592)</b>
<b>Total Departmental</b>	<b>391,094</b>	<b>47,827</b>	<b>438,921</b>	<b>406,898</b>	<b>32,023</b>
<b>Administered</b>					
Ordinary annual services	7,302	–	7,302	5,439	1,863
<b>Total Administered</b>	<b>7,302</b>	<b>–</b>	<b>7,302</b>	<b>5,439</b>	<b>1,863</b>

1. Determination under section 51 of the PGPA Act. Appropriation Act (No. 1) DCB 2017–2018 reduced by \$3.604m.

2. Section 74 receipts

### Accounting Policy

#### Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCB) are recognised directly in contributed equity in that year.

## Note 5. Funding continued

Annual appropriations for 2017	Annual appropriation \$'000	Adjustments to appropriation <sup>1</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2017 (current and prior years) \$'000	Variance \$'000
<b>Departmental</b>					
Ordinary annual services	341,588	7,238	348,826	327,887	20,939
Capital Budget	24,095	–	24,095	21,998	2,097
Other Services					
Equity Injections	29,449	–	29,449	15,867	13,582
<b>Total Departmental</b>	<b>395,132</b>	<b>7,238</b>	<b>402,370</b>	<b>365,752</b>	<b>36,618</b>
<b>Administered</b>					
Ordinary annual services	5,863	–	5,863	5,730	133
<b>Total Administered</b>	<b>5,863</b>	<b>–</b>	<b>5,863</b>	<b>5,730</b>	<b>133</b>

1. Section 74 receipts

	2018 \$'000	2017 \$'000
<b>5.1B: Unspent annual appropriations ('recoverable GST exclusive')</b>		
<b>Departmental</b>		
Appropriation Act (No. 2) 2015–2016	–	1,006
Appropriation Act (No. 4) 2015–2016	–	18
Appropriation Act (No. 1) 2016–2017 <sup>2</sup>	<b>3,922</b>	103,767
Appropriation Act (No. 1) DCB 2016–2017	–	4,744
Supply Act (No. 2) 2016–2017	<b>229</b>	360
Appropriation Act (No. 2) 2016–2017	<b>3,634</b>	12,447
Appropriation Act (No. 1) 2017–2018	<b>97,146</b>	–
Appropriation Act (No. 1) DCB 2017–2018 <sup>3</sup>	<b>11,375</b>	–
Appropriation Act (No. 2) 2017–2018	<b>4,376</b>	–
Appropriation Act (No. 3) 2017–2018	<b>7,818</b>	–
Enforcement Special Account	<b>59,135</b>	33,064
<b>Total departmental</b>	<b>187,635</b>	155,406

Unspent departmental appropriations include cash balances of \$3.586m (2017: \$4.135m).

2. Includes \$3.922m quarantined under section 51 of the PGPA Act.

3. Includes \$3.604m quarantined under section 51 of the PGPA Act.

### Administered

Appropriation Act (No. 1) 2016–2017	–	1,739
Appropriation Act (No. 1) 2017–2018	3,345	–
<b>Total administered</b>	<b>3,345</b>	<b>1,739</b>

Unspent administered appropriations represent cash balances.

## Note 5. Funding continued

### **5.1C: Special appropriations ('recoverable GST exclusive')**

<b>Authority</b>	<b>Type</b>	<b>Purpose</b>	<b>Appropriation applied</b>	
			<b>2018 \$'000</b>	<b>2017 \$'000</b>
s69 Banking Act 1959, Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. ASIC receives special appropriations from the OPA (section 69 <i>Banking Act 1959</i> ) to refund amounts to banking and deposit taking institution account holders.	<b>28,109</b>	42,866
s216 Life Insurance Act 1995, Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. ASIC receives special appropriations from the OPA (section 216 <i>Life Insurance Act 1995</i> ) to refund amounts to life insurance policy holders.	<b>3,609</b>	6,418
s77 PGPA Act, Corporations Act 2001, National Consumer Credit Protection Act 2009, Business Names Registration (Fees) Regulations 2010 and Superannuation Industry (Supervision) Act 1993. (Refunds of overpaid Corporations Act fees and charges), Administered	Unlimited	ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the OPA as received. Refunds of overpayments are appropriated under section 77 of the PGPA Act 2013.	<b>4,040</b>	5,685
s77 PGPA Act, Corporations Act 2001 (Refunds of unclaimed money held under s1341 Corporations Act 2001), Administered	Unlimited	ASIC has responsibility for the administration of unclaimed monies under s1341 of the Corporations Act 2001.	<b>34,971</b>	31,795
<b>Total</b>			<b>70,729</b>	86,764

## Note 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>		ASIC Trust and Other Money's Special Account 2018 <sup>5</sup>	
	2018 \$'000	2017 \$'000	2018 \$'000	2017 \$'000	2018 \$'000	2017 \$'000	2018 \$'000	2017 \$'000	2018 \$'000	2017 \$'000
Balance carried forward from previous year	33,064	44,195	3,504	2,289	467	462	11	11	—	—
Appropriation for the reporting period	26,279	26,815	791	1,493	—	—	—	—	327	—
Costs recovered	29,355	819	39	34	5	5	—	—	10	—
Available for payments	88,698	71,829	4,334	3,816	472	467	11	11	337	—
Cash payments from the Special Account	(29,563)	(38,765)	(225)	(312)	—	—	—	—	(21)	—
Adjustments	—	—	(4,109)	—	(472)	—	(11)	—	4,592	—
Balance carried forward to the next period	59,135	33,064	—	3,504	—	467	—	11	4,908	—
Balance represented by:										
Cash held in entity bank accounts	—	—	—	3,504	—	467	—	11	4,908	—
Cash held in the Official Public Account	59,135	33,064	—	3,504	—	467	—	11	4,908	—

- 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.
- 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. This special account expired on 31 March 2018 due to the sunsetting provisions of the Legislations Act 2003.
- 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. This special account expired on 31 March 2018 due to the sunsetting provisions of the Legislations Act 2003.
- 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. This special account expired on 31 March 2018 due to the sunsetting provisions of the Legislations Act 2003.
- Appropriation: s78 Public Governance, Performance and Accountability Act 2013. Establishing Instrument: s78 Public Governance, Performance and Accountability Act 2013. Purpose – the ASIC Trust and Other Money's Special Account was established by a determination of the Finance Minister on 31 March 2018, to consolidate the three Special Accounts above, which expired due to the sunsetting provisions of the Legislations Act 2003.

## Note 5. Funding continued

ASIC also 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 period ended 30 June 2018, the account had a nil balance and there were no transactions debited or credited to it during the current or prior reporting period.

### 5.3 Regulatory charging summary

	2018 \$'000	2017 \$'000
<b>Amounts applied</b>		
Departmental		
Appropriation applied	<b>247,372</b>	–
<b>Total amounts applied</b>	<b>247,372</b>	–
<b>Expenses</b>		
Departmental	<b>247,372</b>	
Administered		
Supervision of Australia's financial markets and competition for market services	–	16,620
<b>Total expenses</b>	<b>247,372</b>	16,620
<b>External Revenue</b>		
Administered		
Supervision of Australia's financial markets and competition for market services	–	19,353
ASIC Supervisory Cost Recovery Levy	<b>247,372</b>	–
<b>Total external revenue</b>	<b>247,372</b>	19,353

### Regulatory charging activities

The Government has introduced new laws to change the way ASIC is funded. Under the new arrangements, those who create the need for ASIC's regulation will bear the costs under the industry funding model.

ASIC's costs associated with regulatory activities will be recovered from industry as outlined in ASIC's Cost Recovery Implementation Statement. Activities include:

- › Stakeholder engagement
- › Education
- › Guidance
- › Surveillance
- › Enforcement
- › Policy advice.

The cost recovery implementation statement for the above activities is available at:

<https://download.asic.gov.au/media/4749888/cris-levies-for-asic-industry-funding-2017-18-published-29-may-2018.pdf>

## Note 5. Funding continued

### 5.4 Net cash appropriation arrangements

	2018 \$'000	2017 \$'000
<b>Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations</b>	<b>29,809</b>	51
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(40,709)	(43,609)
<b>Total comprehensive (loss) – as per the Statement of Comprehensive Income</b>	<b>(10,900)</b>	(43,558)

## Note 6. People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

### 6.1 Employee provisions

#### 6.1A: Employee provisions

Annual leave entitlement	21,203	20,567
Long service leave entitlement	41,278	40,867
Restructuring provision	3,822	5,176
Redundancy provision	2,152	2,429
<b>Total employee provisions</b>	<b>68,455</b>	69,039

#### 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.

## Note 6. People and relationships continued

### Accounting Policy continued

#### Superannuation

ASIC employees are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined-benefit schemes of the Australian Government. The PSSap is a defined-contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedule and notes.

ASIC makes employer contributions to its employees' defined-benefit superannuation schemes at rates determined by an actuary to be sufficient to meet the current cost to the Government, and ASIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

#### Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

#### Restructuring

ASIC recognises a provision for restructuring when the Government has announced a funding measure which will result in a future reduction in functions, resources and staff and the costs associated with these future reductions can be reliably estimated.

#### Significant accounting judgement and estimates

In the process of applying the accounting policies listed in this note, ASIC has made assumptions or estimates in the following areas that have the most significant impact on the amounts recorded in the financial statements:

- › Leave provisions involve assumptions based on the expected tenure of existing staff, patterns of leave claims and payouts, future salary movements and future discount rate.

## Note 6. People and relationships continued

### 6.2 Key management personnel remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of ASIC, directly or indirectly. ASIC has determined the key management personnel to be members of the Commission, the Portfolio Minister and Minister for Revenue and Financial Services and other Australian Government entities, and senior executive leaders who report directly to the Chair. Key management personnel remuneration is reported in the table below:

	2018 \$'000	2017 \$'000
Short-term employee benefits	3,902	3,725
Post-employment benefits	437	465
Other long-term benefits	406	423
Termination benefits	—	—
<b>Total key management personnel remuneration expenses<sup>1</sup></b>	<b>4,745</b>	<b>4,613</b>

The total number of key management personnel who are included in the above table is 13 (2017: 12).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by ASIC.

### 6.3 Related party disclosures

#### Related party relationships

ASIC is an Australian Government controlled entity. Related parties to ASIC are Key Management Personnel including the Commission members and senior executive leaders that have the responsibilities for planning, directing, and controlling ASIC's resources.

#### Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

ASIC transacts with other Australian Government controlled entities consistent with normal day-to-day business operations provided under normal terms and conditions, including the payment of workers compensation and insurance premiums, sub-leasing of office space and payment of superannuation contributions. These are not considered individually significant to warrant separate disclosure as related party transactions.

## Note 7. Managing uncertainties

This section describes how ASIC manages financial risks within its operating environment.

### 7.1 Contingent assets and liabilities

	2018 \$'000	2017 \$'000
<b>7.1A: Departmental contingent liabilities and assets</b>		
<b>Contingent assets</b>		
Claims for costs		
Balance from previous period	2,881	1,193
Adjustments to prior period contingent receivables:		
Assets relinquished	(487)	(580)
Revisions to estimates	(1,000)	1,790
New contingent receivables	<u>4,845</u>	478
<b>Total contingent assets</b>	<u>6,239</u>	2,881
<b>Net contingent assets</b>	<u>6,239</u>	2,881

#### Quantifiable contingencies (ASIC departmental)

The above contains 12 matters (2017: 14 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 \$6.239m (2017: \$2.881m), 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.

## Note 7. Managing uncertainties continued

### Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There is, at the date of this report, one matter of this type where proceedings are current. In this matter, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- › successfully defend the actions instituted; and
- › not be required to pay any damages.

Conversely, ASIC, like any other party to civil litigation, may be entitled to recover costs arising out of such litigation if it is successful. In addition to the matters specifically referred to in this note, ASIC has legal action pending in a number of other matters, however, due to the uncertainty over the outcome of outstanding and pending court cases, duration of court cases and the legal costs of the opposing party, ASIC is unable to reliably estimate either its potential payments to, or potential cost recoveries from, opposing litigants. There may also be other matters where ASIC has received an award of costs in its favour, however no contingent asset has been disclosed as recovery of the debt is not probable. There may also be other matters where no contingency has been quantified because the costs awarded for or against ASIC are estimated to be less than \$20,000 each.

### Accounting Policy

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position but are reported in this note. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than 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.

### Quantifiable administered contingencies – Banking Act, Life Insurance Act and Corporations Act administration

An actuarial assessment of the number of claims that are likely to be lodged with ASIC in respect to unclaimed monies was conducted by a registered actuary. ASIC adopted the registered actuary's calculation for the likely claims payable, 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:

Banking Act 1959	\$463.273m (2017: \$455.298m)
Life Insurance Act 1995	\$69.098m (2017: \$ 62.767m)
Corporations Act 2001	\$318.626m (2017: \$297.369m)

### Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

## Note 7. Managing uncertainties continued

### Accounting Policy

Administered contingent liabilities represent a repayment estimate of unclaimed monies that are considered remote. There are no administered contingent assets as at 30 June 2018 (2017: nil).

## 7.2 Financial instruments

	Notes	2018 \$'000	2017 \$'000
<b>7.2A: Categories of financial instruments</b>			
<b>Financial assets</b>			
Loans and receivables:			
Cash and cash equivalents	3.1A	3,568	4,135
Receivables for goods and services (net of impairment allowance)	3.1B	935	452
<b>Total financial assets</b>		<b>4,503</b>	<b>4,587</b>
<b>Financial liabilities</b>			
At amortised cost:			
Trade creditors	3.3A	32,723	35,802
<b>Total financial liabilities</b>		<b>32,723</b>	<b>35,802</b>

### Accounting Policy

#### Financial assets

ASIC classifies its financial assets as receivables. See Note 3.1B for further details.

#### Financial liabilities

Supplier payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

## 7.2B: Net gains or losses on financial assets

<b>Loans and receivables</b>		
Impairment <sup>1</sup>	1.1C	(859) (1,010)
<b>Net gain/(expense) from financial assets</b>		<b>(859) (1,010)</b>

1. Comparatives have changed for Impairment of financial instruments to separately disclose the movement in the doubtful debts provision and the amount of doubtful debts recovered.

## Note 7. Managing uncertainties continued

### 7.3 Administered – financial instruments

	Notes	2018 \$'000	2017 \$'000
<b><u>7.3A: Categories of financial instruments</u></b>			
<b>Financial assets</b>			
Cash and cash equivalents		1,641	1,781
Receivables for goods and services	4.1B	6,241	6,855
<b>Total financial assets</b>		<b>7,882</b>	<b>8,636</b>
 <b>Financial liabilities</b>			
At amortised cost:			
Grants payable	4.2A	1,290	1,316
Suppliers payables	4.2A	191	202
<b>Total financial liabilities held at amortised cost</b>		<b>1,481</b>	<b>1,518</b>

### 7.4 Fair value measurement

#### Accounting Policy

ASIC deems transfers between levels of the fair value hierarchy to have occurred at the end of the reporting period. See note 3.2A for further details on ASIC's valuation policy and procedures.

#### 7.4A: Fair value measurement

#### Fair value measurements at the end of the reporting period

##### Non-financial assets:

Leasehold improvements	26,057	33,667
Plant and equipment	22,102	24,764
<b>Total non-financial assets</b>	<b>48,159</b>	<b>58,431</b>

ASIC did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2018.

## Note 8. Other information

### 8.1 Expenditure relating to statutory boards and tribunal

#### Accounting Policy

Pursuant to Parts 11 and 12 of the ASIC Act and the *Superannuation (Resolution of Complaints) Act 1993*, ASIC is required to support the Companies Auditors Disciplinary Board and the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of this board and the tribunals are included in the Statement of Comprehensive Income of ASIC.

	2018 \$'000	2017 \$'000
Companies Auditors Disciplinary Board	525	517
Superannuation Complaints Tribunal	6,185	5,419

The Superannuation Complaints Tribunal (SCT) is an independent body with distinct responsibilities as set out under the *Superannuation (Resolution of Complaints) Act 1993* and has operated under the budgetary umbrella of ASIC since 1 July 1998.

### 8.2 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.

	2018 Quantity	2017 Quantity
Class of asset		
Land	521	504
Shares	76	40
Other	74	67
<i>Closing balance</i>	<b>671</b>	<b>611</b>

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.

## Note 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.

	2018 \$'000	2017 \$'000
Security deposits under Corporations Regulations 2001 regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank)	303	323
Inscribed stock	20	20
Bank guarantees	<u>8,920</u>	9,210
<i>Closing balance</i>	<u>9,243</u>	9,553
Security deposits under the Corporations Act 2001 s1284(1) (liquidators)		
Insurance bond	<u>1,800</u>	1,800
<i>Closing balance</i>	<u>1,800</u>	1,800

## Note 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 2017–18 Portfolio Budget Statements (PBS) to the 2017–18 final outcome as presented in accordance with Australian Accounting Standards for the entity. The budget is not audited. Explanations for variances greater than +/-10% and greater than +/- \$5m are provided.

	Actual	Original Budget	Variance
	2018 \$'000	2018 \$'000	2018 \$'000
<b>NET COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits	209,526	244,483	(34,957)
Suppliers	149,915	96,780	53,135
Depreciation and amortisation	40,709	35,977	4,732
Finance costs – unwinding of restoration provision	30	500	(470)
Write-down and impairment of assets	930	–	930
<b>Total expenses</b>	<b>401,110</b>	<b>377,740</b>	<b>23,370</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
Rendering of services	1,943	3,698	(1,755)
Operating sublease rent and property recoveries	2,674	865	1,809
Other revenue	36,258	330	35,928
<b>Total own-source revenue</b>	<b>40,875</b>	<b>4,893</b>	<b>35,982</b>
<b>Gains</b>			
Reversal of write-downs and impairment	1,294	–	1,294
<b>Total gains</b>	<b>1,294</b>	<b>–</b>	<b>1,294</b>
<b>Net Cost of Services</b>	<b>358,941</b>	<b>372,847</b>	<b>(13,906)</b>
<b>Total revenue from Government</b>	<b>348,041</b>	<b>340,223</b>	<b>7,818</b>
<b>Surplus/(Deficit)</b>	<b>(10,900)</b>	<b>(32,624)</b>	<b>21,724</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Items not subject to reclassification to net cost of services</b>			
Changes in asset revaluation reserve	–	–	–
<b>Total comprehensive income/(loss)</b>	<b>(10,900)</b>	<b>(32,624)</b>	<b>21,724</b>

## Note 8. Other information continued

Explanations of major variances	Affected line items
<b>Expense</b> Funding measures, including the Royal Commission, Improving Financial Capability and Improving Outcomes in Financial Services, were utilised more for suppliers' expenditure and less for employee benefits than was budgeted. It was more efficient to use contractors rather than employees for a number of short term projects within terminating funding measures.	Suppliers
<b>Own-source income</b> The variance relates to higher than budgeted awards of costs in ASIC's favour as a result of legal proceedings.	Other revenue

### Statement of Financial Position

	Actual	Original Budget	Variance
	2018 \$'000	2018 \$'000	2018 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	62,703	2,606	60,097
Trade and other receivables	122,430	116,314	6,116
<b>Total financial assets</b>	<b>185,133</b>	<b>118,920</b>	<b>66,213</b>
<b>Non-financial assets</b>			
Leasehold improvements	26,057	32,267	(6,210)
Plant and equipment	22,102	9,941	12,161
Computer software	90,445	106,871	(16,426)
Other non-financial assets	13,846	9,392	4,454
<b>Total non-financial assets</b>	<b>152,450</b>	<b>158,471</b>	<b>(6,021)</b>
<b>Total assets</b>	<b>337,583</b>	<b>277,391</b>	<b>60,192</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	42,485	30,456	12,029
Other payables	40,540	20,040	20,500
<b>Total payables</b>	<b>83,025</b>	<b>50,496</b>	<b>32,529</b>
<b>Provisions</b>			
Employee provisions	68,455	70,765	(2,310)
Other provisions	14,685	8,888	5,797
<b>Total provisions</b>	<b>83,140</b>	<b>79,653</b>	<b>3,487</b>
<b>Total liabilities</b>	<b>166,165</b>	<b>130,149</b>	<b>36,016</b>
<b>Net assets</b>	<b>171,418</b>	<b>147,242</b>	<b>24,176</b>
<b>EQUITY</b>			
Contributed equity	404,419	410,902	(6,483)
Reserves	17,137	17,137	-
Accumulated deficits	(250,138)	(280,797)	30,659
<b>Total equity</b>	<b>171,418</b>	<b>147,242</b>	<b>24,176</b>

## Note 8. Other information continued

Explanations of major variances	Affected line items
<b>Financial asset</b> The variance is due to the Special Account OPA balances being reclassified from receivables to cash, as well as the higher closing balance due to significant court cost recoveries.	Cash and cash equivalents
<b>Non-financial assets</b> The uncertainty of future leasing arrangements led to underspending in Leasehold improvements. The surplus budget was transferred internally to Plant and equipment and Computer software.	Leasehold improvements, Plant and equipment and Computer software
<b>Payables</b> The variance is due to higher than budgeted supplier expenses, which remained unpaid at financial year end, with the normal payment terms falling in July 2018.	Suppliers
The variance is due to higher than expected court cost recoveries received in advance in relation to Enforcement Special Account matters. In addition, restructuring provisions were classified as Other payables in the budget.	Other payables/Employee provision

## Note 8. Other information continued

### Statement of Changes in Equity

	Actual 2018 \$'000	Original Budget 2018 \$'000	Variance 2018 \$'000
<b>CONTRIBUTED EQUITY</b>			
<b>Opening balance</b>	364,970	367,849	(2,879)
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations	22,185	22,185	–
Departmental capital budget	17,264	20,868	(3,604)
<b>Total transactions with owners</b>	39,449	43,053	(3,604)
<b>Closing balance as at 30 June</b>	404,419	410,902	(6,483)
<b>RETAINED EARNINGS</b>			
<b>Opening balance</b>	(235,316)	(248,173)	12,857
s51 withholding of prior year appropriations	(3,922)	–	(3,922)
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	(10,900)	(32,624)	21,724
<b>Total comprehensive loss</b>	(10,900)	(32,624)	21,724
<b>Closing balance as at 30 June</b>	(250,138)	(280,797)	30,659
<b>ASSET REVALUATION RESERVE</b>			
<b>Opening balance</b>	17,137	17,137	–
<b>Comprehensive income</b>			
Other comprehensive income	–	–	–
<b>Total comprehensive income</b>	–	–	–
<b>Closing balance as at 30 June</b>	17,137	17,137	–
<b>TOTAL EQUITY</b>			
<b>Opening balance</b>	146,791	136,813	9,978
s51 withholding of prior year appropriations	(3,922)	–	(3,922)
<b>Comprehensive income</b>			
Other comprehensive income	–	–	–
Surplus/(Deficit) for the period	(10,900)	(32,624)	21,724
<b>Total comprehensive loss</b>	(10,900)	(32,624)	21,724
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Equity injections – Appropriations	22,185	22,185	–
Departmental capital budget	17,264	20,868	(3,604)
<b>Total transactions with owners</b>	39,449	43,053	(3,604)
<b>Closing balance as at 30 June</b>	171,418	147,242	24,176

#### Explanations of major variances

Variance is predominantly driven by higher court costs awarded relating to Enforcement Special Account matters.

#### Affected line items

Surplus/(Deficit) for the period – Retained earnings

## 8. Other information continued

### Cash Flow Statement

	Actual	Original Budget	Variance
	2018 \$'000	2018 \$'000	2018 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	390,181	344,400	45,781
Operating cash received	1,920	3,698	(1,778)
Net GST received	15,882	13,972	1,910
Cost recoveries	32,649	–	32,649
Other cash received	11,449	865	10,584
<b>Total cash received</b>	<b>452,081</b>	<b>362,935</b>	<b>89,146</b>
<b>Cash used</b>			
Employees	210,220	244,483	(34,263)
Suppliers	164,096	116,590	47,506
Transfers to the Official Public Account	47,827	2,316	45,511
<b>Total cash used</b>	<b>422,143</b>	<b>363,389</b>	<b>58,754</b>
<b>Net cash from/(used by) operating activities</b>	<b>29,938</b>	<b>(454)</b>	<b>30,392</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	46,448	42,599	3,849
<b>Total cash used</b>	<b>(46,448)</b>	<b>(42,599)</b>	<b>(3,849)</b>
<b>Net cash (used by) investing activities</b>	<b>(46,448)</b>	<b>(42,599)</b>	<b>(3,849)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations – contributed equity	42,014	43,053	(1,039)
<b>Total cash received</b>	<b>42,014</b>	<b>43,053</b>	<b>(1,039)</b>
<b>Net cash from financing activities</b>	<b>42,014</b>	<b>43,053</b>	<b>(1,039)</b>
<b>Net increase/(decrease) in cash held</b>			
Cash at the beginning of the reporting period	25,504	–	25,504
<b>Cash at the end of the reporting period</b>	<b>62,703</b>	<b>2,606</b>	<b>34,593</b>
			60,097

## 8. Other information continued

Explanations of major variances	Affected line items
<b>Cash received</b> The variance is driven by the s.74 receipts from higher than expected court cost recoveries. As well as Operating sublease recoveries being reclassified from Operating cash to Other cash, there has also been an unbudgeted increase in this category with an additional tenancy being sublet during the financial year.	Appropriations/Cost recoveries Other cash received
<b>Cash used</b> Funding measures, for the Royal Commission, Improving Financial Capability and Improving Outcomes in Financial Services, were utilised more for suppliers' expenditure and less for employee benefits than was budgeted. It was more efficient to use contractors rather than employees for a number of short term projects within terminating funding measures.	Employees/Supplies

## Note 8. Other information continued

### **8.4B: Administered budgetary reports**

The following tables provide a comparison of the original budget as presented in the 2017–18 Portfolio Budget Statements (PBS) to the 2017–18 final outcome as presented in accordance with Australian Accounting Standards for the entity. The budget is not audited. Explanations of variances greater than +/-10% and greater than +/- \$5m are provided.

### **Administered Schedule of Comprehensive Income**

	Actual	Original Budget	Variance
	2018 \$'000	2018 \$'000	2018 \$'000
<b>EXPENSES</b>			
Grants	3,552	3,583	(31)
Write-down and impairment of assets	53,948	50,812	3,136
Claims for Unclaimed Monies	65,813	42,120	23,693
Promotional costs for MoneySmart initiatives	547	574	(27)
<b>Total expenses</b>	<b>123,860</b>	<b>97,089</b>	<b>26,771</b>
<b>LESS:</b>			
<b>Own-source revenue</b>			
<b>Taxation revenue</b>			
Supervisory cost recovery levies	247,372	–	247,372
Fees	760,857	930,470	(169,613)
Total taxation revenue	1,008,229	930,470	77,759
<b>Non-taxation revenue</b>			
Fees and fines	219,023	–	219,023
Unclaimed monies	88,477	44,091	44,386
Total non-taxation revenue	307,500	44,091	263,409
<b>Total revenue</b>	<b>1,315,729</b>	<b>974,561</b>	<b>341,168</b>
<b>Net contribution by services</b>	<b>1,191,869</b>	<b>877,472</b>	<b>314,397</b>

### **Explanations of major variances**

### **Affected line items**

The increase in claims is due to the unexpected lodgements received under the <i>Life Insurance Act 1995</i> and the <i>Corporations Act 2001</i> .	Claims for Unclaimed Monies/ Non-taxation revenue Unclaimed Monies
The first levy invoice will be issued in January 2019, for supervisory services provided by ASIC during the 2017–18 financial year. As the budget was prepared on a cash basis it did not include the estimate of revenue presented in the 2017–18 financial statements.	Supervisory cost recovery levies
Refer to Changes in Accounting Policy in the Overview.	Fees (taxation), Fees and fines (non-taxation) Unclaimed monies
Legislative changes to the <i>Life Insurance Act 1959</i> and <i>Banking Act 1959</i> in 2015 increased the period of inactivity from 3 to 7 years for the lodgement of unclaimed monies. The budget reflected ASIC's expectation to receive minimal unclaimed monies revenue during this transitional period. Lodgements were higher than expected across all classes of unclaimed monies, including a significant lodgement under section 1343 Disposal of Securities of the <i>Corporations Act 2001</i> .	

## Note 8. Other information continued

### Administered Schedule of Assets and Liabilities

	Actual 2018 \$'000	Original Budget 2018 \$'000	Variance 2018 \$'000
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	1,641	2,580	(939)
Cost recovery levies receivable	247,372	—	247,372
Fees and fines receivable	137,812	—	137,812
Trade and other receivables	6,424	139,464	(133,040)
<b>Total assets administered on behalf of Government</b>	<b>393,249</b>	<b>142,044</b>	<b>251,205</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	29,872	23,271	6,601
Other payables	348,936	323,309	25,627
<b>Total liabilities administered on behalf of Government</b>	<b>378,808</b>	<b>346,580</b>	<b>32,228</b>
<b>Net assets/(liabilities)</b>	<b>14,441</b>	<b>(204,536)</b>	<b>218,977</b>
<b>Explanations of major variances</b>		<b>Affected line items</b>	
The first levy invoice will be issued in January 2019, for the 2017–18 Financial year. The budget was prepared on a cash basis and actuals were prepared on an accrual basis.		Cost recovery levies receivable	
The variance is due to the reclassification of receivables.		Fees and fines receivable, Trade and other receivables	
Aged creditors were higher than budget, due to timing of payments.		Suppliers	





# 8

## Appendices

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## 8.1 Appendices relating to how our staff achieve our vision

### The role of the Commission

The Commission is responsible for ASIC's strategic direction and priorities. The Commission meets twice monthly (except January and December) 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. **For more information on ASIC's corporate structure, see Section 1.1.**

Commissioners are appointed by the Governor-General, on the nomination of the Treasurer.

The Treasurer may nominate only those staff 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 the reasons set out in section 111 of the ASIC Act.

The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

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

Chris Savundra, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel to the Commission on major regulatory and enforcement matters. Kathleen Cuneo has been Acting Chief Legal Officer from January 2018, while Chris Savundra has been overseeing ASIC's work in assisting the Royal Commission.

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. The Commission held 21 meetings in 2017–18.

**Table 8.1.1 Commission meetings, 2017–18**

Commissioner	Eligible to attend	Attended
James Shipton	8 scheduled meetings	8
	1 unscheduled meeting	1
Greg Medcraft	4 scheduled meetings	4
	5 unscheduled meetings	5
Peter Kell	14 scheduled meetings	14
	7 unscheduled meetings	7
Cathie Armour	14 scheduled meetings	14
	7 unscheduled meetings	7
John Price	14 scheduled meetings	14
	7 unscheduled meetings	7

Unscheduled Commission meetings are called to obtain the Commission's decision on specific issues where required outside of the meeting timetable.

The Commission also meets on a weekly basis to:

- › discuss rapidly evolving matters or those which require early input or an update on approach or strategy
- › coordinate Commissioners' activities
- › make decisions on urgent matters.

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

## Audit Committee and audit services

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

The Committee reviewed ASIC's 2017–18 financial statements and provided advice to the Chair and Commissioners on the preparation and review of financial statements before the Chair signed them. The Committee met four times during the year, supplemented by one special meeting to review ASIC's draft financial statements.

**Table 8.1.2 Audit Committee meetings, 2017–18**

Member		Eligible to attend	Attended
<b>Geoffrey Applebee</b>			
First appointed as an independent member on 1 February 2010		4 main meetings	4
Reappointed as independent member and Chairman 1 September 2015		1 special meeting	1
<b>David Prothero</b>			
First appointed as an independent member on 1 March 2011		4 main meetings	4
Reappointed as independent member and Deputy Chairman 1 July 2016		1 special meeting	1
<b>Adrian Walkden</b>			
First appointed as an independent member on 9 November 2017		3 main meetings	2
<b>Cathie Armour</b>			
ASIC Commissioner		1 main meeting	1
First appointed as a Committee member on 13 June 2018			
<b>John Price</b>			
ASIC Commissioner		4 main meetings	4
First appointed as a Committee member in May 2013		1 special meeting	1
Retired from the Committee on 22 March 2018			

Geoffrey Applebee and David Prothero are chartered accountants and company directors with significant financial, business and community experience. Adrian Walkden is Chief Information Officer for a separate Commonwealth entity and has significant information technology experience within a Commonwealth Government setting. The retiring and newly appointed internal appointees, John Price and Cathie Armour respectively, are both Commissioners of ASIC.

Internal audit services are provided by Internal Audit staff from ASIC's Internal Audit and Operational Risk team, supported by specialist private sector internal audit providers as needed. The Australian National Audit Office provides external audit services. Senior external and internal audit representatives attend Audit Committee meetings.

**Geoffrey Applebee  
Chairman**

Audit Committee  
July 2018

## Boards, committees and panels

As a strategic and responsive regulator, we actively and extensively engage with our diverse range of stakeholders. We engage with regulated entities, consumers (including small business) and academics in a variety of ways, including through our extensive range of advisory panels, roundtables on specific issues across sectors, and regular meetings. These forms of engagement help us to:

- › gain a deeper understanding of industry and consumer developments
- › consult on policy matters
- › consider, and help to address, systemic risks or harms in the sectors we regulate
- › discover potentially harmful behaviours by particular entities.

Some of our panels – for example, the Financial Services and Credit Panel, the Markets Disciplinary Panel and the Liquidator Registration and Disciplinary Committees – also assist with our regulatory decision making.

This section outlines the background and purpose of each of ASIC's boards, committees and panels and the major issues addressed in 2017–18. Lists of members for our boards, committees and panels are available on our website.

### Australian Government Financial Literacy Board

The Australian Government Financial Literacy Board was established in 2005. The Board is a non-statutory body that provides independent and strategic guidance to the Government and ASIC on financial literacy and capability issues.

During 2017–18, the Board met three times, providing feedback on a range of tools and resources developed for ASIC's financial capability program. Members also reviewed progress of the National Financial Capability Strategy, the ASIC Teaching Program evaluation process, and research on the financial capabilities of older Australians.

### Business Advisory Committee

The registry's 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 an 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 changes and on the appropriateness of corporate registry objectives and initiatives, with a focus on their impact on business and ASIC's operations. The Committee's members are drawn from a wide range of businesses, industry and professional organisations.

During 2017–18, 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, including the modernising of business registers.

### Consumer Advisory Panel

The Consumer Advisory Panel (CAP) was established in 1999. It 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 a year, with senior ASIC staff and Commissioners attending. A joint meeting with the Consumer Consultative Committee of the Australian Competition and Consumer Commission is held annually.

During 2017–18, the CAP considered the complex financial issues confronting older people at retirement and in the transition to aged care, and it maintained its focus on the financial needs of vulnerable consumers at all life stages. This included considering responsible lending, reforms to small amount lending contracts, add-on insurance, credit reporting and the conduct of debt management firms. The CAP also engaged with the effectiveness of remediation schemes and consumer codes, competition policy and superannuation issues.

In a busy year for inquiries and reform, the CAP maintained its focus on a diverse range of areas, including:

- › reform to the dispute resolution framework
- › professional standards reforms for financial advisers
- › implementation of reforms arising from the Financial System Inquiry, such as product intervention powers, and issuer and distributor obligations
- › the Royal Commission.

## Director Advisory Panel

The Director Advisory Panel was established in 2013 to channel senior-level advice from directors of listed entities so that ASIC can gain a deeper understanding of developments and systemic risks in the corporate sector.

Members of the Director Advisory Panel are drawn from entities of various sizes, representing different sectors and locations, in order to provide us with views from a broad spectrum of Australian listed entities.

During 2017–18, the Director Advisory Panel met twice and discussed cyber resilience, innovation in financial services and regulatory technology, climate change risk disclosure, and ASIC’s focus on culture. Members also provided valuable insight and input into ASIC-wide issues.

## External Advisory Panel

The External Advisory Panel was established in 2009 to help ASIC to gain a deeper understanding of developments and threats of harm within the financial services industry. This in turn assists us in better understanding the markets that ASIC regulates and being more forward-looking in examining issues and assessing systemic risks.

The External Advisory Panel is an advisory body only and, as such, has no decision-making authority.

Members are drawn from different sectors and hold, or have held, senior positions. Members sit in a personal capacity – they do not represent individual organisations.

During 2017–18, the Panel met four times and provided advice and feedback on a wide range of matters, including financial services and the Indigenous community, issues in the financial advice sector, raising professional standards in the financial services sector, illegal phoenix activity, current issues in whistleblowing, and the decline in audit quality. The Panel also discussed ASIC’s data strategy, ASIC’s strategic risks, and the ASIC Enforcement Review.

## Financial Advisers Consultative Committee

The Financial Advisers Consultative Committee was established in 2017. The Committee supplements ASIC’s engagement with the financial advice industry by improving our capacity to identify, assess and respond to emerging trends, and by enhancing our relationships with key stakeholders.

Members are practising financial advisers with a range of skills in insurance, superannuation, self-managed superannuation funds and digital financial advice. They sit in a personal capacity – they do not represent individual organisations.

During 2017–18, the Committee met three times and provided feedback on a range of topics, including the Royal Commission, vertical integration and conflicts of interest, the impact of licensees shutting down on advisers and consumers, cyber security for independent financial advisers, and ASIC industry funding.

## Financial Services and Credit Panel

The Financial Services and Credit Panel (FSCP) was established in late 2017 after public consultation and a call for expressions of interest. It comprises a pool of people engaged by ASIC to make decisions about whether to ban individuals from providing financial services and engaging in credit activities. A matter may be referred to the FSCP where we consider it appropriate for peer review because of its significance, complexity or novelty.

The FSCP is comprised of leaders in the financial services and consumer credit industry, adding an element of peer review to the administrative

decision-making process. Each sitting panel consists of two members from the FSCP and an ASIC staff member.

## Liquidator Registration and Disciplinary Committees

An individual may apply to ASIC to be registered as a liquidator or to have a current condition on their registration varied or removed. ASIC refers these applications to a specially convened committee.

Where ASIC is not satisfied with the response of a liquidator who has been issued with a show cause notice as to why they should continue to be registered, ASIC may refer the matter to a specially convened committee for a decision.

Each committee consists of an ASIC staff member as Chair, a registered liquidator chosen by the Australian Restructuring, Insolvency and Turnaround Association, and a person appointed by the Minister. Administrative and secretariat services are provided to the Liquidator Registration and Disciplinary Committees by the ASIC Chief Legal Office.

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

## Markets Advisory Panel

The Markets Advisory Panel was established in 2010. The Panel advises us on our approach to our responsibilities for the day-to-day supervision of the Australian market and on broader market developments.

Members are drawn from the financial services industry, with experience in retail markets, institutional banking and asset management.

During 2017–18, the Panel met six times and provided advice on a wide range of topics, including:

- › ASIC's strategic direction on fixed income, currencies and commodities, and surveillance activity in these markets
- › risks associated with the growth in initial coin offerings and cryptocurrencies

- › licensing for administrators of significant benchmarks
- › various issues in exchange-traded products, including market making, short selling and price discovery.

## Markets Disciplinary Panel

The Markets Disciplinary Panel (MDP) is a panel of people engaged by ASIC to make decisions about whether to give infringement notices to market participants for alleged breaches of the market integrity rules.

The MDP is a peer review panel that consists of part-time members with relevant market or professional experience. Members of the MDP have, or have had, senior roles in broking firms and investment banks. Each sitting panel comprises three MDP members. ASIC staff members cannot be members of the MDP. Legal and secretariat services are provided to the MDP by ASIC's Chief Legal Office.

Matters are referred to the MDP by ASIC's Market Integrity Group as an alternative to bringing civil proceedings in the court system. During 2017–18, the MDP considered eight matters and issued seven infringement notices amounting to a total of \$1,173,000 in specified penalties. For example:

- › In November 2017, Bell Potter Securities Limited paid a \$358,000 infringement notice issued by the MDP. The MDP found that Bell Potter Securities had made bids for shares in DirectMoney Limited to support the price of DirectMoney shares during the first two weeks of its backdoor listing on ASX. Bell Potter Securities had acted as lead manager and underwriter for DirectMoney's capital raising.
- › In December 2017, Interactive Brokers LLC paid a penalty of \$250,000 to comply with an infringement notice issued by the MDP. The MDP found it had reasonable grounds to believe that Interactive Brokers had breached the ASIC Market Integrity Rules (Chi-X Australia Market) 2011 prohibiting a market participant from making bids for shares on account of another person and requiring a market participant to have systems in place to prevent or minimise manipulative trading.

- › In September 2017, OpenMarkets Australia Limited paid a penalty of \$200,000 to comply with an infringement notice issued by the MDP. The MDP had reasonable grounds to believe that OpenMarkets Australia had failed to have appropriate filters in place for use of its automated order processing system – for example, to prevent trades that involved no change of beneficial ownership and to reject the placement of sell orders which were prohibited short sales.

The infringement notices for finalised matters are published in the MDP Outcomes Register on the ASIC website.

### Digital Finance Advisory Committee

The Digital Finance Advisory Committee was established in 2015. The Committee assists ASIC in supporting innovation in financial services and markets. It provides advice and feedback on the opportunities, developments and emerging risks for start-up fintech and regtech businesses and our engagement with those businesses through our Innovation Hub.

Members are drawn from the fintech, regtech, venture capital, consumer and academic sectors, and serve in their personal capacity – they do not represent individual

organisations. The Treasury, the Australian Prudential Regulation Authority, the Reserve Bank of Australia, the Office of the Information Commissioner, the Australian Competition and Consumer Commission, the Australian Transaction Reports and Analysis Centre and Austrade attend Committee meetings as observers. Other agencies are also invited to attend as observers when relevant issues are being discussed.

During 2017–18, the Committee met four times and provided advice on several matters, including our international engagement, communication approach and regtech initiatives. The Committee also heard presentations from Insurtech Australia and the Regtech Association.

### ASIC's staff

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

By 30 June 2018, ASIC had a total of 1,656 staff. Table 8.1.3 shows a breakdown of our staff numbers by location for each classification and Table 8.1.4 provides a detailed picture of the gender breakdown of our staff.

**Table 8.1.3 ASIC employees (FTE), by location, 2017–18**

Roles	Vic.	NSW	Qld	WA	SA	Tas.	ACT	NT	Total
Chair	1	–	–	–	–	–	–	–	1
Deputy Chair	–	1	–	–	–	–	–	–	1
Member	1	1	–	–	–	–	–	–	2
SES	11	27	–	1	–	–	–	–	39
ASIC Act employees	1	8	–	–	–	–	–	–	9
Exec 2	147	240	35	27	6	6	6	–	467
Exec 1	118	198	44	29	12	4	4	1	410
ASIC 4	121	121	38	22	13	3	1	–	319
ASIC 3	101	64	27	11	4	1	2	–	210
ASIC 2	145	12	11	2	3	1	–	–	174
ASIC 1	23	1	–	–	–	–	–	–	24
<b>Total</b>	<b>669</b>	<b>673</b>	<b>155</b>	<b>92</b>	<b>38</b>	<b>15</b>	<b>13</b>	<b>1</b>	<b>1,656</b>
<b>Total %</b>	<b>40</b>	<b>41</b>	<b>9</b>	<b>6</b>	<b>2</b>	<b>&lt;1</b>	<b>&lt;1</b>	<b>&lt;1</b>	

**Table 8.1.4 Combined totals for Commissioners, employees under ASIC Act and under Public Service Act 1999, by gender, 2017–18**

Role	Ongoing				Non-ongoing				Total	
	Full-time		Part-time		Full-time		Part-time			
	Female	Male	Female	Male	Female	Male	Female	Male		
<b>Appointee</b>	–	–	–	–	1	3	–	–	4	
Chair	–	–	–	–	–	1	–	–	1	
Deputy Chair	–	–	–	–	–	1	–	–	1	
Member	–	–	–	–	1	1	–	–	2	
<b>ASIC Act employees</b>	1	1	1	–	7	13	2	1	26	
SES	–	–	–	–	6	9	1	1	17	
Other ASIC Act employees	1	1	1	–	1	4	1	–	9	

Role	Ongoing				Non-ongoing				Total	
	Full-time		Part-time		Full-time		Part-time			
	Female	Male	Female	Male	Female	Male	Female	Male		
<b>Public Service Act employees</b>	578	628	205	25	91	72	20	7	1,626	
SES	6	10	4	1	1	0	0	0	22	
Exec 2	139	220	64	12	10	19	2	1	467	
Exec 1	119	185	57	6	20	18	4	1	410	
ASIC 4	150	105	27	1	21	13	2	–	319	
ASIC 3	76	78	19	–	20	13	2	2	210	
ASIC 2	83	29	30	3	13	8	5	3	174	
ASIC 1	5	1	4	2	6	1	5	–	24	
<b>Total</b>	<b>579</b>	<b>629</b>	<b>206</b>	<b>25</b>	<b>99</b>	<b>88</b>	<b>22</b>	<b>8</b>	<b>1,656</b>	
<b>Total %</b>	<b>35</b>	<b>38</b>	<b>12</b>	<b>1</b>	<b>6</b>	<b>5</b>	<b>1</b>	<b>&lt;1</b>		

Table 8.1.5 shows how our regulatory staff resources are deployed, breaking down staff numbers according to the number of full-time equivalent (FTE) staff per regulatory team.

**Table 8.1.5 Full-time equivalent staff for each ASIC regulatory team, 2017–18**

Team	Total net FTE
<b>Investors and Financial Consumers</b>	
Assessment and intelligence	150
Deposit takers, credit and insurers	81
Financial advisers	47
Financial capability	32
Financial services enforcement	77
Investment managers and superannuation	52
<b>Markets</b>	
Corporations	42
Market infrastructure	29
Financial reporting and audit	28
Insolvency practitioners	23
Market enforcement	44

<b>Team</b>	<b>Total net FTE</b>
Corporations and corporate governance enforcement	34
Enforcement Western Australia	35
Market supervision	80
Registry	184
<b>Total</b>	<b>938</b>

Note: The figures in the above table are indicative only and do not include an additional 91 FTE staff employed to work on Enforcement Special Account matters and an additional 80 FTE staff providing enforcement support services and legal counsel.

The majority of our staff are employed under the ASIC Enterprise Agreement 2016–19, which is ongoing. Table 8.1.6 shows the industrial arrangements for all ASIC staff. Table 8.1.7 shows the salary ranges per annum for ASIC staff.

We continue to provide our staff with the opportunity to receive an annual performance bonus. Table 8.1.8 shows the performance payments we made in 2017–18.

**Table 8.1.6 Industrial arrangements for ASIC staff as at 30 June 2018<sup>1</sup>**

<b>Classification</b>	<b>ASIC Act s120(3)</b>	<b>AWA<sup>2</sup></b>	<b>EA<sup>3</sup></b>	<b>Total</b>
ASIC 1	–	–	29	29
ASIC 2	–	–	192	192
ASIC 3	–	–	220	220
ASIC 4	–	–	335	335
Exec 1	–	–	483	483
Exec 2	–	–	556	556
SES	16	15	9	40
ASIC Act	9	–	–	9
<b>Total</b>	<b>25</b>	<b>15</b>	<b>1,824</b>	<b>1,864</b>

<sup>1</sup> The number of industrial arrangements for ASIC staff is calculated based on total headcount as at 30 June 2018, rather than FTE. This is because each industrial instrument belongs to an individual, regardless of their work pattern, and our obligations against those instruments relate to a number of staff, not FTE.

<sup>2</sup> Australian Workplace Agreement.

<sup>3</sup> Enterprise Agreement.

**Table 8.1.7 Salary ranges per annum**

Classification	Minimum per annum (\$)	Maximum per annum (\$)
ASIC 1	44,122	49,740
ASIC 2	51,313	62,619
ASIC 3	65,406	76,473
ASIC 4	78,265	90,372
Exec 1	102,566	121,012
Exec 2	116,189	166,066
SES	188,662	312,356

**Table 8.1.8 Performance payments, by classification, 2017–18<sup>1</sup>**

Classification	No. of recipients	Aggregate (\$)	Minimum (\$)	Maximum (\$)	Average (\$)
ASIC 4	284	1,010,153	358	12,532	3,557
Exec 1	444	2,481,396	365	15,096	5,589
Exec 2	550	4,726,562	384	24,523	8,594
SES	41	756,043	5,151	33,024	18,440
<b>Total</b>	<b>1,319</b>	<b>8,974,154</b>			

<sup>1</sup> Includes payments for the 2016–17 performance year which were paid in 2017–18, plus any pro-rata payments for the 2017–18 performance year for staff who left ASIC in 2017–18.

## 8.2 Appendices relating to assessments

### Assessing misconduct and other reports

#### Misconduct reports from the public

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

As part of our Regulatory Transformation program, we have moved the processing of reports of misconduct to a new platform. This allows for more detailed reporting of the issues being raised. In the past, we only reported on the main issue being raised.

However, our new, more comprehensive reporting allows us to record multiple issues (e.g. not only a financial services issue but also a secondary issue about corporate governance). Table 8.2.1 below shows the breakdown by issue and is not directly comparable with previous years.

In 2017–18, we dealt with 9,567 reports of alleged misconduct. Table 8.2.2 below shows the outcome of the misconduct reports received by ASIC during the financial year.

**Table 8.2.1 Misconduct issues, by category, 2017–18**

Category	Percentage
<b>Corporations and corporate governance</b>	
Governance issues	10%
Failure to provide books and records or a report as to affairs to an insolvency practitioner	6%
Fraud allegations	5%
Insolvency practitioner misconduct	5%
Insolvency matters	4%
Other (e.g. shareholder issues, reporting issues)	12%
<b>Subtotal</b>	<b>42%</b>
<b>Financial services and retail investors</b>	
Credit issues	12%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	7%
General licence obligations	6%
Other (e.g. insurance, advice, misleading or deceptive conduct, unconscionable conduct)	11%
<b>Subtotal</b>	<b>36%</b>

Category	Percentage
<b>Market integrity</b> – including insider trading, continuous disclosure, misleading statements and market manipulation	8%
<b>Registry integrity</b> – including incorrect address recorded on ASIC's register, lodging false documents with ASIC and issues with business names	6%
<b>Issues out of ASIC's jurisdiction</b>	7%
<b>Total</b>	<b>100%</b>

**Table 8.2.2 Misconduct reports, by outcome, 2017–18**

Misconduct reports	Number
<b>Total misconduct reports finalised<sup>1</sup></b>	<b>9,567</b>
Outcome	Percentage
<b>Referred for action by ASIC<sup>2</sup></b>	<b>21%<sup>3</sup></b>
<b>Resolved<sup>4</sup></b>	<b>12%</b>
Compliance achieved	4%
Warning letter issued	4%
Referred for internal or external dispute resolution	3%
Assistance provided	1%
More appropriate agency	< 0.5%
<b>Analysed and assessed for no further action<sup>5</sup></b>	<b>53%</b>
Insufficient evidence	37%
No action	16%
<b>No jurisdiction<sup>6</sup></b>	<b>10%</b>
<b>No breach or offences</b>	<b>4%</b>
<b>Total</b>	<b>100%</b>

<sup>1</sup> Where ASIC receives reports about the same entity and issue, we merge these matters.

<sup>2</sup> The matters ASIC takes into account when deciding whether or not to commence a formal investigation are set out in more detail in Information Sheet 151 *ASIC's approach to enforcement*.

<sup>3</sup> This category has previously been split into two: referred for compliance, surveillance or investigation; and to assist existing investigation or surveillance. These are no longer separated under our Regulatory Transformation program.

<sup>4</sup> This can involve referral to an EDR scheme, ASIC issuing a warning letter to the party that may be in breach of the Corporations Act, ASIC providing assistance to the reporter in the form of guidance and information about how best to resolve the matter themselves, or ASIC taking action to achieve compliance.

<sup>5</sup> Preliminary inquiries made and information provided analysed and assessed for no further action by ASIC due to insufficient evidence or other reason – for example, because another agency or law enforcement body or third party (e.g. liquidator) is better placed to appropriately deal with the underlying issues or is already taking action.

<sup>6</sup> Where relevant, ASIC directs reporters to the appropriate agency or solution.

## Breach reports from licensees and auditors

The Corporations Act requires AFS licensees to tell us in writing within 10 business days about any significant breach (or likely breach) of their obligations. We also receive breach reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by the company, managed investment scheme or AFS licensee they are appointed to audit.<sup>1</sup>

Table 8.2.3 provides a breakdown of the breach reports we assessed in 2017–18 by type and outcome.

**Table 8.2.3 Breach reports, by type and outcome, 2017–18**

Breach	
Type	Number
Auditor breach reports	491
Breach reports about AFS licensees and managed investment schemes	1,394
<b>Total breach reports finalised</b>	<b>1,885</b>
Outcome	
Referred for action by ASIC	Percentage
Referred for compliance, investigation or surveillance	33%
Assist existing investigation or surveillance	5%
Analysed and assessed for no further action	
No further action	61%
No offence identified	1%
<b>Total</b>	<b>100%</b>

<sup>1</sup> For more information about the matters that require an auditor to report a breach of the law to ASIC, see sections 311, 601HG and 990K of the Corporations Act.

## Statutory reports from liquidators, administrators and receivers

The Corporations Act requires liquidators, administrators and receivers (i.e. external administrators) to report to ASIC if they suspect that company officers are guilty of an offence. Liquidators must also report if the return to unsecured creditors may be less than 50 cents in the dollar.

Table 8.2.4 provides details of the statutory reports we assessed in 2017–18 by type and outcome.

**Table 8.2.4 Statutory reports from liquidators, administrators and receivers, 2017–18**

Statutory reports	
Type	Number
Initial reports from liquidators, administrators and receivers	8,823
Reports alleging misconduct	6,840
Reports not alleging misconduct	1,983
Supplementary reports alleging misconduct	931
Total statutory reports finalised (initial + supplementary)	9,754
Outcome	Percentage
Initial report analysed and assessed, no further information required <sup>1</sup>	87%
Supplementary reports requested	13%
Referred for compliance, investigation or surveillance	12%
Assisted existing investigation or surveillance	1%
Total	100%

<sup>1</sup> There was insufficient evidence to warrant commencing a formal investigation in more than one-quarter of the cases where a supplementary report was requested and subsequently it was determined that no further information was required. We retain these reports for intelligence purposes for possible future use. We requested a further report from the external administrator in more than one-fifth of these cases.

## ASIC's use of significant compulsory information-gathering powers

Since 2010–11, ASIC has reported the use of significant compulsory information-gathering powers under statute. This appendix discloses data by number of instances in 2017–18, with comparative data for 2016–17.

**Table 8.2.5 Use of significant compulsory information-gathering powers**

Use of significant compulsory information-gathering powers		Number of notices 2017–18	Number of notices 2016–17
<b>Appear for examination</b>			
ASIC Act, s19 <sup>1</sup>	Requirement to appear for examination	650	722
ASIC Act, s58	Power to summons a witness and take evidence	0	0
National Credit Act, s253 <sup>1</sup>	Requirement to provide reasonable assistance	50	38
<b>Give reasonable assistance</b>			
Corporations Act, s1317R	Power to require assistance in prosecutions	25 <sup>2</sup>	452
ASIC Act, s49(3)	Power to require reasonable assistance in prosecutions	24	17
National Credit Act, s51	Requirement to provide reasonable assistance	0	0
Corporations Act, s601FF	Power to conduct surveillance / monitor managed investment scheme	0	0
National Credit Act, s274(4)	Requirement to provide reasonable assistance	0	0
Corporations Act, s912E	Power to require assistance and disclosure of books and information from an AFS licensee	412	352
<b>Produce documents</b>			
National Credit Act, s266	Requirement to produce books (credit activities)	123	74
National Credit Act, s267	Requirement to produce books	114	67
ASIC Act, s30	Notice to produce books about affairs of body corporate or registered scheme	1,014	1,261
ASIC Act, s31	Notice to produce books about financial products	74	87
ASIC Act, s32A	Notice to produce books about financial services	7	0
ASIC Act, s33	Notice to produce books in person's possession	1,470	1,684

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

2 The number of Corporations Act s1317R notices issued in 2017–18 returned to normal levels following a spike in 2016–17 due to some specific ASIC surveillance projects, such as the bank bill swap rate investigation.

Use of significant compulsory information-gathering powers		Number of notices	Number of notices
		2017–18	2016–17
<b>Provide access</b>			
ASIC Act, s29	Power to inspect books	0	0
Corporations Act, s821D	Power to require access to a CS facility	0	0
<b>Provide information</b>			
ASIC Act, s12GY(2)	ASIC to require claims to be substantiated	0	0
ASIC Act, s37(9)(a)	Power requiring explanation of books	0	1
Corporations Act, s601HD	Power to request information about compliance plan of a registered scheme	0	0
National Credit Act, s49(1)	Requirement to provide information (statement)	138	75
Corporations Act, s912C	Power to require information from an AFS licensee	640	652
National Credit Act, Item 17 Sch 2	Power to require information (obtain statement or audit report)	0	0
Corporations Act, s672A	Power to require disclosure of relevant interests	45	17
Corporations Act, s672B	Power to require disclosure of relevant interests	0	0
National Credit Act, s37(4)	Power to request information or audit report from licence applicant	0	0
Corporations Act, s792D	Power to require reasonable assistance from a market licensee	13	41
<b>Provide information and produce books</b>			
ASIC Act, s30A	Notice to auditors requiring information or books	43	53
ASIC Act, s30B	Notice to registered liquidators requiring information or books	3	0
<b>Search warrants</b>			
Crimes Act 1914, s3E	Warrants to search premises/conveyance or person	55 <sup>3</sup>	51
ASIC Act, s36	Warrant to search premises	0	1

3 Of the 55 warrants issued (for seven individual investigations) in 2017–18, 38 were executed.

**Table 8.2.6 Use of other powers**

Use of other powers		Number of notices 2017–18	Number of notices 2016–17
<b>Obligations of carriers and carriage service providers</b>			
Telecommunications Act 1997, s313	Request for help as is reasonably necessary for enforcing the criminal law and laws imposing pecuniary penalties	0	0
<b>Provide documents, information or evidence</b>			
Mutual Assistance in Business Regulation Act 1992, s10(2)	Requirement to produce documents, to give information or to appear to give evidence and produce documents	31	33

## Licensing and professional registration activities

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

Table 8.2.7 provides a breakdown of the type and number of applications we assessed in 2017–18 compared with 2016–17.

**Table 8.2.7 ASIC's licensing and professional registration activities**

Outcome (by licence type)	2017–18	2016–17
<b>AFS licences, including limited AFS licences (new and variations)</b>		
Approved	758	1,159
Refused/Withdrawn	410	421
Cancelled/Suspended	204	228
In progress	561	534
<b>Australian credit licences (new and variations)</b>		
Approved	430	406
Refused/Withdrawn	188	243
Cancelled/Suspended	331	413
In progress	204	251

Outcome (by licence type)	2017–18	2016–17
<b>Registered auditors – registered company auditors, authorised audit company and SMSF auditors</b>		
Approved	195	178
Refused/Withdrawn	95	100
Cancelled/Suspended	632	626
In progress	39	31

The decrease in the number of AFS licence applications finalised in 2017–18 is mainly a follow-on effect from the large number of limited AFS licence applications received at the end of 2015–16 that remained on hand at the start of 2016–17 and were finalised in that year. There was no similar pool of applications on hand at the start of 2017–18.

## Reports required under statute and other reporting requirements

### ASIC Act

As required by the ASIC Act, s136(1)(a), in 2017–18, ASIC reports that we issued one legislative instrument under Part 29 of the SIS Act amending the existing instrument, the *ASIC Superannuation (RSE Websites) Instrument 2017/570*. We did not exercise our powers under Part 15 of the *Retirement Savings Account Act 1997*.

As required under s136(1)(c), ASIC reports that during 2017–18 we conducted three joint inspections with the US Public Company Accounting Oversight Board under the terms of an agreement between the two organisations, although only one involved a joint audit engagement file review. We did not conduct any joint inspections with the Canadian Public Accountability Board or the Luxembourg Commission de Surveillance du Secteur Financier or share any information with them under the relevant provisions of the ASIC Act during 2017–18.

### Commonwealth fraud control guidelines

ASIC has a fraud control policy and plan in place, which is reviewed every two years and approved by the Operational Risk Committee. We have appropriate fraud prevention, detection, investigation and reporting mechanisms in place.

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

### 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 2017–18 that have had, or may have, a significant impact on ASIC's operations. *For information about the assistance we have provided to the Royal Commission, see Section 1.5.*

#### Reports by Parliamentary Joint Committees

In 2017–18, ASIC contributed to the following responses and reports produced by the Parliamentary Joint Committee on Corporations and Financial Services:

- › Government response: Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry, December 2014 (tabled 8 August 2017)
- › Whistleblower protections in the corporate, public and not-for-profit sectors (tabled 13 September 2017)

- › Inquiry into the life insurance industry (tabled 27 March 2018)
- › The Parliamentary Joint Committee on Corporations and Financial Services examined ASIC's 2016–17 Annual Report and considered that ASIC met its reporting requirements
- › ASIC also contributed to Report 469: *Commonwealth Performance Framework* (tabled December 2017), by the Parliamentary Joint Committee of Public Accounts and Audit.

### Senate Standing Committees

During 2017–18, ASIC testified before the Senate Economics Committees numerous times and provided answers to Questions on Notice.

ASIC was involved in the following three reports finalised by the Senate Economics Committees:

- › *Australia's general insurance industry: Sapping consumers of the will to compare* (tabled 10 August 2017)
- › *Foreign bribery* (tabled 23 March 2018)
- › Corporate tax avoidance report – *Part III: Much heat, little light so far* (tabled 30 May 2018).

ASIC also contributed to the following reports:

- › *Future of rugby union in Australia* (tabled 15 November 2017) by the Senate Standing Committees on Community Affairs
- › *Select Committee on Lending to Primary Production Customers* (tabled 6 December 2017).

### House of Representatives Standing Committees

ASIC appeared before the Standing Committee on Economics to discuss the *Review of the Four Major Banks (Third Report)* (tabled 7 December 2017).

### Other reports

This financial year, there were no:

- › statements of significant issues reported to the Minister relating to ASIC's non-compliance with finance law
- › reports issued by the Auditor-General relating to the financial statements of Australian Government entities
- › reports issued by the Commonwealth Ombudsman relating to the operation of ASIC
- › capability reviews on ASIC.

### ***Freedom of Information Act 1982***

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

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

Requests by email should be sent to:

[FOIrequest@asic.gov.au](mailto:FOIrequest@asic.gov.au)

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 our website.

Categories of documents in ASIC's possession include, for operational matters:

- › licence and professional registration applications
- › applications from businesses, correspondence, internal working papers, policy proposals and submissions
- › administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers.

For other matters, categories of documents include:

- › law reform, including submissions and proposal papers
- › correspondence with members of the public, government entities, parliamentary committees, business entities and other bodies
- › administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and 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 our website.

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

*ASIC Digest* is available by subscription from Thomson Reuters (telephone 1300 304 197).

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

Agencies subject to the FOI Act 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 section 8 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 our website.

## 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 2017–18 was \$3.583 million. ASIC paid and committed the total allocation to liquidators in 2017–18.

In 2017–18, under the grant scheme, ASIC received:

- › 587 banning (EX02) applications – a 5% increase on applications received in 2016–17
- › 197 'Matters other than s206F – Director banning' (EX03) applications – a 10% increase on applications received in 2016–17
- › 14 winding-up activities – a 57% increase on winding-up activities in 2016–17
- › 0 actions for a liquidator to recover assets.

In total, ASIC received 784 applications for funding in 2017–18 – the highest number of applications ever received.

Reports funded by the AA Fund assisted in approximately 93% of the 45 director bannings.

Information on grants by ASIC under the AA Fund during 2017–18 is available on [www.asic.gov.au](http://www.asic.gov.au).

## 8.3 Appendices relating to statements required by law

### Portfolio budget statement outcomes

**Table 8.3.1 Agency resource statement, 2017–18**

		Actual available appropriation for 2017–18 \$'000s	Cash payments made <sup>1</sup> 2017–18 \$'000s	Balance remaining 2017–18 \$'000s
<b>Ordinary annual services<sup>2</sup></b>				
<b>Departmental</b>				
Departmental appropriation <sup>3</sup>		546,650	382,501	164,149
<b>Administered expenses</b>				
Outcome 1 – Administration fund		7,302	5,439	N/A
<b>Total ordinary annual services</b>	<b>A</b>	<b>553,952</b>	<b>387,940</b>	<b>N/A</b>
<b>Other services</b>				
<b>Departmental non-operating</b>				
Equity injections <sup>4</sup>		36,016	27,777	8,239
<b>Total other services</b>	<b>B</b>	<b>36,016</b>	<b>27,777</b>	<b>8,239</b>
<b>Total available appropriations (A+B)</b>		<b>589,968</b>	<b>415,717</b>	<b>N/A</b>
<b>Special appropriations limited by criteria/amount</b>				
Banking Act 1959		N/A	28,109	N/A
Life Insurance Act 1995		N/A	3,609	N/A
<b>Total special appropriations</b>	<b>C</b>	<b>N/A</b>	<b>31,718</b>	<b>N/A</b>
<b>Total appropriations excluding special accounts (A+B+C)</b>		<b>589,968</b>	<b>447,435</b>	<b>N/A</b>

<sup>1</sup> Does not include GST.

<sup>2</sup> Appropriation Bill (No. 1) 2017–18, Appropriation Bill (No. 3) 2017–18, prior year departmental appropriation and section 74 relevant agency receipts.

<sup>3</sup> Includes \$20.868 million for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

<sup>4</sup> Appropriation Bill (No. 2) 2017–18.

	Actual available appropriation for 2017–18	Cash payments made <sup>1</sup> 2017–18	Balance remaining 2017–18
	\$'000s	\$'000s	\$'000s
<b>Special Account<sup>5</sup></b>			
Opening balance	33,064	N/A	N/A
Appropriation receipts	26,279	N/A	N/A
Costs recovered	29,355	N/A	N/A
Payments made	N/A	29,563	N/A
<b>Total Special Account</b>	<b>D</b>	<b>88,698</b>	<b>29,563</b>
<b>Total resourcing (A+B+C+D)</b>		<b>678,666</b>	<b>476,998</b>
Less appropriations drawn from annual appropriations above and credited to special accounts	(26,279)	–	N/A
<b>Total net resourcing for ASIC</b>		<b>652,387</b>	<b>476,998</b>

5 Does not include Special Public Money.

**Table 8.3.2 Expenses by outcome**

	Budget <sup>1</sup> 2017–18 (1) \$'000s	Actual expenses 2017–18 (2) \$'000s	Variance column (1) minus column (2) \$'000s
<b>Outcome 1: Improved confidence in Australia's financial markets through promoting informed investors and financial consumers, facilitating fair and efficient markets and delivering efficient registry systems</b>			
A Administered expenses funded by administered appropriations	7,302	4,099	3,203
B Departmental expenses funded by departmental appropriations and own-source revenue	377,740	401,110	(23,370)
<b>Total for Outcome 1 (A + B)</b>	<b>385,042</b>	<b>405,209</b>	<b>(20,167)</b>
Average FTE <sup>2</sup>	<b>1,698</b>	<b>1,656</b>	<b>42</b>

1 Based on the 2017–18 forecast as set out in ASIC's 2017–18 Portfolio Budget Statements.

2 2017–18 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.

## Managing property vested in ASIC or the Commonwealth

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

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

The number of new matters received in 2017–18 increased to 1,417. The number of matters finalised increased to 1,425. Table 8.3.3 below shows vested properties of deregistered companies by number of cases.

### Assets of deregistered companies vesting in ASIC or the Commonwealth

Section 601AD of the Corporations Act provides that, when a company is deregistered, all of its property vests in ASIC or, in the case of trust property, the Commonwealth. We account for any proceeds on realisation of those assets in accordance with our statutory duties.

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

**Table 8.3.3 Vested properties of deregistered companies (by number of cases)**

Claims by type	2017–18	2016–17
<b>Total new matters</b>	<b>1,417</b>	<b>1,244</b>
<b>Total finalised matters</b>	<b>1,425</b>	<b>1,254</b>
<b>Property disposals</b>		
Transferred	82	114
Sold	6	5
No longer vested <sup>1</sup>	693	653
Other <sup>2</sup>	47	47
<b>Total property disposals</b>	<b>828</b>	<b>819</b>

<sup>1</sup> 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.

<sup>2</sup> Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

## Environmental performance

This section describes ASIC's environmental performance in accordance with Government policy. In 2017–18, we continued to mitigate our impact on the environment through the initiatives discussed below.

### Energy efficiency

Our total electricity consumption has reduced by 35.5% since 2010–11.

We minimise our consumption of office energy with initiatives including LED lighting, motion sensor-controlled lighting and use of power saving mode for ICT equipment.



**Table 8.3.4 Consumption of office energy**

Indicator	2017–18	2016–17
Light and power – ASIC tenancies (Kwh)	2,895,023	2,851,041
MJ per person	5,347	5,096
Light and power – ASIC computer centres (kWh)	852,217	906,496
MJ per m <sup>2</sup>	6,586	7,006
Greenhouse gas emissions (tonnes CO <sub>2</sub> -e) – attributed to all light and power	3,731	3,756

Note: Energy consumption includes sub-tenanted areas that are not separately metered.

### Waste reduction

Our digitisation strategies include using online legislation and electronic working methods to review lengthy reports and papers online rather than in printed form. Default duplex settings on printers and automatic overnight job purging further reduce our use of copy paper.



**Table 8.3.5 Waste reduction**

Indicator	2017–18	2016–17
Office paper purchased by FTE (A4 reams/FTE)	7	9
Percentage of office paper purchased with recycled content	98	99.8
Toner cartridges recycled (kgs)	452	572
IT equipment recycled or re-used (tonnes)	6.8	1.5

Since 2014–15, we have reduced our consumption of office paper purchased by FTE by 42%.

## Travel

ASIC employees are authorised to travel only when there is a demonstrated business need and when alternative communication tools, such as telephone and video conferencing, are not appropriate. This year there were more than 25,000 video connections, both intra-office and office to external locations.

**Table 8.3.6 Type and amount of travel undertaken by staff**

Indicator	2017–18	2016–17
<b>Ground travel<sup>1</sup></b>		
Total number of fleet vehicles	5	8
Total distance travelled by fleet vehicles (kms)	62,351	100,033
Average fuel consumption of fleet vehicles (litres/100 kms)	8.23	7.68
Total direct greenhouse emissions of fleet (tonnes CO <sub>2</sub> – e)	12.10	19.32
Total distance travelled using GoGet carshare (kms)	4,644	2,735
<b>Air travel</b>		
Total distance of air flights (kms)	11,278,871	11,608,206
<b>Alternative meeting communications</b>		
Total number of video conferencing calls	7,741	7,549

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

## Property

ASIC continues to reduce its environmental footprint, including with the implementation of Activity Based Working which has enabled us, in 2017–18, to increase the number of staff located in our Sydney and Melbourne offices by 15% without increasing the space footprint.

## Information and engagement

We continued to provide information to staff on our intranet and at induction on sustainable initiatives. Staff are also provided with our biannual performance reporting and participate in environmental activities such as Earth Hour.

## Consultancies and expenditure on advertising

### **Commonwealth Electoral Act 1918**

Section 311A of the *Commonwealth Electoral Act 1918* requires agencies to report expenditure on services provided by advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising organisations.

Sums less than \$13,200 are not required to be reported. All sums are GST inclusive and are actual expenditures for 2017–18.

During 2017–18, ASIC conducted the advertising campaigns set out in Table 8.3.7 below.

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

**Table 8.3.7 Expenditure on advertising agency services, 2017–18**

Agency	Expenditure (\$)	Purpose
Dentsu Mitchell Media Australia	13,986	GradConnections online service for 2019 graduate recruitment
Dentsu Mitchell Media Australia	55,268	LinkedIn Package 2018
Dentsu Mitchell Media Australia	18,947	Advertising on Seek recruitment website
Australian Public Service Commission	29,039	Advertising of jobs in the APS Gazette
<b>Total</b>	<b>117,240</b>	

**Table 8.3.8 Expenditure on services by market research, polling, direct mail and media advertising organisations, 2017–18<sup>1</sup>**

Agency	Expenditure (\$)	Purpose
Telstra Corporation Limited	32,077	Sensis White Pages advertising
Trivium Research Pty Ltd	33,900	Qualitative research – seniors supporters and retirees
Plan for Life	71,500	Market research, Direct Life project
Les Bell and Associates Pty Ltd	79,891	Consumer research, Direct Life project
A.C.N. 613 066 541 Pty Ltd (trading as Behavioural Insights (Australia))	28,325	Research and design survey
Whereto Research Based Consulting Pty Ltd	139,500	Provision of qualitative and quantitative market research services
Hall and Partners Pty Ltd	65,780	Buy now and pay later consumer research
Ebiquity Pty Ltd	17,820	Ebiquity Portfolio Digital Advertising Agreement 2018–19
Trivium Research Pty Ltd	27,500	Vision and naming research
Designate Group Pty Ltd	493,350	Branding services for ASIC's MoneySmart
<b>Total</b>	<b>989,643</b>	

<sup>1</sup> We have listed market research organisations that are recognised by the Australian Market & Social Research Society and the Association of Market and Social Research Organisations.

# Procurement

## Managing procurement

ASIC's use of Commonwealth resources and expenditure of public money is primarily governed by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule). Responsibility for compliance with the Commonwealth Procurement Rules (CPRs) lies with the appropriate financial delegates.

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

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

Our procurement framework aims to facilitate compliance with the core principles and policies of the CPRs, including 'value for money', 'encouraging competition', 'efficient, effective, ethical and economical use of resources' and 'accountability and transparency'.

We undertake regular audits of procurement and any instances of non-compliance are reported through the compliance report and addressed as required through process improvement initiatives.

All major contracts entered into in 2017–18 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

## Using AusTender

ASIC advertises all open tender opportunities through the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

During 2017–18, ASIC did not implement any standing offer arrangements (procurement panels) and awarded 795 procurement activities (each valued at \$10,000 or more reported on AusTender) for a total value of \$112.270 million. Of these procurements, 243 were valued in excess of \$80,000 for a total value of \$91.868 million.

Contracts of \$100,000 or more were reported on AusTender in accordance with the Senate order on departmental and agency contracts. Information on contracts and consultancies awarded by ASIC is also available on the AusTender website. Our annual procurement plan was published on AusTender by 1 July 2018 and was updated as required during the year.

No contracts were exempt from the contract reporting requirements.

## Consultancy contracts

During 2017–18, ASIC entered into 43 new consultancy contracts, involving total actual expenditure of around \$4.697 million. In addition, 22 ongoing consultancy contracts were active during the year, involving total actual expenditure of \$3.2 million.

**Table 8.3.9 Consultancy trend data**

Business data	2017–18	2016–17	2015–16	2014–15
Number of new consultancies	43	64	58	63
Expenditure on new consultancies (\$ millions)	4.697	4.173	4.017	2.354
Number of ongoing consultancies	22	23	27	23
Expenditure on ongoing consultancies (\$ millions)	3.200	1.920	2.382	1.313

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

### Policy on selection and engagement of consultants

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

Of the 43 consultants that ASIC engaged during 2017–18:

- › 29 were for specialised or professional skills
- › 2 were for skills not currently available within ASIC
- › 12 were for independent research or assessment.

The method of procurement used was open tender for 20 engagements (including engagements from panels), limited tender for 23 engagements and no pre-qualified tender engagements.

The consultants were engaged for the following main service categories:

- › business intelligence consulting services
- › information technology consulting services
- › market research
- › education and training services
- › strategic planning consultation services.

### Procurement initiatives to support small business

ASIC supports small business participation in the Australian Government procurement market. Small and medium enterprises and small enterprise participation statistics are available on the Department of Finance's website, [www.finance.gov.au](http://www.finance.gov.au).

ASIC recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on 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.

## 8.4 Five-year summary of key stakeholder data

Table 8.4.1 Five-year summary of key stakeholder data, 2013–2018

Business data	2017–18	2016–17	2015–16	2014–15	2013–14
Companies (total)	2.6m	2.5m	2.4m	2.2m	2.1m
New companies registered	244,510	249,394	246,051	235,182	212,573
AFS licensees	6,170	6,058	5,511	5,198	5,101
Authorised market infrastructure providers <sup>1</sup>	65 <sup>1</sup>	67 <sup>1</sup>	52	50	50
Registered company auditors	4,226	4,365	4,483	4,596	4,729
Registered liquidators	663	713	707	711	696
Registered managed investment schemes	3,726	3,632	3,619	3,642	3,673
Credit licensees	5,503	5,576	5,726	5,779	5,837
Fundraising documents lodged	898	1,017	891	1,078	1,095
Takeover bids monitored	36	41	40	43	59
Fundraising where ASIC required additional disclosure	\$3.5bn	\$7.2bn	\$6.4bn	\$9.4bn	\$6.7bn
Recoveries, costs, compensation fines or assets frozen	\$437.8m	\$849.7m <sup>4</sup>	\$217.4m	\$61.1m	\$214.6m
% successful criminal and civil litigations <sup>2</sup>	99%	90%	96%	85%	90%
Criminal and civil litigation and administrative actions concluded <sup>3</sup>	138	220	181	167	149
Criminals imprisoned	6	13	13	12	14

<sup>1</sup> We changed the methodology for reporting the number of authorised market infrastructure providers in 2016–17. This figure now includes exempt financial markets, licensed clearing and settlement (CS) facilities, exempt CS facilities, licensed trade repositories and credit rating agencies in addition to domestic and overseas financial markets.

<sup>2</sup> Excludes administrative actions and summary prosecutions for strict liability offences.

<sup>3</sup> Excludes summary prosecutions for strict liability offences.

<sup>4</sup> In 2016–17, the Queensland Supreme Court imposed financial penalties on four former officers and the fund manager of MFS Investment Management Ltd. The court also ordered that the four former officers pay various amounts in compensation to Premium Income Fund, ranging from \$28,738,517 to \$205,755,601. On 23 June 2017, all the defendants appealed the decision and the compensation remains unpaid. One of the former officers (Anderson) discontinued his appeal on 29 September 2017 and paid the \$500,000 he was ordered to pay by way of pecuniary penalty. The remaining appeals were heard by the Queensland Court of Appeal between 4 and 18 June 2018. The court's decision has been reserved.

Business data	2017–18	2016–17	2015–16	2014–15	2013–14
Reports of crime or misconduct finalised	9,567	9,011	9,751	9,669	10,530
Total searches of ASIC databases	122.5m	90.6m	90.7m	86.2m	76.2m
Business names (total)	2.2m	2.2m	2.1m	2.2m	1.9m
New business names registered	366,181	348,266	337,413	327,687	299,988
Registered SMSF auditors	6,039	6,339	6,671	6,669	7,073
% company data lodged on time	94.6%	94.6%	95%	96%	96%
Fees and charges collected for the Commonwealth	\$1,227m	\$920m	\$876m	\$824m	\$763m
Staff (average FTEs) <sup>5</sup>	1,656 <sup>6</sup>	1,640	1,627	1,609	1,773

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

6 Plus 91 FTE staff working on Enforcement Special Account matters, and an additional 80 FTE providing enforcement support services and legal counsel.





# 9

## Glossary

# Glossary

<b>AA Fund</b>	Assetless Administration Fund
<b>AAT</b>	Administrative Appeals Tribunal
<b>ABS</b>	Australian Bureau of Statistics
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>ADI</b>	Authorised deposit-taking institution
<b>AFCA</b>	Australian Financial Complaints Authority
<b>AFS licence</b>	Australian financial services licence
<b>AFSA</b>	Australian Financial Security Authority
<b>AML</b>	Australian market licence
<b>ANZ</b>	Australia and New Zealand Bank
<b>APEC</b>	Asia-Pacific Economic Cooperation
<b>APRA</b>	Australian Prudential Regulation Authority
<b>APRC</b>	Asia-Pacific Regional Committee
<b>APY</b>	Anangu Pitjantjatjara Yankunytjatjara
<b>ARFP</b>	Asia Region Funds Passport
<b>ARITA</b>	Australian Restructuring Insolvency and Turnaround Association
<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>ATO</b>	Australian Taxation Office
<b>AUSTRAC</b>	Australian Transaction Reports and Analysis Centre
<b>Australian Financial Attitudes and Behaviour Tracker</b>	Research developed by ASIC to regularly track key financial attitudes and behaviours among adult Australians
<b>AWEI</b>	Australian Workplace Equality Index
<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>CADB/CALDB</b>	Companies Auditors Disciplinary Board, formerly known as the Companies Auditors and Liquidators Disciplinary Board (CALDB)
<b>CALD</b>	Culturally and linguistically diverse
<b>CAP</b>	Consumer Advisory Panel
<b>CBA</b>	Commonwealth Bank of Australia
<b>CCI</b>	Consumer credit insurance
<b>CDPP</b>	Commonwealth Director of Public Prosecutions

<b>CFR</b>	Council of Financial Regulators
<b>CIO</b>	Credit and Investments Ombudsman
<b>CIU</b>	Criminal Intelligence Unit
<b>Corporations Act</b>	<i>Corporations Act 2001</i>
<b>CP</b>	Consultation Paper
<b>CPRs</b>	Commonwealth Procurement Rules
<b>CRF</b>	Corporate Registers Forum
<b>CS</b>	Clearing and settlement
<b>CSF</b>	Crowd-sourced funding is a financial service where start-ups and small businesses raise funds, generally from a large number of investors that invest small amounts of money
<b>cyber resilience</b>	An organisation's ability to prepare for, respond to and recover from a cyber attack
<b>derivative</b>	A financial instrument where the value is derived from an underlying asset, such as a share, commodity or index
<b>DFAT</b>	Department of Foreign Affairs and Trade
<b>digital advice</b>	Digital advice (also known as robo-advice or automated advice) is the provision of automated financial product advice using algorithms and technology and without the direct involvement of a human adviser
<b>EDR</b>	External dispute resolution
<b>EMMoU</b>	Enhanced Multilateral Memorandum of Understanding concerning consultation and exchange of information
<b>ESA</b>	Enforcement Special Account
<b>ETF</b>	Exchange-traded funds
<b>ETP</b>	Exchange-traded products
<b>FASEA</b>	Financial Adviser Standards and Ethics Authority
<b>Financial Advisers Register</b>	Free online resource, available on ASIC's MoneySmart website, listing the relevant details (including employment history, qualifications and product advice areas) of people who provide personal advice on investments, superannuation and life insurance
<b>financial capability</b>	The combination of an individual's attitude, knowledge, skills, confidence and ability to make sound financial decisions
<b>fintech</b>	Financial technology
<b>FOI Act</b>	<i>Freedom of Information Act 1982</i>
<b>FOS</b>	Financial Ombudsman Service
<b>FRTI</b>	Financial Regulators Training Initiative
<b>FSAP</b>	Financial Sector Assessment Program
<b>FSCP</b>	Financial Services and Credit Panel
<b>FTE</b>	Full-time equivalent
<b>IAIS</b>	International Association of Insurance Supervisors
<b>ICO</b>	Initial coin offering

<b>ICT</b>	Information and communications technology
<b>IDPS</b>	Investor-directed portfolio service
<b>IDR</b>	Internal dispute resolution
<b>IFCPO</b>	International Financial Consumer Protection Organisation
<b>IFIAR</b>	International Forum of Independent Audit Regulators
<b>ILF</b>	Indigenous Literacy Foundation
<b>IMF</b>	International Monetary Fund
<b>industry funding</b>	The Government has introduced new laws to change the way ASIC is funded. Under the new arrangements, those who create the need for and benefit from ASIC's regulation will bear the costs.
<b>INFO</b>	Information Sheet
<b>Innovation Hub</b>	ASIC's online hub providing tailored content for fintech businesses that are developing innovative financial products or services
<b>IOP</b>	Indigenous Outreach Program
<b>IOSCO</b>	International Organization of Securities Commissions
<b>IPO</b>	Initial public offering
<b>IPS</b>	Information Publication Scheme
<b>IT</b>	Information technology
<b>LGBTI</b>	Lesbian, gay, bisexual, trans and intersex
<b>marketplace lending</b>	Marketplace lending generally describes an arrangement through which retail or wholesale investors invest money (seeking to earn a return), which is then lent to borrowers (consumers or businesses)
<b>MDA</b>	Managed discretionary account
<b>MDP</b>	Markets Disciplinary Panel
<b>MFAA</b>	Mortgage & Finance Association of Australia
<b>MoneySmart</b>	ASIC's consumer website
<b>NAB</b>	National Australia Bank
<b>NAIDOC</b>	National Aborigines and Islanders Day Observance Committee
<b>National Credit Act</b>	<i>National Consumer Credit Protection Act 2009</i>
<b>NCYLC</b>	National Children's and Youth Law Centre
<b>NSX</b>	National Stock Exchange
<b>OAIC</b>	Office of the Australian Information Commissioner
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OJK</b>	Otoritas Jasa Keuangan, the Indonesian Financial Services Authority
<b>OTC</b>	Over-the-counter
<b>payday lending</b>	Small-amount or short-term loans to individuals that generally attract significantly higher interest rates and costs than other types of loans
<b>PDS</b>	Product disclosure statement
<b>PGPA Act</b>	<i>Public Governance, Performance and Accountability Act 2013</i>

<b>PGPA Rule</b>	Public Governance, Performance and Accountability Rule 2014
<b>phoenix activity (illegal)</b>	Transferring assets of an indebted company to a new company to avoid paying creditors, tax or other employee entitlements
<b>Phoenix Taskforce</b>	A cross-agency taskforce the Government established in 2014, to combat illegal phoenix activity.
<b>PJC</b>	Parliamentary Joint Committee
<b>Productivity Commission</b>	Productivity Commission's Inquiry into Competition in the financial system
<b>RAP</b>	Reconciliation Action Plan
<b>RBA</b>	Reserve Bank of Australia
<b>RE</b>	Responsible entity
<b>Reform Act</b>	<i>Insolvency Law Reform Act 2016</i>
<b>regtech</b>	Regulatory technology; technology designed to address regulatory challenges in the financial services sector
<b>regulatory sandbox</b>	A 'lighter touch' regulatory environment to enable innovative business models to be tested without the need for an AFS licence or credit licence
<b>Regulatory Transformation program</b>	ASIC's program to increase efficiency by establishing a common language across ASIC, streamlining our regulatory business processes, making compliance and interaction with us easier through online portals, and implementing a single technology strategy
<b>REP</b>	Report
<b>RG</b>	Regulatory Guide
<b>Royal Commission</b>	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Committee
<b>SAR</b>	Suspicious activity report
<b>SCT</b>	Superannuation Complaints Tribunal
<b>SES</b>	Senior Executive Service
<b>SFCT</b>	Serious Financial Crime Taskforce
<b>SGE</b>	Significant global entity
<b>SIS Act</b>	<i>Superannuation Industry (Supervision) Act 1993</i>
<b>SMSF</b>	Self-managed superannuation fund
<b>SOTEC</b>	Special Operations Training and Education Centre
<b>TIS National</b>	National Translating and Interpretation Service
<b>WIA</b>	Women in ASIC Committee





# 10

## Compliance index

Reporting requirements under the <i>Public Governance, Performance and Accountability Act 2013</i>	202
Additional compliance reporting requirements	208

# Reporting requirements under the Public Governance, Performance and Accountability Act 2013

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>17AD(g)</b>	<b>Letter of transmittal</b>		
17AI	A copy of the letter of transmittal signed and dated by the accountable authority on the date the final text is approved, with a statement that the report has been prepared in accordance with section 46 of the PGPA Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	1
<b>17AD(h)</b>	<b>Aids to access</b>		
17AJ(a)	Table of contents	Mandatory	2
17AJ(b)	Alphabetical index	Mandatory	209–216
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	196
17AJ(d)	List of requirements	Mandatory	202–8
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	4–7
<b>17AD(b)</b>	<b>Overview of the entity</b>		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	8–9
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	10
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	36–39, 49–50
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	36

<b>PGPA rule reference</b>	<b>Part of report/Description</b>	<b>Requirement</b>	<b>Location (page(s))</b>
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	152–9
<b>17AD(c) Report on the performance of the entity</b>			
<b>Annual performance statement</b>			
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the PGPA Act and section 16F of the PGPA Rule	Mandatory	36–54
<b>17AD(c)(ii) Reports on financial performance</b>			
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	22, 109–59
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	183–4
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, mandatory	N/A
<b>Management and accountability</b>			
<b>Corporate governance</b>			
17AG(2)(a)	Information on compliance with section 10 (fraud systems) of the PGPA Act	Mandatory	180
17AG(2)(b)(i)	A certification by the accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	180
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	180

<b>PGPA rule reference</b>	<b>Part of report/Description</b>	<b>Requirement</b>	<b>Location (page(s))</b>
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	180
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	6, 9, 10, 162–3
17AG(2)(d)–(e)	A statement of significant issues reported to the Minister under paragraph 19(1)(e) of the PGPA Act that relate to non-compliance with finance law and action taken to remedy non-compliance	If applicable, mandatory	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	180–1
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	180
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than reports under section 43 of the Act), a Parliamentary Committee or the Commonwealth Ombudsman	If applicable, mandatory	180–1
17AG(3)(c)	Information on any capability review on the entity that was released during the period	If applicable, mandatory	181
<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	96–100
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	103, 168–172
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the Public Service Act 1999	Mandatory	98, 99, 171

<b>PGPA rule reference</b>	<b>Part of report/Description</b>	<b>Requirement</b>	<b>Location (page(s))</b>
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreement, arrangements, contracts or determinations during this period	Mandatory	169–170
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	Mandatory	172
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	Mandatory	99–100
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	If applicable, mandatory	172
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	If applicable, mandatory	172
17AG(4)(d)(iii)	Information on the average amount of performance payment, and the range of such payments, at each classification level	If applicable, mandatory	172
17AG(4)(d)(iv)	Information on the aggregate amount of performance payments	If applicable, mandatory	172
<b>Assets management</b>			
17AG(5)	An assessment of the effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	150
<b>Purchasing</b>			
17AG(6)	An assessment of the entity performance against the Commonwealth Procurement Rules	Mandatory	190
<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	190–1
17AG(7)(b)	<i>A statement that 'During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million].'</i>	Mandatory	190

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	191
17AG(7)(d)	<i>A statement that 'Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.'</i>	Mandatory	191
<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, the purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, mandatory	N/A
<b>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) that has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, mandatory	N/A
<b>Small business</b>			
17AG(10)(a)	<i>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.'</i>	Mandatory	191
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	191
17AG(10)(c)	<i>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.'</i>	If applicable, mandatory	191

PGPA rule reference	Part of report/Description	Requirement	Location (page(s))
<b>Financial statements</b>			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the PGPA Act	Mandatory	109–59
<b>Other mandatory information</b>			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that ' <i>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.</i> '	If applicable, mandatory	188
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 ' <i>Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].</i> '	If applicable, mandatory	182
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	106
17AH(1)(d)	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of the FOI Act can be found	Mandatory	182
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	218
17AH(2)	Information required by other legislation	Mandatory	180–1

Note: N/A means not applicable.

Source: Department of Finance, Resource Management Guide No. 135 Annual reports for non-corporate Commonwealth entities, 2016.

# Additional compliance reporting requirements

Description	Requirement	Source of requirement	Location (page/s)
Exercise of ASIC's powers under Part 15 of the <i>Retirement Savings Accounts Act 1997</i> and under Part 29 of the <i>Superannuation Industry (Supervision) Act 1993</i>	Mandatory	ASIC Act, s136(1)(a)	180
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)	31–49, 71–5
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)	180
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)	50, 51, 53–4
The number of times ASIC used an information-gathering power, the provision of the Corporations Act, the ASIC Act, or another law that conferred the power, and the number of times in the previous financial year ASIC used the power	Mandatory	ASIC Act, s136(1)(e), reg 8AAA(1)	176–9
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)	26–9
Financial services and consumer credit external dispute resolution schemes	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 4	18
Court enforceable undertakings and their effectiveness	Suggested	Senate Economics References Committee inquiry into the performance of ASIC, Recommendation 27	38, 43, 59, 65–6, 74



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Gippsland Mail Centre, VIC 3841

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## Annual Report 2016–17 errata

- › On page 9 we incorrectly reported that the cost to register a business name in 2016–17 was \$35 for one year or \$82 for a three-year registration. The actual cost was \$34 for one year and \$80 for a three-year registration.
- › On page 87 we reported that the total amount of unclaimed money paid to owners in 2016–17 was \$81,284,620. The correct total is \$82,284,620.

