



# 3

## PERFORMANCE OUTCOMES IN DETAIL

3.1	Investor and consumer trust and confidence	46
3.2	Fair and efficient markets	62
3.3	Efficient registration services	82
3.4	Unclaimed money and managing property vested in ASIC	87
3.5	Assessing misconduct and other reports	89
3.6	Performance against ASIC's service and operational standards	96
3.7	Regional activities	102

## 3.1 Investor and consumer trust and confidence

### 3.1.1 Deposit takers, credit and insurers

ASIC's work in this sector during 2016–17 focused on improving consumer outcomes by ensuring better compliance from 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 and insurers that sell unsuitable products may place their customers at risk of experiencing substantial financial hardship. This conduct also undermines investor and consumer trust and confidence in the financial system.

#### Stakeholder engagement

In 2016–17, ASIC held 344 meetings with stakeholders, including the Australian Bankers' Association, the Insurance Council of Australia, the Customer Owned Banking Association, the Mortgage and Finance Association of Australia, the Finance Brokers Association of Australia and the Australian Finance Conference. We used these meetings to provide guidance in areas where we identified a need for cultural change and systemic improvements to unfair or poor practices, to provide updates on ASIC's work, and to hear particular matters of importance to each industry, including emerging issues.

#### Surveillance

In 2016–17, ASIC completed 154 high-intensity surveillances to monitor whether lenders, brokers and insurers complied with their obligations.

#### Mortgage broker remuneration

At the Government's request, ASIC reviewed the mortgage broking market to determine the effect of current remuneration structures on the quality of consumer outcomes.

In March 2017, the Government released ASIC's report, which highlighted the need for improved governance and oversight mechanisms. The report made a number of key recommendations, including:

- ♦ moving away from bonus commissions and soft dollar benefits
- ♦ establishing a new public reporting regime for consumer outcomes and competition in the home loan market
- ♦ improving oversight of brokers by lenders and aggregators.

The Government invited submissions in response to the recommendations by 30 June 2017.

#### Commlnsure

ASIC conducted an extensive investigation into the life insurance business of Commlnsure.

In March 2017, we published a report that made a number of key findings about Commlnsure's life insurance business, including:

- ♦ medical definitions in trauma policies were out of date with prevailing medical practice, specifically for heart attack and severe rheumatoid arthritis. However, this was not against the law
- ♦ a number of improvements to Commlnsure's claims handling process were necessary



- ◆ there was no evidence to support allegations that claims managers applied undue pressure on doctors to change their medical opinions.

We are working with Commlnsure to ensure that improvements to the claims handling process are implemented effectively.

In March 2016, Commlnsure updated the definitions of 'heart attack' and 'severe rheumatoid arthritis' in its trauma products and reassessed previously declined claims under the updated definition back to 11 May 2014.

Commlnsure paid 18 claims totalling \$2.58 million. In March 2017, Commlnsure agreed to further backdate the heart attack definition to October 2012 and it is currently identifying affected consumers and making payments, as appropriate.

### **Interest-only home loans**

ASIC reviewed the responsible lending practices of 11 large mortgage brokers in the interest-only home loan market.

In September 2016, we released a report on our findings, which focused on how mortgage brokers inquire into and record consumers' requirements to assess whether an interest-only home loan meets their needs.

Our review found examples of practices that place brokers at risk of being unable to demonstrate compliance with their responsible lending obligations. It also identified opportunities for brokers to improve their practices.

We will build on this review in 2017 with a targeted industry surveillance program to examine whether lenders and brokers are inappropriately recommending interest-only loans.

### **Past lending practices**

ASIC reviewed lenders' practices when inquiring about consumers' living expenses in 2015.

In 2016–17, we found that eight of these lenders had improved their practices so that they now obtain actual figures from borrowers for different categories of living expenses. Previously, lenders obtained a single monthly living expense figure and relied on a benchmark figure to determine a consumer's capacity to make repayments. This change in practice will provide lenders with a better understanding of whether a loan is suitable for the consumer.

Typical hardship processes will also be complemented by lenders individually reviewing cases where consumers experience financial difficulty in repaying their home loans. Where appropriate, consumers will receive tailored remediation for past practices.

### **Banks' retail sales practices**

ASIC reviewed the retail sales practices of eight Australian authorised deposit-taking institutions (ADIs). The review followed action in the United States against Wells Fargo Bank in late 2016.

In November 2016, we requested that these ADIs undertake audits to identify whether there were similar issues in Australia with staff issuing retail banking products without consumers' knowledge or consent in order to meet sales targets.

While no systemic issues were identified, the audits did find a number of instances of mis-selling and some process improvements are being implemented.

## 3.1 Investor and consumer trust and confidence continued

The highest number of consumer complaints identified in the reviews related to consumer credit insurance (CCI). ASIC has established a CCI Working Group to improve sales practices. We will undertake a further review into the sale of CCI in 2017–18.

### Unfair contract terms and small business loan contracts

The Government extended unfair contract terms protections to small business loan contracts in November 2016.

In March 2017, ASIC and the Australian Small Business and Family Enterprise Ombudsman reviewed small business loan contracts from Australian ADIs. Following the review, we successfully obtained a commitment from ADIs to implement comprehensive changes to ensure that small business borrowers will be protected from unfair contract terms.

### Life insurance

ASIC reviewed the claims handling practices of 15 life insurers, covering more than 90% of the life insurance market.

In October 2016, we released a report that highlighted significant shortcomings in claims handling practices. The report made a number of key recommendations, including:

- ♦ establishing, with APRA, a new public reporting requirement for life insurance industry claims data
- ♦ strengthening dispute resolution frameworks
- ♦ enhancing ASIC's powers concerning claims handling.

ASIC and APRA will work with insurers and other stakeholders throughout 2017 to establish a public reporting framework. In 2017–18, we will also review:

- ♦ the sale of direct (non-advised) life insurance
- ♦ claims handling for total and permanent disability (TPD) insurance
- ♦ the use of surveillance and investigation practices by insurers.

### Flex commissions in car finance

ASIC conducted a detailed review of the effect of remuneration practices in the car finance market. In March 2017, we announced that we will use our statutory modification powers under the National Credit Act to prohibit flex commissions in the car finance market. Flex commissions enable car dealers to earn commissions based on the interest rate charged for car loans. The prohibition will commence in the second half of 2018.

## Enforcement

### Responsible lending

ASIC continues to take action against non-compliance with responsible lending obligations under consumer credit laws. For example:

- ♦ In March 2017, we commenced civil penalty proceedings in the Federal Court against Westpac Banking Corporation (Westpac) for alleged contraventions of responsible lending provisions between December 2011 and March 2015. Proceedings are ongoing.
- ♦ In November 2016, we accepted an enforceable undertaking from Cash Converters to refund \$10.8 million to approximately 118,000 consumers. We issued 30 infringement notices to Cash Converters,<sup>1</sup> totalling \$1.35 million, where we had reasonable grounds to believe that Cash Converters failed to make reasonable inquiries into consumers' income and expenses when processing small amount loans via its website, particularly when the loans were unsuitable under the National Credit Act.

1. The National Credit Act allows infringement notices to be issued for strict liability offences and certain civil penalty contraventions where ASIC has reasonable grounds to believe that a person has contravened the provision. The payment of an infringement notice is not an admission of a contravention of the National Credit Act.

## Indigenous consumers

ASIC continues to take action against those who exploit Indigenous financial consumers. For example:

- ◆ In November 2016, the Federal Court found that Lindsay Kobelt, the owner of Nobby's Mintabie General Store in the remote Anangu Pitjantjatjara Yankunytjatjara Lands, had engaged in unconscionable conduct and unlicensed credit activity. In April 2017, the Federal Court fined Mr Kobelt \$167,500 for this conduct. Mr Kobelt is appealing the decision.
- ◆ In April 2017, the Federal Court ordered Channic Pty Ltd and Cash Brokers Pty Ltd to pay more than \$1.2 million for breaching consumer credit laws when dealing with members of the Yarrahbah community. Colin William Hubert, the sole director of both companies, was fined \$776,000 and ordered to pay costs of \$420,000. The court also awarded \$47,699 in compensation to affected consumers.

## Unlicensed conduct

ASIC continued to take action against those who engage in unlicensed credit activities. For example:

- ◆ In August 2016, we banned Peter Llewellyn, a former Director of PR Finance Group Ltd and the Australian Money Exchange (AMX), from engaging in credit activities for 10 years. Our investigation found that AMX engaged in unlicensed credit activity between 1 July 2011 and 23 September 2013. We also found that Mr Llewellyn was not a fit and proper person to engage in credit activities.
- ◆ In March 2017, the Federal Court fined payday lenders Fast Access Finance Pty Ltd, Fast Access Finance (Beenleigh) Pty Ltd and Fast Access Finance (Burleigh Heads) Pty Ltd a total of \$730,000 for engaging in unlicensed credit activities.

## Compensation and remediation

Our actions contributed to more than \$200 million being ordered to be refunded or compensated to consumers in 2016–17. For example:

- ◆ In March 2017, Citigroup Pty Ltd (Citigroup) refunded approximately \$5 million to around 230,000 customers for failing to properly disclose credit card international transaction fees to Australian dollar transactions processed overseas. Citigroup also refunded more than \$48,000 to approximately 30,170 Virgin Money credit card customers for charging incorrect international transaction fees.
- ◆ In early 2017, Bankwest, a division of Commonwealth Bank of Australia, refunded more than \$4.9 million to approximately 10,800 customers after it failed to link some customers' offset accounts to home loan accounts between 2007 and June 2016. This resulted in customers being overcharged interest.

## Policy advice

### Australian Consumer Law

ASIC contributed to the recent review of the Australian Consumer Law, which identified 19 proposals for enhancements, including several that are relevant to ASIC. Consumer Affairs Ministers will consider the review's final report in the second half of 2017.

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



### 3.1.2 Financial advisers

ASIC's work in this sector during 2016–17 focused on improving the quality of financial advice. Poor financial advice can undermine investor and consumer trust and confidence in the financial system. We worked to improve the quality of financial advice by addressing inadequate risk management and oversight processes, removing 'bad apple' advisers from the industry, and taking other regulatory action where advice was not in the client's best interests.

#### Stakeholder engagement

In 2016–17, ASIC held 114 meetings with stakeholders, including the Association of Financial Advisers and the Financial Planning Association of Australia. Key issues discussed included life insurance reforms, robo-advice and professional standards for financial advisers.

#### Financial Advisers Consultative Committee

In 2016–17, ASIC established a Financial Advisers Consultative Committee to supplement and further improve our existing engagement with the financial advice industry by:

- ♦ contributing to our understanding of relevant issues, including those that directly affect practising advisers
- ♦ improving our capacity to identify, assess and respond to emerging industry trends.

Committee members are practising advisers from a range of advice businesses across Australia (see page 177).

#### Guidance

##### Digital advice

ASIC continued to support the development of a healthy and robust digital advice market in Australia.

In August 2016, we released a regulatory guide to assist those who provide, or intend to provide, digital advice. The regulatory guide focuses on the obligations involved with providing digital advice and some of the unique issues associated with this type of advice.

##### Remediation by advice licensees

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

In September 2016, we released a regulatory guide that sets out guidance on client review and remediation that is primarily for AFS licensees who provide personal advice to retail clients. It sets out principles when AFS licensees need to remediate broad groups of clients who have suffered loss or detriment as a result of misconduct or other compliance failures by the licensee (or its representative) when giving personal advice.

The regulatory guide sets out the considerations that AFS licensees should take into account when initiating, designing and implementing a review and remediation process so that the process is timely, fair and transparent.

##### Self-managed superannuation fund services

ASIC regulates the gatekeepers – the accountants, financial advisers and auditors – who provide services to SMSFs.

From 1 July 2016, the Government repealed the exemption that allowed accountants to give financial advice to SMSFs without an AFS licence.

In December 2016, we released an information sheet to help accountants understand which SMSF services do and do not require them to be covered by an AFS licence.

Additionally, in 2016–17, we assessed 638 applications for a limited AFS licence for SMSF advice. Of these applications, 512 were approved. We also refused one application and a further 125 were withdrawn or not accepted for assessment, due to material deficiencies in the applications received.

## Surveillance

In 2016–17, ASIC completed 227 high-intensity surveillances to monitor whether financial advisers complied with their advice obligations.

### Review of how large institutions oversee their financial advisers

ASIC conducted a review of how effectively Australia's largest banking and financial services institutions oversee their financial advisers.

In March 2017, we released a report on our findings that identified a number of areas of concern where further improvements are needed, including:

- ♦ failure to notify ASIC about institutions' serious non-compliance concerns about adviser conduct
- ♦ inadequate background and reference checking when recruiting new advisers
- ♦ ineffective (or partially ineffective) audit processes to assess whether advice complied with the best interests duty and other legal obligations.

The report will assist the financial advice industry to understand common areas of non-compliance. It should raise the standards of adviser monitoring and supervision and reduce the risk of current customers receiving non-compliant advice in the future.

We have banned 35 advisers<sup>1</sup> who were reported during the review as having demonstrated serious compliance failures. We also have ongoing investigations and surveillance activities concerning a number of other advisers.

In total, approximately \$37 million<sup>2</sup> has been paid to approximately 2,200 customers who suffered loss or detriment as a result of non-compliant conduct by advisers during the period relevant to this review.

## Enforcement

### Poor financial advice

ASIC continued to address the culture and incentives that lead to poor financial advice by taking action against misconduct in the financial advice industry.

For example:

- ♦ In April 2017, the Federal Court found that NSG Services Pty Ltd (NSG) breached the best interests obligations of the Corporations Act. NSG clients were sold insurance or advised to roll over superannuation accounts that committed them to costly, unsuitable financial arrangements. This was the first judicial finding of liability against a licensee for breaching the requirements under the Future of Financial Advice reforms.
- ♦ In August 2016, we banned former Macquarie Equities Limited financial adviser Nicholas Kerr for five years. We found that Mr Kerr had engaged in unauthorised discretionary trading on his clients' accounts, provided inappropriate advice and created false records.
- ♦ In September 2016, Rommel Panganiban, a former AMP Financial Planning financial adviser, was permanently banned from providing financial services. Mr Panganiban failed to act in his clients' best interests and prioritised his own interests over those of his clients. He advised clients who held risk insurance through their AMP superannuation fund to cease their existing insurance policies and replace them with new insurance policies. Mr Panganiban did this without considering whether it was in his clients' best interests.
- ♦ In November 2016, we banned former AMP financial adviser James McCarthy from providing financial services for eight years. We found that Mr McCarthy created and backdated Statements of Advice and Authority to Proceed documents and forged client signatures for the purpose of complying with an internal AMP audit.

1. The number of adviser bannings is the 'life of project' figure up to 30 June 2017.

2. The total amount of remediation paid to customers is the 'life of project' figure up to 31 May 2017.



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

### Failure to lodge financial statements and auditor's reports

ASIC has been targeting financial advice licensees that have failed to lodge their financial statements and auditor's reports in recent years. Failure to lodge these documents indicates a generally poor approach to compliance.

Since 1 July 2016, we have cancelled 10 financial services licences and suspended four licences (two of which were subsequently cancelled) for failing to lodge financial statements and auditor's reports. Eight licensees voluntarily cancelled their financial services licences after we contacted them about their failure to lodge financial statements and auditor's reports.

### Compensation and remediation

ASIC continued to monitor the payment of compensation to consumers.

In 2016–17, we supervised the remediation of affected customers by the four major banks and AMP in response to breach reports that they had:

- ◆ charged clients annual fees for services, including an annual advice review, where those services were not provided
- ◆ 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.

In October 2016, we released a report providing details about the compensation offered and payable. At 30 June 2017, a total of \$112.1 million had been paid or offered to customers. The banks and AMP estimate that they will have to pay a further \$93 million in compensation to customers.

The report outlined our observations on factors that may have contributed to the licensees' failures. For example, some licensees:

- ◆ prioritised advice revenue and fee generation over ensuring that they delivered the required services
- ◆ did not have in place adequate systems, data, policies or procedures to provide ongoing advice services.

We have asked each of the banks, AMP and Macquarie to conduct a comprehensive further review into the practices of the advice licensees within their groups to determine whether similar issues exist elsewhere in these businesses. These reviews are ongoing.

During 2016–17, we also monitored the remediation program established by Macquarie Equities Limited under its enforceable undertaking with ASIC. As at 5 June 2017, this program has paid approximately \$24.7 million of compensation (including interest) to 263 clients, and is now substantially complete.

### Policy advice

#### Professional standards of financial advisers

ASIC provided input to Treasury on reforms to raise the professional standards of financial advisers who provide personal advice to retail clients on more complex financial products.

The *Corporations Amendment (Professional Standards of Financial Advisers) Act 2017* introduces a number of measures. These include compulsory education for new and existing advisers, supervision of new advisers, a code of ethics, an exam and ongoing professional development.

#### Life insurance remuneration arrangements

ASIC provided input to Treasury on the life insurance remuneration reforms, including providing feedback on draft legislation.

The *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017* removes the exemption for life insurance from the ban on conflicted remuneration. This means that benefits, such as commissions paid for life insurance products, will generally be considered conflicted remuneration and will be prohibited.

The Act also enables ASIC, through a legislative instrument, to permit benefits such as commissions to be paid, if requirements are met relating to:

- ◆ the maximum level of commission paid, compared to the premium payable
- ◆ 'clawback' arrangements (i.e. the amount of upfront commission an advice licensee or its representatives must repay to a life insurer over a two-year retention period).





## 3.1.3 Investment managers and superannuation

ASIC's work in this sector during 2016–17 focused on conduct by responsible entities, superannuation trustees, wholesale trustees and custodians. We concentrated on preventing wrongdoing and maintaining standards.

Investor and consumer trust and confidence in our financial system are undermined when poor gatekeeper culture and incentives lead to investors being treated unfairly. This can result in significant losses for investors.

### Stakeholder engagement

In 2016–17, ASIC held 262 meetings with stakeholders, including the Association of Superannuation Funds of Australia, the Australian Institute of Super Trustees and the Australian Custodial Services Association. Key issues discussed included risk management and fees and costs disclosure.

We published the *ASIC Wealth and Funds Management Update* – a free newsletter for industry participants about regulatory developments and issues affecting the wealth and funds management industries.

### Guidance

#### Risk management

In March 2017, ASIC released a regulatory guide providing additional guidance to responsible entities on how we expect them to maintain adequate risk management systems.

The regulatory guide explains that responsible entities should have in place overarching risk management systems, and clear processes to identify and manage strategic, governance, operational, market, investment and liquidity risks.

#### Fees and costs disclosure

In December 2016, ASIC updated guidance on disclosure of fees and costs in Product Disclosure Statements and periodic statements. We also provided a conditional extension to the transition period. Entities now have until 30 September 2017 to comply with the fees and costs disclosure requirements.

#### Updating regulatory guidance and relief on managed investment schemes

In 2016–17, ASIC updated regulatory guides that apply to various types of managed investment schemes, including time-sharing schemes and strata schemes. We also updated related legislative instruments that provide relief from, or modify, provisions of the Corporations Act.

In May 2017, we published an information sheet to explain our approach to common issues identified in the registration of managed investment schemes.

#### Surveillance

In 2016–17, ASIC completed 140 high-intensity surveillances of how responsible entities, superannuation trustees and other entities operating in the wealth management sector complied with their obligations.

#### Responsible entities and superannuation trustees

ASIC undertakes an annual, risk-based conduct review of responsible entities and superannuation trustees to assess compliance with their AFS licence obligations and to improve overall industry standards.

In June 2017, we published a report on the outcomes of our proactive surveillance of responsible entities. We found that responsible entities demonstrated a broad commitment to complying with their obligations under the law. However, there were areas where our expectations of 'what good looks like' were not met, including managing conflicts of interest, breach reporting, custody arrangements and risk management systems. We required responsible entities to address these areas of non-compliance.

In June 2017, we also published a report on our surveillance of superannuation trustees, which focused on the experience of less-engaged fund members. The findings of our review highlighted areas where there is considerable room for improvement in disclosure and industry practices. The report sets out our expectations of superannuation trustees, particularly when dealing with less-engaged members.

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

### Compliance with custody requirements

ASIC reviewed compliance with custody requirements by responsible entities and custodians.

In June 2017, we published our report, which found a poor level of understanding of the custody requirements by some responsible entities and custodians. To improve ongoing compliance, we required these entities to rectify identified breaches and amend their custody and risk management arrangements.

### Marketplace lending

ASIC completed our first survey of the marketplace lending industry in November 2016. The survey focused on marketplace lending providers' business models and activities during 2015–16.

In June 2017, we published a report outlining our findings. The survey confirmed that marketplace lending business models are diverse and showed some conflicts of interest that marketplace lending providers must manage. These include conflicts between:

- ♦ the need to act in the best interests of members of the managed investment schemes they operate and the need to issue loans to generate revenue and maintain an appropriate credit assessment
- ♦ duties to borrowers (including responsible lending) and duties to investors.

### Other surveillance activities

Our surveillance activities in 2016–17 also resulted in improvements to some entities' business practices or processes. For example:

- ♦ In December 2016, ULTIQA Lifestyle Points Limited and ULTIQA Lifestyle Promotions Limited, one of Australia's largest timeshare operators, agreed to significantly change its operations, including amending its disclosure and point-of-sale documents and revising its sales and supervision processes.

## Enforcement

### Licensing actions

In 2016–17, ASIC suspended or cancelled the AFS licences of five responsible entities and two wholesale fund managers for breaching financial services laws.

We imposed additional licence conditions, by agreement, on the National Australia Bank's superannuation trustee, NULIS Nominees (Australia) Limited (NULIS). This followed a breakdown in NULIS' internal risk management and communication procedures for its retail and wrap superannuation funds. NULIS also reported breaches for changes made to the death and TPD insurance of its members.

KPMG was appointed as an independent expert to assess and report on the adequacy of NULIS' compliance and risk management practices for its retail and wrap superannuation funds.

### Managed funds

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

- ♦ In August 2016, the Supreme Court (NSW) found that Macquarie Investment Management Ltd (MIML) contravened the Corporations Act by failing to comply with its duties as a responsible entity of the Van Eyk Blueprint International Shares Fund. The court ordered that MIML pay a civil pecuniary penalty of \$400,000, as well as ASIC's legal costs.
- ♦ In May 2017, the Supreme Court (Qld) found that five former executives of MFS Investment Management Limited had acted dishonestly in their roles and collectively committed 217 contraventions of the Corporations Act. The court disqualified four former officers and the funds manager from managing corporations. The court imposed financial penalties totalling \$1.89 million against the officers and ordered them to pay over \$617 million in compensation and a significant proportion of ASIC's costs.
- ♦ In May 2017, the Federal Court disqualified former directors of Avestra Asset Management Ltd (Avestra), Paul Rowles and Clayton Dempsey, from managing corporations and restrained them from providing financial services for 10 years. The court held that Avestra, Mr Rowles and Mr Dempsey had engaged in numerous contraventions of the Corporations Act. This included Mr Rowles and Mr Dempsey failing to comply with duties owed by them as officers of the responsible entity and as directors of Avestra.

## Misleading advertising

ASIC has taken action against superannuation trustees, responsible entities and managed discretionary account (MDA) operators where they made misleading statements to investors. For example:

- ◆ In September 2016, ING Direct compensated around 24,500 members approximately \$5.4 million in response to our concerns about potentially misleading statements made in its promotional material about 'No Fees' and 'Low Fees' options for its Living Super product.
- ◆ In June 2017, we issued an infringement notice to Synergy Financial Markets Pty Ltd (Synergy) for false or misleading statements on its website.<sup>1</sup> Synergy's website included statements that investors in its MDAs would only pay Synergy 'when your account profits'. ASIC considered that these statements were misleading because Synergy charges all investors, regardless of whether an investment in one of its MDAs profits.
- ◆ In September 2016, ASIC commenced legal proceedings in the Federal Court against Huntley Management Limited (Huntley) after Huntley failed to pay infringement notices.<sup>2</sup> The infringement notices were issued because we had reasonable grounds to believe that Huntley made misleading statements that it 'acts as responsible entity, custodian, trustee and/or manager for over 40 managed investment projects approved by ASIC'. In July 2017, the Federal Court ordered that Huntley pay a \$50,000 penalty for false and misleading advertising.

## Policy advice

### Asia Region Funds Passport

ASIC worked closely with Treasury to prepare for the implementation of the Asia Region Funds Passport from 2018. This will provide market access for managed funds in participating economies in the Asian region, through a framework of equivalence assessment. The Asia Region Funds Passport will streamline admission processes to foreign (host) economies and

introduce measures to reduce regulatory duplication. We represent Australia on the Asia Region Funds Passport's Joint Committee, which is responsible for its implementation.

### Corporate collective investment vehicles

ASIC worked closely with Treasury on the corporate collective investment vehicle regime, which is an alternative to the existing managed investments regime. The regime will have a corporate umbrella structure, a model that is better recognised globally. We are currently implementing arrangements to bring the regime into operation.

### Crowd-sourced funding

ASIC helped Treasury develop the crowd-sourced funding legislation, which will take effect on 29 September 2017. This will allow small unlisted public companies to raise up to \$5 million in 12 months through an AFS licensed intermediary authorised to provide crowd-sourced funding services.

We will issue guidance to industry, and update processes and systems to facilitate crowd-sourced funding.

### Stronger Super and other super initiatives

ASIC has assisted with the Government's consideration of key law reform initiatives in Stronger Super by deferring start dates for portfolio holdings, choice product dashboards and aspects of the transparency requirements in section 29QB of the SIS Act. These deferrals give Government time to consider the appropriate policy settings for the new requirements.

We continued to help Treasury develop the new comprehensive income products in retirement regime. We are working with other agencies (APRA, the ATO and the Department of Social Services) to provide a 'one-stop-shop' for providers of new retirement income stream products after 1 July 2017.

1. The compliance with an infringement notice is not an admission of guilt or liability and Synergy Financial Markets Pty Ltd is not taken to have contravened the Corporations Act.
2. The compliance with an infringement notice is not an admission of guilt or liability and Huntley Management Limited is not taken to have contravened the Corporations Act.

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



### 3.1.4 Financial capability

ASIC, as the lead Australian Government agency with responsibility for financial capability, drives initiatives to help investors and consumers make informed financial decisions.

ASIC's MoneySmart website provides impartial and trusted financial guidance and tools to support informed financial decision making for all Australians.

We also support the delivery of financial literacy in the formal education sector through ASIC's MoneySmart Teaching program.

#### Stakeholder engagement

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

#### Parliamentarian briefing – 'Improving Australians' financial capabilities'

In February 2017, we hosted a Parliamentarian breakfast briefing in Canberra to highlight our work to support the financial capabilities of all Australians.

The Minister for Revenue and Financial Services, the Hon. Kelly O'Dwyer MP; Chairman of the Australian Government Financial Literacy Board, Paul Clitheroe; and David Coleman MP joined ASIC's Chairman as speakers at the breakfast.

The breakfast was attended by Parliamentarians, advisers, senior representatives from a range

of government departments, and Australian Government Financial Literacy Board members.

#### ASIC and the National Financial Literacy Strategy

ASIC leads and coordinates the National Financial Literacy Strategy 2014–17, with support from the Australian Government Financial Literacy Board (see page 174).

The National Financial Literacy Strategy is a flexible framework that guides the activities of all stakeholders with an interest in improving Australians' financial literacy.

The Minister for Revenue and Financial Services launched the *National Financial Literacy Strategy Annual Highlights Report 2015–16* at the Parliamentarian briefing in February 2017.

The report provides an overview of the collective impact of financial literacy initiatives delivered by ASIC and other organisations across the government, business, community and education sectors.

#### ASIC's Financial Literacy Community of Practice

ASIC's Financial Literacy Community of Practice is a monthly national forum designed to strengthen links between stakeholders, and encourage the sharing of information, expertise and experience about financial capability research, programs and projects. At 30 June 2017, there were 1,032 members of the Financial Literacy Community of Practice.



ASIC hosted a Parliamentarian breakfast briefing in Canberra in February 2017 that highlighted our work on improving the financial capabilities of all Australians. ASIC Chairman Greg Medcraft and Commissioner Cathie Armour are shown here with the Hon. Kelly O'Dwyer MP, Minister for Revenue and Financial Services, and Paul Clitheroe, Chair of the Australian Government Financial Literacy Board.

## Building older Australians' financial capability

In September 2016 and March 2017, ASIC hosted roundtables to present the findings of our research into the financial capability of older Australians aged between 55 and 85 years. The research determined that the main drivers of older Australians' financial decisions are their financial situation, attitudes and confidence in dealing with financial issues, rather than factors such as their age.

The roundtables were attended by representatives from a diverse range of stakeholders, including Government, peak associations, groups working with older Australians, and leading academics.

## Education and guidance

ASIC assists investors and consumers in making better financial decisions through the financial guidance and tools available on ASIC's MoneySmart website. In 2016–17, we produced 96 new financial literacy resources.<sup>1</sup>

### ASIC's MoneySmart website

ASIC's MoneySmart website is a source for trusted and impartial financial guidance and online tools. Over 7 million people visited MoneySmart in 2016–17 and it attracts, on average, 890,400 sessions<sup>2</sup> a month. Research indicates that 38% of adult Australians are aware of MoneySmart (up 7% from 2015–16)<sup>3</sup> and 89% of users reported that they took action on their finances after visiting the website.<sup>4</sup>

Our suite of responsive online tools and mobile apps is designed to prompt consumers to take action. Around 45% of visits to ASIC's MoneySmart website are made using a mobile device (up 3% from 2015–16).

Our online calculators are designed to give consumers direction and motivate them to achieve their financial goals. The most popular calculators offered on ASIC's MoneySmart are the Budget planner, the Mortgage calculator and the Income tax calculator. In 2016–17, our online calculators were accessed, on average, 444,329 times per month.

ASIC's MoneySmart uses Facebook, Twitter and YouTube social media channels to interact with consumers, promote financial capability and alert consumers to ASIC's enforcement outcomes. In 2016–17, we continued to grow ASIC's MoneySmart social media footprint:

- ◆ Facebook: 123,592 'likes' (up 49% from 82,697 in 2015–16)
- ◆ Twitter: 37,553 followers (up 100% from 18,806 in 2015–16)
- ◆ Social media videos: 499,878 views (up 170% from 299,777 in 2015–16).<sup>5</sup>

### Divorce and Separation Financial Checklist

In September 2016, ASIC launched two new online tools that help people navigate the financial aspects of divorce and separation.

The Divorce and Separation Financial Checklist and the Asset stocktake calculator are designed to help Australians manage their finances and make informed financial choices during periods of significant change in their lives. The tools provide guidance and practical steps to help people:

- ◆ separate finances and get themselves on track financially after separation or divorce
- ◆ start the property settlement process by creating a summary of assets and debts.

1. 'Financial literacy resources' includes any webpages, tools, calculators, infographics or videos that were released for the first time, or substantially revised or updated, in the last 12 months.
2. A session is a group of user interactions with the website that take place within a given timeframe. A session ends when the user leaves the website or is inactive for 30 minutes.
3. *Awareness and usage of ASIC's MoneySmart website, Wave 12: February 2017, ASIC, page 7.*
4. *Awareness and usage of ASIC's MoneySmart website, Wave 12: February 2017, ASIC, page 12.*
5. Social media video views include Facebook, Twitter and YouTube video views, excluding major advertising campaigns.

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

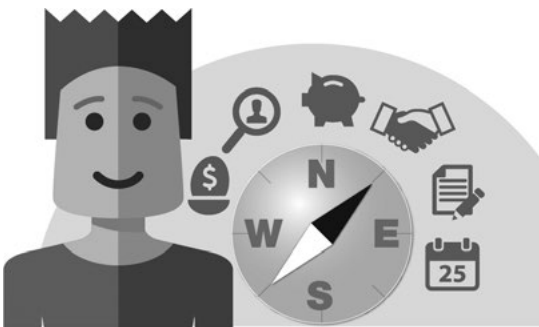
### Simple Money Manager tool

In October 2016, the Minister for Revenue and Financial Services launched the Simple Money Manager tool to help culturally and linguistically diverse Australians with everyday budgeting. The online tool is available in English and has also been translated into eight community languages, including Chinese (simplified and traditional), Italian, Arabic and Vietnamese. The tool was accessed more than 31,400 times during 2016–17.

### Financial Advice Toolkit

In November 2016, ASIC launched the Financial Advice Toolkit to help Australians better understand and navigate the financial advice process. The toolkit helps consumers evaluate the financial advice they receive and breaks down the complexity of the financial advice process. It gives guidance to help consumers:

- ♦ identify their financial goals and advice needs
- ♦ choose a financial adviser
- ♦ prepare to meet a financial adviser
- ♦ understand a Statement of Advice
- ♦ review their financial situation.



*ASIC's Financial advice toolkit, launched in November 2016, helps Australians better understand and navigate the financial advice process.*

### Financial Advisers Register

The Financial Advisers Register contains details of persons employed or authorised – directly or indirectly – by AFS licensees to provide personal advice on 'relevant financial products' to retail clients. It includes information about financial advisers' qualifications, training and professional memberships.



**22,000+**

Financial advisers on the register (at 30 June 2016)



**790,000+**

searches of the register (in 2015–16)

(See pages 50–52 for further detail on ASIC's work in the financial advisers sector.)

### Infographics for consumers

ASIC has developed a range of infographics to support consumers' decision making.

In March 2017, we launched a new 'Women's Money Challenges' infographic to support International Women's Day. The infographic encourages women to use our Women's Money Toolkit, and shows the small steps that women can take now that can make a big difference in their finances in later life.



---

In March 2017, we also launched two new infographics to support our regulatory work in the area of add-on insurance:

- ♦ the 'Tyre and Rim Insurance' infographic explains what this type of insurance covers, the average cost of the insurance, and what consumers need to consider before buying it
- ♦ the 'Mechanical Breakdown Insurance' infographic explains that this insurance is unnecessary because car buyers are already covered by the Australian Consumer Law and their car warranty when purchasing a new car.

### First Business resource

In February 2017, the First Business resource was launched to support young Australians starting a small business. The resource was developed by ASIC with the ATO, and has two components:

1. an online module designed to help young people decide whether starting a small business is right for them. The module includes business planning and budgeting
2. a mobile app that helps prepare young people for the requirements of running a small business. The app includes a business health check and ideas for developing business networks.

### Financial literacy assessment

ASIC facilitated Australia's participation in the Organisation for Economic Co-operation and Development's (OECD's) Programme for International Student Assessment (PISA) 2015 financial literacy assessment. This assessment evaluated the financial literacy of 15-year-olds from 15 countries, and their ability to understand and apply their knowledge to financial questions.

In May 2017, the OECD launched the PISA Financial Literacy Report in Paris. The report showed that Australia performed above the OECD average in the international assessment of young people's financial literacy. Australia ranked equal fifth out of the 15 participating countries.

### Australian Financial Attitudes and Behaviour Tracker

ASIC has completed five six-monthly waves of the Australian Financial Attitudes and Behaviour Tracker research. Key insights from Wave 5 of this research were:

- ♦ the majority (58%) of Australians continue to feel confident about managing their money, but a larger proportion than in previous waves (36%) say that dealing with money is stressful and overwhelming
- ♦ less than half (44%) of Australians have a three-to-five year financial plan
- ♦ there was a significant increase in the proportion of Australians reporting that they have an SMSF
- ♦ more than 60% of Australians continue to have a low-level understanding of key investment concepts such as diversification and the risk/return trade-off.

### ASIC's MoneySmart Teaching

ASIC works with state and territory education departments to deliver ASIC's MoneySmart Teaching program under a National Partnership Agreement. The program builds teachers' ability and confidence to teach financial literacy and capability through targeted professional development and the provision of engaging classroom resources aligned with the Australian Curriculum.

In 2016–17, over 5,500 schools (more than 60% of schools in Australia) engaged with the program. Since the program began in 2012, more than 32,000 teachers have received financial literacy professional development through MoneySmart Teaching workshops and online modules.

### Curriculum Connections

ASIC developed Curriculum Connections in partnership with the ATO and the Australian Curriculum Assessment and Reporting Authority. This resource identifies how financial literacy aligns with the Australian Curriculum. It provides multiple pathways for teachers to access information to support teaching financial literacy in all Australian Curriculum learning areas.



## Enforceable undertakings

In 2016–17, ASIC accepted 16 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.

For example:

- ◆ In December 2016, we accepted an enforceable undertaking from car finance provider BMW Australia Finance Ltd to pay at least \$72 million in write-offs, refunds and interest reductions to approximately 15,000 consumers. They also agreed to pay \$5 million to fund consumer advocacy, financial literacy and financial counselling programs.
- ◆ Between December 2016 and May 2017, we accepted five enforceable undertakings from each of NAB, CBA, Westpac, ANZ and Macquarie for systems and control failures in each of their wholesale foreign exchange businesses. These enforceable undertakings require the banks to strengthen their systems and controls. The banks have made voluntary payments totalling \$13 million towards financial literacy.
- ◆ In March 2017, we accepted an enforceable undertaking from three of Barclays' foreign financial services providers<sup>1</sup> following concerns about significant breaches of ASIC's class order licensing exemptions. The Barclays entities must engage an independent expert to review and test their compliance frameworks. Barclays will also contribute \$500,000 to the Ethics Centre for Research and Development for providing financial services to Australian clients.
- ◆ In June 2017, we accepted an enforceable undertaking from registered liquidator Raymond Anthony Sutcliffe. Our investigation of his conduct relating to 43 external administrations found that Mr Sutcliffe had not adequately discharged

his duties as a liquidator. Mr Sutcliffe requested cancellation of his registration and agreed not to re-apply for registration for three years.

We report publicly on how companies and individuals comply with enforceable undertakings. This improves our accountability for the regulatory outcomes we seek to achieve by accepting enforceable undertakings.

In 2016–17, we published four interim reports on parties' compliance with enforceable undertakings. These parties (and the date on which ASIC accepted their enforceable undertaking) were:

1. HSBC Bank Australia Limited (13 May 2016)
2. Chris Pappas and Ascentiv Group Pty Ltd (11 May 2016)
3. CMH Financial Group (23 March 2016)
4. Wealthsure Pty Ltd (22 April 2015).

We also published six final reports on compliance with enforceable undertakings. These parties (and the date on which ASIC accepted their enforceable undertaking) were:

1. Jason Churchill and Churchill Consulting Services Pty Ltd (6 January 2016)
2. J.P. Morgan Securities plc, J.P. Morgan Securities (Asia Pacific) Ltd and J.P. Morgan Securities LLC (16 November 2015)
3. Leo Ignatius Menkens (17 September 2015)
4. Reid Matthew Menkens (17 September 2015)
5. Wealthsure Financial Services Pty Ltd (29 April 2015)
6. Commonwealth Securities Ltd and Australian Investment Exchange Ltd (17 December 2014).

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

1. The Barclays foreign financial services providers were Barclays Capital Inc., Barclays Capital Asia Limited and Barclays Capital Securities Limited.

## External dispute resolution

The dispute resolution framework plays an important role in promoting consumer and investor trust and confidence in financial services markets. There are currently two ASIC-approved EDR schemes: Financial Ombudsman Service (FOS) and Credit Industry Ombudsman (CIO). Together, these two industry-based schemes, and the statutory Superannuation Complaints Tribunal (SCT), deal with more than 40,000 consumer and small business disputes each year.

### ASIC's role

ASIC administers the financial services and consumer credit dispute resolution framework, which includes EDR and IDR. We are responsible for:

1. setting or approving standards for IDR procedures
2. approving and overseeing the effective operation of approved EDR schemes.

In 2016–17, we published guidance to ensure that EDR schemes meet the approval criteria, which include benchmarks for independent governance, efficiency, accountability and fairness.

ASIC staff members also met with EDR scheme representatives every quarter to discuss key trends and issues arising from complaints, policy and regulatory issues and law reform.

### Systemic issues and misconduct

ASIC-approved EDR schemes must identify, resolve and report to us on systemic issues and cases of serious misconduct.

Systemic issues typically have implications beyond the immediate actions and rights of the parties to the dispute, such as where a system error inside a financial institution affects many consumers. The schemes identify potential systemic issues arising out of disputes. If a systemic issue is identified, the relevant licensee must work with the scheme to remedy the problem, which could include compensating consumers.

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

In 2016–17, FOS reported 82 definite systemic issues and nine cases of serious misconduct to ASIC. The CIO reported 39 definite systemic issues and 11 cases of serious misconduct. We assessed these reports and, where appropriate, used the information to inform current or new investigations.

### Dispute resolution framework review

In May 2017, the Government announced that a new single EDR scheme, the Australian Financial Complaints Authority, will replace FOS, CIO and the SCT. This followed the independent panel review of the EDR and complaints framework, led by Professor Ian Ramsay. For further information about the review, see page 8.

## 3.2 Fair and efficient markets



### 3.2.1 Corporations

ASIC's work in this sector during 2016–17 focused on gatekeeper conduct by directors and others. Poor gatekeeper conduct can undermine investor trust and confidence in the market. Our work also concentrated on financial disclosure in transactional documents and the marketing of fundraising.

#### Stakeholder engagement

In 2016–17, we held 76 meetings with stakeholders, including the Australian Institute of Company Directors, ASX, the Governance Institute of Australia, the Australian Shareholders Association and the Takeovers Panel. Key issues discussed included proxy advisers, financial information disclosure and substantial holding notices.

In March 2017, ASIC and the Takeovers Panel signed an updated memorandum of understanding that emphasised the importance of the complementary roles each body plays in regulating control transactions.

We also worked with other bodies to achieve more effective regulation. For example, we met with Treasury and APRA to discuss further work in response to the Senate Economics References Committee's report on *Cooperative, mutual and member-owned firms*.

#### Guidance

##### Facilitating business

ASIC facilitates many complex transactions by providing relief, where appropriate, from the requirements of the Corporations Act. Details are contained in our biannual *Overview of decisions on relief applications* report, published in December 2016 and June 2017.

##### Corporate finance regulation

In August 2016 and February 2017, ASIC published two corporate finance reports highlighting key statistical information about corporate finance regulation. The reports aimed to provide greater transparency around our role in the regulation of corporations in Australia. They noted key trends and detailed our work to regulate fundraising, mergers and acquisitions, corporate governance and other general corporate finance areas.

##### Emerging markets issuers

In April 2017, ASIC published a report containing key observations on regulatory issues relating to entities listed on Australian markets with substantial connections to emerging markets. While listed entities with a strong connection to emerging markets have participated in our market for some time, these connections create both opportunities and challenges for our markets.

The report highlights the importance of implementing good corporate governance, internal and risk management structures to preserve investor trust and confidence in our markets.



### Reissue of prospectus guidance

In November 2016, ASIC updated guidance about the disclosure of financial information in prospectuses. The update provides that, generally, three years of audited financial information should be included in a prospectus (or two years of audited and a half-year of reviewed information, depending on the date of the prospectus). This applies regardless of the corporate form of the business before seeking to list.

### Surveillance

In 2016–17, ASIC completed 404 high-intensity surveillances to monitor how companies and their directors complied with their obligations under the Corporations Act concerning their operations as a company, such as in relation to fundraising and control transactions.

### Improving fundraising disclosure

ASIC reviewed 460 prospectuses and offer documents, which made up over 80% of documents lodged with ASIC. We actively examined due diligence materials and took action to ensure that disclosure was not misleading. For example, in 2016–17, we:

- ◆ required improved disclosure to be lodged in 33% of the 460 prospectuses, impacting around \$7.2 billion of fundraisings
- ◆ issued 34 interim stop orders, with most of these revoked when corrective disclosure was lodged
- ◆ made three final stop orders to prevent fundraising where we had concerns.

We responded to non-compliance with fundraising requirements when, for example:

- ◆ business models were not adequately disclosed
- ◆ it was unclear how funds raised were to be used
- ◆ risk disclosure was inadequate.

### Marketing practices for initial public offerings

ASIC reviewed how initial public offerings (IPOs) are marketed to retail investors.

In September 2016, we released a report that made recommendations for firms and issuers to consider when developing an IPO marketing strategy, including:

- ◆ minimising the risk of investors receiving misleading information about an offer
- ◆ improving the oversight and control of the marketing and selling of IPOs by telephone
- ◆ monitoring more innovative means of marketing (e.g. social media) to ensure that messages are up to date and appropriate.

### Monitoring takeovers

ASIC monitored 41 new takeover bids in 2016–17. Where necessary, we intervened to seek better disclosure or conduct to ensure that companies' transactions were appropriate and legal.

We reviewed the disclosure and terms of 36 proposed acquisitions under court-approved schemes of arrangement.

We made two applications to the Takeovers Panel about the affairs of Molopo Energy Limited and Lepidico Limited, and made submissions on a further eight matters brought by third parties.

## 3.2 Fair and efficient markets *continued*

We continued our focus on independent expert reports this year, reviewing disclosures and inquiring into matters such as independence and the testing and evaluation of company information. In a number of instances, issues raised with reports resulted in material changes to the experts' disclosures and conclusions.

### Corporate governance

In 2016–17, ASIC reviewed 254 related party documents – particularly fundraising and control documents – to assess conflicts of interest. We also identified a number of issues concerning the administration of contentious shareholder votes and contacted a number of entities about their voting practices.

### Enforcement

#### Continuous disclosure

ASIC took action where the senior officers of publicly listed companies failed to ensure that the published financial results of these companies were true and accurate and did not mislead the market. For example:

- ◆ In January 2017, Benjamin David Kirkpatrick, former Chairman of Waratah Resources Limited (Waratah Resources), was convicted of aiding and abetting Waratah Resources to breach its continuous disclosure obligations. In October 2013, Mr Kirkpatrick failed to correct a misleading announcement relating to a \$100 million trade finance facility with the Bank of China. Mr Kirkpatrick was sentenced to 12 months, imprisonment that was to be served as a 12-month Intensive Correction Order.
- ◆ In August 2016, the directors of Padbury Mining Limited (Padbury), Gary Stokes and Terence Quinn, were each disqualified from managing corporations for three years for breaching their duties as directors regarding the company's continuous disclosure obligations. The Federal Court found that Padbury's announcement on 11 April 2014 about securing \$6 billion in funding for the Oakajee port and rail project in Western Australia was misleading and deceptive.

#### Directors' duties


ASIC took action to protect investors where directors failed to discharge their duties with care and diligence, or failed to act in the best interests of the companies they serve. For example:

- ◆ In August 2016, the Federal Court ordered that Sino Australia Oil and Gas Limited (in liquidation) pay a pecuniary penalty of \$800,000. The court ordered that its former Chairman, Tianpeng Shao, be disqualified from managing corporations for 20 years.
- ◆ In September 2016, we banned director Mark Byers from managing companies for the maximum period of five years for his conduct in the management of four failed companies. Following reports provided by liquidators of the failed companies, we were concerned that Mr Byers had engaged in illegal phoenix activity and had breached a number of his obligations as a director.
- ◆ In April 2017, the Supreme Court (Vic.) ordered that former AWB Limited Chairman Trevor Flugge pay a pecuniary penalty of \$50,000 and be disqualified from managing corporations for five years. The court found that Mr Flugge had failed to exercise his duty of care and diligence under section 180(1) of the Corporations Act.

#### Dishonest conduct

ASIC has taken action against directors for dishonest conduct. For example:

- ◆ In August 2016, Bradley Young, a former director of one of the Kleenmaid group of companies, was sentenced to nine years, imprisonment after being found guilty of 18 offences arising out of the collapse of the national whitegoods distributor. The offences occurred between November 2008 and April 2009 and included:
  - one count of fraud by dishonestly gaining loan facilities totalling \$13 million
  - two counts of criminal insolvent trading of debts totalling \$3.5 million
  - 15 counts of insolvent trading of debts totalling more than \$750,000.

- 
- 
- ◆ In November 2016, Andrew Sigalla, the former director of TZ Limited, was sentenced to 10 years' imprisonment. The Supreme Court (NSW) found Mr Sigalla guilty of 24 counts of dishonest conduct. Mr Sigalla dishonestly used his position as director to gain financial advantage by causing more than \$8.6 million of company funds to be transferred to him.

### **Insider trading**

ASIC is focused on deterring insider trading wherever it occurs. We are committed to ensuring that market abuse is addressed through enforcement action. For example:

- ◆ In November 2016, Fei Yu was convicted after pleading guilty to two insider trading offences. Mr Yu was released on recognisance, subject to the condition that he enters a 12-month good behaviour bond and pays a pecuniary penalty of \$10,000. Mr Yu was also required to pay the net profits from his offending conduct (approximately \$17,527) to a charitable foundation. Mr Yu was automatically disqualified from managing a corporation for five years.

### **Policy advice**

#### **Employee share scheme reforms**

ASIC provided input to Government on law reform for certain employee share offers. This reform aims to limit the requirement that disclosure documents given to employees also be made available to the public.

## 3.2 Fair and efficient markets *continued*

### 3.2.2 Insolvency practitioners

ASIC's work in this sector during 2016–17 focused on the gatekeeper conduct of insolvency practitioners (registered liquidators). Poor conduct by registered liquidators, including their failure to detect and report inappropriate conduct, can undermine investor and creditor trust and confidence in the market and deprive creditors of their entitlements.

#### Stakeholder engagement

In 2016–17, ASIC held 62 meetings with stakeholders, including the ATO, the Australian Financial Security Authority and the Australian Restructuring Insolvency and Turnaround Association. Key issues discussed included the Government's insolvency law reforms and phoenix activity.

We also held biannual regional meetings in each state and territory with registered liquidators and other stakeholders in the insolvency sector.

#### Powers to appoint liquidators

ASIC uses our wind-up powers to appoint liquidators to abandoned companies, which helps employees access their entitlements under the Fair Entitlements Guarantee. In 2016–17, we appointed liquidators to six abandoned companies that owed four employees more than \$242,000 in entitlements.

#### Report on supervision of registered liquidators

In June 2017, ASIC published our sixth annual report about our supervision of registered liquidators for the 2016 calendar year.

The report focuses on our supervision of registered liquidators through assessing reports of misconduct, and our surveillance and enforcement activities.

Our objective is to promote confidence in the proper administration of insolvent companies and in our supervision of registered liquidators. To this end, in 2016–17, we focused on ensuring that registered liquidators:

1. are independent (and are also seen to be independent)

2. are competent and efficient
3. do not use creditors' funds for improper gain.

#### Assisting liquidators

ASIC continued to assist registered liquidators to wind up or restructure insolvent companies through our liquidator assistance program and the Assetless Administration Fund (AA Fund). We helped registered liquidators obtain records and fund their preliminary investigations to enable them to report to ASIC. These reports support our own investigations and the action we take, including litigation against directors and others.

During 2016–17, we received more than 740 AA Fund applications, and committed just over \$3.43 million to liquidators. (See page 186 for more detail on the AA Fund program.)

#### Guidance

##### Registered liquidators

The *Insolvency Law Reform Act 2016* (ILRA) came into effect on 29 February 2016.

In March 2017, we released a new regulatory guide for registered liquidators on registration, disciplinary actions and insurance requirements to reflect the ILRA reforms. The regulatory guide explains:

1. how to register as a liquidator
2. how to renew registration
3. our policy on adequate and appropriate insurance
4. the disciplinary actions that may apply to registered liquidators under the new insolvency laws.

##### Surveillance

In 2016–17, ASIC completed 351 surveillances of insolvency practitioners (of which 49 were high-intensity). Our surveillances focused on issues of independence, competence and improper gain. We also completed reviews of liquidators' practices and reviewed liquidators' compliance with reporting and publishing requirements.



## Independence, competence and improper gain

ASIC completed 56 reactive surveillances (of which 28 were high-intensity) following reports of alleged misconduct focusing on practitioner independence, competence and improper gain. These surveillances resulted in registered liquidators improving their behaviour. For example:

- ◆ Administrators of a company voluntarily resigned after we raised concerns about their perceived independence. The administrators decided not to claim remuneration and the creditors resolved to appoint replacement administrators.
- ◆ Liquidators of a company repaid money received for pre-appointment advice after we raised concerns that accepting the money had created a possible conflict of interest.
- ◆ Administrators of a company revised their declaration of independence after we raised concerns about the extent of their involvement in pre-appointment dealings and fee arrangements.
- ◆ A liquidator of a company agreed to have an independent expert review 12 external administrations and to maintain appropriate staff and systems for the size and complexity of appointments. This was after we raised concerns that the liquidator failed to adequately discharge its duties. The liquidator also agreed not to receive remuneration for unrecovered time costs for the voluntary administration of two companies.

## Compliance with reporting and publishing requirements

ASIC completed 293 surveillances (of which 19 were high-intensity) of registered liquidators' compliance with their reporting and publishing requirements. This work aims to build confidence in the insolvency market and our regulation of it through improved compliance. Non-compliance with simple obligations can reflect more serious problems with insolvency practice.

Our surveillances identified 3,738 instances where registered liquidators did not comply with statutory lodgement and publication obligations that allow creditors and others to participate in the insolvency process. We worked with registered liquidators to

ensure that, where possible, they remedied non-compliance, resulting in the majority of instances being resolved.

We successfully negotiated with eight registered liquidators to:

1. engage an independent registered liquidator to undertake a 'quality control peer review program'
2. report to ASIC, and to implement compliance-based staff training.

Additionally, two sole practitioners agreed to ASIC cancelling their registration as a liquidator after completing all of their external administrations.

## Enforcement

ASIC has taken strong action to ensure that liquidators meet their obligations to creditors. For example:

- ◆ In December 2016, ASIC requested that the Supreme Court (NSW) inquire into the conduct of Sydney liquidators Andrew Hugh Jenner Wily and David Anthony Hurst concerning the performance of their duties as joint liquidators of 12 companies. ASIC sought orders that Mr Wily and Mr Hurst be prohibited from practising as registered liquidators for a period of time.
- ◆ Following an application by ASIC, in December 2016, the then Companies Auditors and Liquidators Disciplinary Board suspended the registration of Stan Traianedes for three years. The Board found that Mr Traianedes, a sole practitioner trading under the name S & Z Insolvency and Forensic, failed to adequately and properly carry out his duties as a liquidator for three external administrations between 2011 and 2014.
- ◆ In October 2016, the Federal Court prohibited Melbourne liquidator Ross John McDermott from accepting any new appointments as a registered liquidator for three years (including appointments as a controller or administrator). This followed a court inquiry into Mr McDermott's conduct of 26 external administrations between 2009 and 2014.

Directors of failed companies must assist liquidators. In 2016–17, we prosecuted 409 directors for 723 offences for failing to assist registered liquidators.

## 3.2 Fair and efficient markets *continued*

### Policy advice

#### Insolvency law reform

In October 2016, the Government released the Insolvency Practice Rules 2016 and other legislative instruments for public consultation. We assisted the Government by advising on the legislative instruments.

#### National Innovation and Science Agenda

As part of the National Innovation and Science Agenda, in April 2016, the Government released a proposals paper on measures to improve Australia's bankruptcy and insolvency laws. This included:

- ♦ proposals to introduce a safe harbour from personal liability for insolvent trading if the company is undertaking a restructure in certain circumstances
- ♦ reforms to the operation of *ipso facto* clauses, which allow a party to terminate a contract solely due to an insolvency event.

We continued to assist the Government with the proposed reforms, including commenting on draft regulations for the safe harbour and *ipso facto* clauses.

### Illegal phoenix activity

Directors who engage in illegal phoenix activity intentionally and dishonestly deny unsecured creditors (e.g. employees and providers of goods and services) fair access to their entitlement to the company's assets.

We have taken action against illegal phoenix activity through our surveillance and enforcement work by:

- ♦ targeting surveillance and action against directors with a history of failed companies where allegations of illegal phoenix activity exist
- ♦ enforcing the law against advisers, directors and registered liquidators who facilitate illegal phoenix activity
- ♦ disrupting collusion between pre-insolvency advisers, directors and registered liquidators on illegal phoenix activity
- ♦ undertaking joint operational matters with other government agencies, such as the ATO, including prosecuting facilitators of illegal phoenix activity
- ♦ reviewing registered liquidator declarations of independence to identify inappropriate relationships between registered liquidators and pre-insolvency advisers
- ♦ funding liquidators through the AA Fund to investigate failed companies with few or no assets that raise concerns about illegal phoenix activity.

In 2016–17, we also engaged extensively with stakeholders to target illegal phoenix activity. For example, we contributed to the Government's Phoenix Taskforce and Serious Financial Crime Taskforce to share information that will assist in identifying and responding to illegal phoenix activity.

We have also provided information for small businesses, registered liquidators and other stakeholders to inform them about how to avoid phoenix activity, and about ASIC's response to illegal phoenix activity allegations.



## 3.2.3 Financial reporting and audit

ASIC's work in this sector during 2016–17 focused on gatekeeper conduct by directors and auditors. The quality of financial reports, supported by the quality of the independent audit, is vital for confident and informed markets and investors.

### Stakeholder engagement

In 2016–17, ASIC held 247 meetings with stakeholders, including Australia's three largest accounting firms, accounting bodies, the Group of 100, the Australian Institute of Company Directors and the ATO. A key focus of discussions included improving financial reporting and audit quality.

### Guidance

#### Communicating financial reporting and audit findings

In July 2016, ASIC issued a consultation paper on communicating specific financial reporting and audit findings identified from our reviews of external audit files to directors, audit committees or senior managers of companies, responsible entities or disclosing entities. We issued a regulatory guide about this in June 2017.

#### Financial reporting and audit relief

In September 2016, ASIC re-made a number of legislative instruments that affect financial reporting by companies, disclosing entities and entities generally. The instruments include audit relief for proprietary companies, and financial reporting relief for certain wholly owned entities.

#### Financial reporting for new accounting standards

In December 2016, ASIC issued a media release, reminding companies of the need to respond to three new accounting standards that will come into force in 2018 and 2019. The new standards will have a significant impact on financial reporting as they may affect reporting of revenue, the value of financial instruments, loan loss provisions, and the impact of lease arrangements.

We highlighted the need to disclose the impacts of the new standards in financial reports, continuous disclosure notices and transaction documents.

#### Auditors and audit quality

During 2016–17, we issued information sheets on improving and maintaining audit quality, the role of others in supporting audit quality, and internal audit. In June 2017, we provided guidance for auditors of AFS licensees to improve the quality of their work relating to client money.

#### Surveillance

In 2016–17, ASIC completed 477 surveillances (157 of which were high-intensity) to monitor compliance with financial reporting and audit requirements.

#### Financial reporting surveillance

In 2016–17, ASIC reviewed more than 320 reports of listed entities and other public interest entities. Our inquiries continue to result in material changes to 4% of financial reports reviewed.

As a result of our surveillances, 11 entities recognised asset impairments and other write-downs, totalling \$937 million.

In December 2016 and May 2017, we issued media releases outlining focus areas for financial reports at 31 December 2016 and 30 June 2017, respectively. These focus areas include impairment testing and asset values, accounting policy choices, such as revenue recognition and expense deferral, and material disclosures in financial reports. We announced the findings from our reviews of 31 December 2016 financial reports in June 2017.

#### Audit inspection program

Auditors play a vital role underpinning investor trust and confidence in the quality of financial reports. ASIC works with audit firms and others to improve and maintain audit quality.

In June 2017, we released a report of the results of our audit firm risk-based inspections for the 18 months to 31 December 2016.

## 3.2 Fair and efficient markets *continued*

We reviewed a total of 390 key audit areas across 93 audit files at firms of different sizes. In 25% of audit areas, auditors did not obtain reasonable assurance that the financial report as a whole was free of material misstatement. This compares to 19% for the 18 months to 30 June 2015. The nature of our findings is similar to those in other countries.

Our focus areas for firms include audit work on asset values, revenue recognition and maintaining strong internal messages on the importance of audit quality.

Audit firms continue to focus on action plans and initiatives to improve and maintain audit quality. Our reviews of audit files showed that audit firms need to continue to focus on ensuring that auditors:

1. obtain sufficient and appropriate audit evidence
2. exercise an appropriate level of professional scepticism
3. use the work of experts and other auditors appropriately.

### Enforcement

ASIC refers registered company auditors to the Companies Auditors Disciplinary Board to cancel or suspend their registration, enter into enforceable undertakings, or impose conditions on the registration of auditors where we identify breaches of the Corporations Act and Australian auditing standards.

For SMSF auditors, we can cancel, suspend or impose conditions on them, generally on referrals from the ATO. For example, in 2016–17, we:

- ♦ cancelled three registrations of company auditors as a result of our surveillances
- ♦ removed 407 auditors from the SMSF auditor register. Of these:
  - 287 were removed for failing to lodge annual statements
  - 15 were removed (based on referrals from the ATO and others) for failing to comply with auditing standards, breaching independence requirements, or other fitness and propriety matters
  - 105 were removed following requests for voluntary cancellation.

### Policy advice

#### International policy and engagement

ASIC continued to work with firms internationally through the International Forum of Independent Audit Regulators (IFIAR). With eight other regulators, we meet with the largest six firm networks internationally to improve audit quality.

We work with other IFIAR members on such initiatives as improved information sharing, improved auditing and ethical standards, and information sharing on enforcement approaches.

In April 2017, 22 IFIAR members signed the *Multilateral Memorandum of Understanding Concerning Co-Operation in the Exchange of Information for Audit Oversight*. ASIC chairs the IFIAR International Co-operation Working Group and has led this work.

We work with other securities regulators through IOSCO Standing Committee 1 on Issuer Accounting, Auditing and Disclosure (C1) to improve financial reporting and audit quality. Activities include seeking improvement in accounting, auditing and ethical standards; interacting with standard setters, accounting firms and other stakeholders; and providing guidance and policy development.

We co-chair the IOSCO Auditing Subcommittee, and the IOSCO IFRS Information Sharing Subcommittee. We led initiatives on information sharing about the interpretation and regulation of International Financial Reporting Standards (IFRS).

Our other work with C1 in 2016–17 included:

- ♦ providing guidance on the use of non-IFRS information
- ♦ leading the restructure of the international ethics code
- ♦ responding to exposure drafts from international standard setters
- ♦ leading the development of a statement on the impact of three major new accounting standards
- ♦ leading an internal survey on financial reporting surveillance
- ♦ moderating the IOSCO IFRS database
- ♦ hosting a C1 meeting in Sydney in September 2016.



## 3.2.4 Market infrastructure

ASIC's work in this sector during 2016–17 continued to focus on improving the effectiveness of Australia's capital markets. Australia's financial market infrastructure is trusted and 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 ensuring that technological developments support investor trust and confidence.

### Stakeholder engagement

In 2016–17, ASIC held 446 meetings with stakeholders, including key industry bodies such as the Australian Financial Markets Association and the Stockbrokers and Financial Advisers Association. We also engaged with market infrastructure operators, such as the ASX Group, LCH, Standard & Poor's, Moody's and Chi-X Australia. Key issues discussed included market macro- and micro-structure, market integrity, cyber resilience, distributed ledger technology (DLT), technology and risk management, and competition in the provision of post-trade services in Australia.

### Engagement with market operators

ASIC worked with market operators to enhance market infrastructure and introduce a range of new products and services, involving the approval of a number of new listing rules. For example, in 2016–17, we worked with ASX to enhance its listing rules, following the 2016 assessment of ASX's listing standards.

We continued our work with operators to ensure that appropriate investor protections are in place when new products are offered.

### Guidance

#### Distributed ledger technology

There has been intense interest in DLT in recent years from market operators, financial institutions and innovative financial technology firms around the world.

In March 2017, ASIC published an information sheet that sets out an assessment tool for evaluating DLT-based services. The tool helps fast-track our discussions on whether the use of DLT by a service provider or infrastructure operator would allow existing licensees and start-up businesses to meet their regulatory obligations.

#### Cyber security

ASIC continued to raise awareness of cyber risks and standards. This sector remains a key focus, given the importance of market infrastructure to the fairness and efficiency of the Australian market. We wrote articles discussing and promoting cyber resilience in reputable publications, including a peer-reviewed cyber security magazine.

In 2016–17, we partnered with ASX and the Department of Prime Minister and Cabinet to assess and publish the ASX 100 cyber health check. We also instituted a program of cyber resilience self-assessments for regulated entities to assess improvements over 18-month to 24-month cycles. Approximately 120 self-assessments were received from entities, including market participants and market infrastructure providers over the past 12 months.

#### Clearing and settlement

In October 2016, ASIC worked with the Council of Financial Regulators (CFR) to publish policy guidance on the:

1. regulatory expectations for the conduct of monopoly clearing and settlement service providers
2. requirements for safe and effective competition in the clearing of Australian cash market equities.

We also worked with CFR to publish a consultation paper in March 2017 on safe and effective competition in the settlement of cash equities in Australia. The consultation paper sought to:

1. explore whether the prospect of competition in the settlement of cash equities in Australia has increased
2. invite feedback on the development of policy guidance for such competition.

## 3.2 Fair and efficient markets *continued*

### Surveillance

ASIC's surveillance of financial market infrastructure focused on thematic reviews of technology and risk management, and adherence to appropriate standards of fairness, integrity and efficiency.

### Review of ASX equity market outage

ASIC completed an extensive review in response to the ASX outage of 19 September 2016 that affected the operation of the Australian equity market.

In December 2016, we released a report on our findings and made a number of recommendations for ASX and market participants. Our recommendations are designed to improve the resilience and robustness of the wider market, and promote confidence that any future incidents will be managed as effectively as possible. In particular, we recommended that ASX:

1. map the dependencies that stakeholders have on ASX in order to mitigate the effect of system failures on these stakeholders
2. strengthen business continuity and IT disaster recovery, including system testing and recovery procedures
3. implement comprehensive and robust technology status monitoring, including system-monitoring alerts.

ASX reported its progress towards each recommendation in March 2017. For example, ASX:

- ◆ launched a revised market communications protocol in March 2017
- ◆ has progressed work to identify stakeholder dependencies and enhance market announcements and system-monitoring alerts
- ◆ released a consultation paper on market closing prices in June 2017.

Further market consultations on system outage management and sensitive announcements are planned for 2017.

### Data-driven market supervision

In 2016–17, ASIC implemented the enhanced market supervision model, which includes:

- ◆ a data-driven quarterly questionnaire extracting detailed data on the compliance performance of market operators
- ◆ a tool to process and assign risk ratings to the different metrics.

We also developed a five-year Data Analytics Strategy to enrich our supervision of markets and progress our agenda on analytics-based surveillance.

### Enforcement

#### Managing conflicts of interest

ASIC's assessment of Sydney Stock Exchange's (SSX's) listing standards identified concerns about its arrangements for managing conflicts of interest.

In March 2017, an ASIC delegate to the Minister for Revenue and Financial Services imposed additional licence conditions on SSX to ensure adequate arrangements for managing conflicts of interest.

#### OTC trade reporting

ASIC has taken action to support the integrity of over-the-counter (OTC) trade data reported to us and other Australian financial regulators.

We issued an infringement notice to Westpac because we had reasonable grounds to believe that Westpac breached the ASIC Derivative Transaction Rules (Reporting) 2013.<sup>1</sup> Between 2 October 2013 and 30 April 2015, Westpac failed to report information about 112,556 reportable transactions as required. Westpac paid an infringement notice penalty of \$127,250 in May 2017.

1. The compliance with an infringement notice is not an admission of guilt or liability and Westpac is not taken to have contravened the ASIC Derivative Transaction Rules (Reporting) 2013.

## Policy advice

### Market reform

ASIC provided advice to Government, alongside other financial regulators, to support internationally consistent reforms to financial benchmarks. The reforms are intended to enable significant Australian benchmarks, including the Bank Bill Swap Rate, to continue to be used by key overseas participants in the Australian market.

Other important market reforms in 2016–17 included:

- ◆ legislative initiatives for the client money regime, so that the protection provided to retail OTC derivative clients is more consistent with the protection for client money provided for other financial services
- ◆ reforms to the market licensing regime to facilitate the approach to emerging and specialised markets.

### International policy and engagement

In 2016–17, ASIC engaged extensively with industry and overseas regulators, such as the European Commission and the US Commodity Futures Trading Commission, to support Australian entities seeking regulatory recognition in foreign markets. For example:

- ◆ Australia's market licensing regime was recognised as equivalent to the European Markets in Financial Instruments Directive 2004
- ◆ Yieldbroker became the first non-US swap trading facility in the world that was allowed to offer direct access to US participants without having to register as a swap execution facility.

These equivalence determinations have significantly reduced costs to the Australian financial industry.

In 2016–17, we liaised extensively with industry and overseas regulators about OTC derivatives reform, providing proactive, clear guidance to industry, and coordinating a consistent approach with other Asia–Pacific jurisdictions.

We continued to hold key roles in international bodies and working groups that shape international regulation in financial market infrastructure and financial markets generally. These included representing Australia on the:

- ◆ IOSCO Standing Committee 2 on Regulation of Secondary Markets
- ◆ IOSCO Standing Committee 6 on Credit Rating Agencies
- ◆ IOSCO Standing Committee 7 on Derivatives
- ◆ Bank for International Settlements Committee on Payments and Market Infrastructures
- ◆ IOSCO Joint Working Group on Digital Innovations
- ◆ FSB OTC Derivatives Working Group.



## 3.2 Fair and efficient markets *continued*



### 3.2.5 Market supervision

ASIC's work in this sector during 2016–17 focused on real-time market surveillance, monitoring Australia's financial markets, and supervising the conduct of market participants and investment banks. Culture and incentives that drive poor conduct can undermine good governance practices and risk management systems, impacting on retail markets.

#### Stakeholder engagement

In 2016–17, ASIC held 300 stakeholder meetings with market intermediaries, including market participants and investment banks. As part of our early engagement process, we regularly met with market intermediaries to raise any concerns about compliance risks.

We also engaged with market intermediaries to achieve positive behavioural change where we detected market misconduct, including unusual trading patterns.

#### Guidance

##### Handling confidential information and managing conflicts of interest

ASIC continued to focus on the handling of confidential information and the management of conflicts of interest.

In August 2016, we released a report which found that some licensees did not have appropriate arrangements in place to manage material, non-public information or conflicts involving sell-side research.

In June 2017, we published a consultation paper on sell-side research seeking input on new guidance about the conflicts that arise for licensees who provide both corporate advisory and research services, and the appropriate handling of material, non-public information.

The draft guidance recommends that licensees have in place:

1. policies, procedures and training to identify and manage material, non-public information
2. effective information barriers between business units supported by procedures where staff on the public side of the business obtain material, non-public information

3. approval and review processes to identify material, non-public information before it is released
4. appropriate controls to insulate research analysts from the influence of corporate advisers or corporate issuers when preparing research.

#### Surveillance

In 2016–17, ASIC produced 40,488 trading alerts on ASIC's Market Analysis Intelligence system and conducted further inquiries into 142 matters.

We also completed 270 high-intensity surveillances in this sector. This included inquiries undertaken by the Market Conduct and Surveillance teams.

#### Australian equity market cleanliness

Market integrity is fundamental to a well-functioning financial market. Measuring and monitoring market cleanliness provides an overview of market integrity to better inform our regulatory work.

In August 2016, ASIC released a report on the cleanliness of the Australian equity market, which focused on possible insider trading and information leakage before material, price-sensitive announcements. Our review found a general improvement in market integrity over the past 10 years.

#### Conduct and culture

ASIC has undertaken numerous initiatives on culture and conduct with market intermediaries.

In February 2016, we issued a conduct risk questionnaire to 17 investment banks (which also completed a similar questionnaire in 2014) and nine independent market participants.

We found that, since the 2014 review, the 17 investment banks had improved their management of conduct in the key risk areas. We found that independent market participants are generally not as advanced as investment banks in managing conduct risk.

## Sound remuneration practices

ASIC encourages investment banks operating in Australia to consider the importance of sound remuneration practices and appropriate reward structures for their businesses.

ASIC surveyed 17 investment banks to assess their implementation of internationally endorsed regulatory remuneration practices and rules to address misconduct. The firms were asked to consider 70 controls.

In November 2016, each respondent received a feedback statement from ASIC. We found that:

1. all except one of the investment banks surveyed had fully implemented most of the controls in their Australian operations
2. if a control is required in an investment bank's home jurisdiction, it is more likely to be implemented in its Australian operations.

## Supervision of FX markets

ASIC completed investigations into the wholesale spot FX businesses of the major Australian financial institutions and accepted enforceable undertakings from each of the institutions to strengthen its systems and controls (see page 60).

In May 2017, we released a report that sets out some key observations from these investigations and good practice principles to manage the behavioural drivers that, in our view, are likely to lead to poor conduct if not adequately managed.

We will use this report as a reference point for our supervision of FX markets.

## Enforcement

### Market misconduct

We continued to strengthen our response to market misconduct that has the potential to undermine investor trust and confidence in our markets.

In 2016–17, we took action to raise standards of conduct in the fixed income, currencies and commodities markets. For example:

- ◆ In September 2016, we permanently banned Andrew Donaldson, a former Deutsche Bank FX options and futures trader, from providing financial services. Mr Donaldson had entered a number of false entries into Deutsche Bank's records between 2013 and 2014, which resulted in a temporary overstatement of Deutsche Bank's internal Australian accounting revenue result of approximately €28 million.

We investigated and successfully prosecuted Shun Yuen Ken Li (also known as Leo Lee) for dishonestly using his position as an employee of GAIN Capital Australia Pty Ltd to gain advantage for two clients. Mr Li placed orders for two clients, which resulted in these clients obtaining profits of approximately \$20,150 and \$52,400 respectively. Mr Li was sentenced to a community service order of 350 hours. Mr Li was also permanently banned from providing financial services.

### Insider trading

ASIC continued to investigate and successfully prosecute those who engage in insider trading. For example:

- ◆ In April 2017, Steven Robert Noske was sentenced to 18 months' imprisonment and fined \$20,000 after being found guilty of insider trading by a Supreme Court (WA) jury. Mr Noske is also automatically disqualified from managing corporations for five years.
- ◆ In December 2016, we obtained declarations from the Federal Court of Australia that Hochtief AG had engaged in insider trading. Hochtief AG was fined \$400,000 and ordered to pay ASIC's costs.

### Markets Disciplinary Panel

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

## 3.2 Fair and efficient markets *continued*

In 2016–17, the MDP issued 12 infringement notices, which imposed a total of \$2,288,750 in penalties.<sup>1</sup> For example:

- ◆ In September 2016, Commonwealth Securities Limited (CommSec) paid a total infringement notice penalty of \$700,000.<sup>2</sup> We issued the infringement notices because we had reasonable grounds to believe that CommSec had breached the market integrity rules for both ASX and Chi-X markets. CommSec also voluntarily refunded \$1.1 million in brokerage fees to more than 25,000 clients.
- ◆ In March 2017, Credit Suisse Equities (Australia) Limited (Credit Suisse Equities) paid an infringement notice penalty of \$170,000.<sup>2</sup> We issued the infringement notice because we had reasonable grounds to believe that Credit Suisse Equities failed to have appropriate filters for its automated order processing systems.
- ◆ In February 2017, Share Investing Limited paid an infringement notice penalty of \$130,000.<sup>2</sup> We issued the infringement notice because we had reasonable grounds to believe that Share Investing Limited entered orders in the market on behalf of a client that it ought to have reasonably suspected had placed the orders to create a false or misleading appearance of active trading.

(See page 178 for more information about the MDP.)

### Compliance frameworks

ASIC has taken action where market participants failed to maintain adequate compliance frameworks to meet their regulatory obligations. For example:

- ◆ In November 2016, we updated licence conditions on the AFS licence of Morgans Financial Limited (Morgans). For example, Morgans must strengthen its arrangements for monitoring and supervising its representatives and handling confidential market-sensitive information. These conditions require an independent compliance consultant to monitor, evaluate and report on Morgans' compliance with these conditions.
- ◆ In December 2016, we imposed additional conditions on the AFS licence of OpenMarkets Australia Limited to review the implementation of changes to:
  - arrangements for identifying and preventing potential market misconduct
  - processes for reconciling its client trust accounts
  - supervisory arrangements and organisational and technological resourcing.

1. In 2015–16, the MDP issued nine infringement notices, which imposed a total of \$984,000 in penalties.

2. The compliance with an infringement notice is not an admission of guilt or liability. The recipients are not taken to have contravened the Corporations Act.

## International cooperation

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

ASIC is linked to a global network of regulators to get the best outcomes for Australians. In addition to IOSCO, we are also a member of the IAIS, IFIAR and the International Financial Consumer Protection Organisation (FinCoNet).

### International cooperation requests

ASIC maintains close relationships with peer regulators and law enforcement agencies to facilitate international regulation and enforcement.

In 2016–17, we made 330 international cooperation requests (down 9% from 2015–16) and received 405 requests from international financial regulators and other law enforcement agencies (up 2% from 2015–16). The international cooperation requests related to various topics, including surveillance, enforcement, policy and licensing.

We received 97 requests for assistance in enforcement matters (up 5% from 2015–16). This included 18 requests seeking our assistance to compel material from third parties under the *Mutual Assistance in Business Regulation Act 1992*.

We met with 23 delegations, including from emerging markets, to discuss consumer protection and markets regulation.

### Multilateral cooperation

ASIC exchanges information with other authorities through IOSCO's Multilateral Memorandum of Understanding (MMOU) and other international agreements.

This information assists with domestic and international investigations and enforcement activities. The MMOU is a key tool for targeting financial fraud and serious misconduct.

We have also strongly advocated for the adoption of the IOSCO *Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* (EMMOU), which goes beyond the existing MMOU and responds to recent market developments. The EMMOU supports improved cross-border cooperation between securities regulators in their investigation and enforcement activities. The EMMOU includes additional powers such as the ability to obtain and share audit information, to compel testimony, to freeze assets and to obtain and share internet service provider and telecommunications records. We have prepared our application to become one of the first signatories to the EMMOU.



ASIC Commissioner John Price and Pak Muliawan, Chairman of Otoritas Jasa Keuangan, the Indonesian Financial Services Authority, signing the fintech cooperation agreement in April 2017.

We formally became a signatory to IFIAR's MMOU, which helps regulators to share information on the oversight of audit firms, in April 2017.

### **Bilateral cooperation**

ASIC engages bilaterally with our counterparts on a range of issues. We are particularly close to our NZ colleagues and hold regular trans-Tasman meetings, especially in the area of emerging risks.

We work to enhance the ability of other international regulators to supervise and regulate. This helps improve the regulation of the financial sector globally. For example:

- ◆ In November 2016, we met with representatives from the Dubai Financial Services Authority to discuss our approach to conduct regulation, licensing, compliance and enforcement referrals.
- ◆ In June 2017, we met with representatives from Kenya's Capital Markets Authority and National Treasury. This meeting focused on capacity building for online FX supervision.

### **Building capacity in Indonesia**

ASIC assists Otoritas Jasa Keuangan (OJK), the Indonesian Financial Services Authority, with a wide range of capacity-building initiatives to:

1. develop and implement good practice standards
2. build a culture of responsive and skill-based surveillance and risk-focused supervision.

We hosted delegations from OJK to help them understand our approaches to risk management, alternative dispute resolution, internal audit and fintech regulation.

OJK staff also participated in seminars, workshops and mutual visits to learn directly from ASIC's Corporations and Market Supervision stakeholder teams.

1. ASIC's term of office is between 2016 and 2018.

### **Regional cooperation**

ASIC has advocated for closer regional ties through international forums, such as IOSCO's Assessment Committee and the Asia-Pacific Regional Committee.

We actively participated in supervisory colleges. In 2016–17, we continued our involvement in the Asia-Pacific Regional Supervisory College forum. The forum, which is a gathering of regional regulators, facilitates regional information sharing that focuses on a specific financial group with regional systemic importance. The most recent Regional Supervisory College forum was held in February 2017.

We are a member of the Asia-Pacific Economic Cooperation Financial Regulators Training Initiative (APEC FRTI) and currently chair the Advisory Group for Securities Regulators.<sup>1</sup> The APEC FRTI provides a sustainable, efficient, cost-effective training structure for junior and mid-level staff of financial supervisory and regulatory agencies and stock and derivative exchanges.

## Innovation Hub

ASIC's Innovation Hub is designed to help fintech businesses navigate our regulatory system and to help us monitor and understand developments related to innovation.

The Innovation Hub has four key elements:

1. stakeholder engagement
2. informal assistance and guidance for eligible businesses
3. the Innovation Hub website
4. coordination of ASIC's innovation-related work

Through the Innovation Hub, ASIC also drives major projects, including our regulatory sandbox framework and regtech initiatives.

The Digital Finance Advisory Committee assists ASIC, including the Innovation Hub, to support innovation in financial services and markets (see page 179).

### Stakeholder engagement

In 2016–17, ASIC held more than 70 meetings with industry and other stakeholders. Senior members of the Innovation Hub Coordination team have presented at 11 events for the financial services start-up community on such topics as:

- ◆ our regulatory sandbox framework
- ◆ crowd-sourced funding
- ◆ our approach to regtech and fintech.

### Informal assistance and guidance

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

In 2016–17, the Innovation Hub provided informal assistance to 93 entities to help them consider important regulatory issues early and, in some cases, prepare licence or relief applications.

The most common business models we saw were digital advice, marketplace lending and consumer credit. Many of these businesses have now obtained licences from ASIC.

During 2016–17, we granted 18 new and four varied AFS licences and credit licences. Results show that new fintech businesses that have engaged with the Innovation Hub before submitting their licence application receive approval materially faster than those that have not done so.

### Publications

In 2016–17, ASIC reflected on the particular challenges facing innovative new financial services businesses, and issued a number of publications to help them, including:

- ◆ Information Sheet 219 *Evaluating distributed ledger technology*
- ◆ Regulatory Guide 257 *Testing fintech products and services without holding an AFS or credit licence*
- ◆ Consultation Paper 288 *Crowd-sourced funding: Guide for public companies*
- ◆ Consultation Paper 289 *Crowd-sourced funding: Guide for intermediaries.*



Mark Adams, Senior Executive Leader, Strategic Intelligence, addressing the InnovationAus.com 2017 Regtech Forum event, June 2017.





ASIC hosted our first regtech roundtable in February 2017, which focused on the application of regtech in Australia and future opportunities. More than 80 regtech entities participated in the roundtable.

### Innovation Hub website

This dedicated website provides tailored information and access to informal assistance to help streamline the licensing process for innovative fintech start-up businesses. In 2016–17, there were 48,550 visits to the Innovation Hub webpages.

### Coordination and cooperation

We have established a network with Treasury and other domestic regulators, including the RBA, APRA and AUSTRAC, to discuss innovation in financial services and markets, and the opportunities, developments and emerging risks for start-up fintech businesses.

Internal working groups have also been established on digital advice, marketplace lending, crowd-sourced funding and blockchain.

### Other work on innovation

#### Regulatory sandbox framework

In December 2016, ASIC launched a regulatory sandbox environment for innovative businesses to develop and test their ideas.

The framework is comprised of three broad options for testing a new product or service without a licence:

1. existing flexibility in the regulatory framework or exemptions in the law, which mean that a licence is not required

2. our fintech licensing exemption, which allows eligible businesses to test certain services for 12 months without holding an AFS licence or credit licence
3. tailored, individual licensing exemptions to facilitate product or service testing.

Our regulatory sandbox is the only sandbox internationally that allows an automatic fintech licensing exemption for a specific time period and specific services. The first entity was able to use the fintech licensing exemption from 12 May 2017.

### Regtech

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

In 2016–17, we met with 47 regtech entities. In February 2017, we hosted our first regtech roundtable discussion on the application of regtech in Australia, and future opportunities. Eighty-one entities participated, and 21 other regulators and government officials observed.

In May 2017, we published a report that outlined our proposed future approach to regtech. Proposed initiatives include:

- ◆ establishing a new regtech liaison group
- ◆ conducting future technology trials
- ◆ hosting a problem-solving event challenging regtechs to find a solution to a compliance issue identified by ASIC.



## Fintech

In 2016–17, ASIC provided a leading international voice to advance discussions on the impact of fintech on banking and financial services.

For example:

- ◆ ASIC’s Chairman participated in forums such as the Salzburg Global Seminar, the IMF and the World Economic Forum, where he covered risks and opportunities in fintech from a regulatory perspective.
- ◆ Commissioner John Price presented to the Global Symposium on Innovative Financial Inclusion, hosted by the World Bank and Malaysia’s central bank, Bank Negara Malaysia. He discussed how fintech is advancing financial inclusion for developing economies, and what the regulatory responses should be.

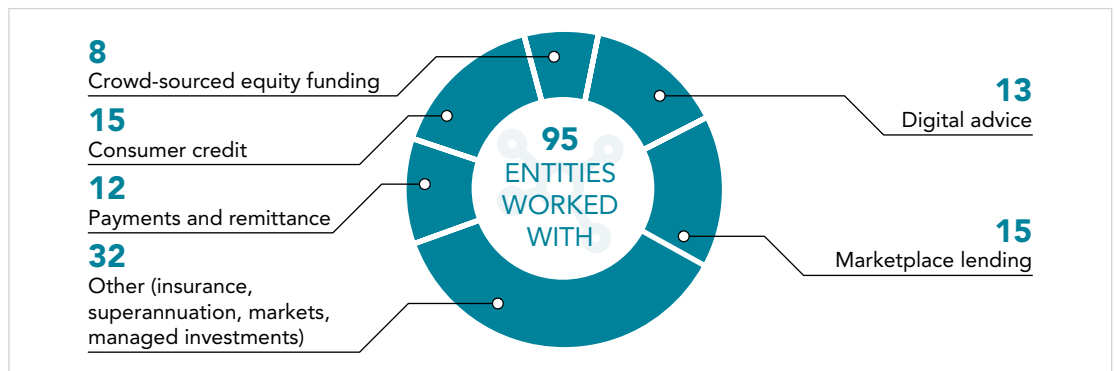
Through these commitments, ASIC’s senior executives continue to emphasise the regulatory contribution that Australia – and ASIC in particular – can make to the prudent development of fintech.

We have also increased bilateral engagement on fintech. We attended regular meetings and quarterly information-sharing calls with other international regulators, including the US Consumer Financial Protection Bureau and the European Securities and Markets Authority.

In 2016–17, we entered fintech cooperation agreements with the Hong Kong Securities and Futures Commission (SFC), the Japan Financial Services Authority (JFSA), the Malaysia Securities Commission (SC), the Ontario Securities Commission (OSC), the Capital Markets Authority (Kenya) and OJK, the Indonesian Financial Services Authority. These agreements establish a framework for information sharing on innovation in financial services. Our agreements with the Hong Kong SFC, the JFSA, the Malaysia SC and the OSC also enable us to refer Australian fintech businesses to other regulators’ fintech assistance programs, and those regulators to refer businesses to us. We made three referrals under fintech cooperation agreements in 2016–17.

During the year, we also met informally with numerous international fintech businesses, including delegations from Indonesia, the United Kingdom and the United States.

## ASIC’s Innovation Hub – Outcomes



**93** Entities requested and received informal assistance

**47** Meetings with regtech entities

**22** AFS/credit licences granted or varied

## 3.3 Efficient registration services



ASIC is responsible for the registration of:

1. companies
2. business names
3. company auditors
4. SMSF auditors
5. liquidators
6. financial advisers.

We also license AFS licensees and credit licensees.

Our activities around this objective are designed to:

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

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

1. registration is efficient, accurate and cost-effective for businesses
2. businesses comply with ongoing registration obligations
3. the public has easy access to information in ASIC registers
4. misconduct is detected, responded to and deterred.

### ASIC Registry competitive tender process

On 19 December 2016, Senator the Hon. Mathias Cormann, Minister for Finance, announced that the Government had completed a thorough evaluation of private sector bids to upgrade and operate the ASIC registry functions and decided not to proceed further with commercialising the ASIC Registry.

The Government decided that the final bids received did not deliver a net financial benefit for the Commonwealth.

The Minister's announcement completed a process, that commenced on 13 May 2014, when the Government announced a scoping study into potential ownership options for ASIC's Registry business.

The Government will consider future approaches and improvements to its registry functions.

ASIC continues to support the Government as it considers future options to modernise ASIC's business registers.



### 3.3.1 Registry business

The ASIC Registry is a critical part of Australia's economic infrastructure. The services we provide – the companies register, Business Names Register, and other corporate and professional registers – are essential to the efficient operation of Australia's economy.

The Registry enables businesses to operate in Australia with transparency and accountability. We maintain the public registers, make information on our online registers accessible to all Australians, and collect fees that contribute to Commonwealth revenue.

#### Simplifying business registration

To enable our customers to interact efficiently with Government, ASIC is increasingly linking our corporate registry services and business name registry services to resources provided by other government agencies.

From April 2017, we made it easier to register a business online. The new business registration service – available to the public at [www.business.gov.au](http://www.business.gov.au) – allows customers to apply online to register a company. This service also allows customers to apply for a business name, Australian Business Number (ABN) and complete tax registrations using a single online process.

#### Leading international registries

We also have a strong relationship with our international registry counterparts, including through the International Corporate Registers Forum. This is an association of international corporate registries covering more than 60 international jurisdictions administering body corporate registers.

In May 2017, the ASIC Registry Senior Executive Leader, Rosanne Bell, was appointed President of the Corporate Registers Forum.

### 3.3.2 Overall registry activity

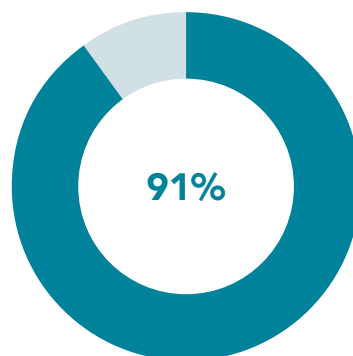
#### Doing business online

Because we aim to provide customers with simple online services that add value to the Australian economy, many of our registers are fully online.

In 2016–17, our customers completed 91% of all 2.9 million registry lodgements online, a 1% increase on 2015–16.

More customers – particularly holders of business names – are doing business with the ASIC Registry outside standard business hours.

Percentage of all registry lodgements completed online



### 3.3 Efficient registration services *continued*

#### Accessing registry information online

There were 90.6 million searches of ASIC registers in 2016–17, 99.9% of which were conducted online. Around 95% of searches of the ASIC registers are provided free of charge, consistent with the Government’s open data policy.

The two most-searched registers were the companies register (54.6 million searches, up 4% from 2015–16) and the Business Names Register (32.2 million searches, down 4% from 2015–16).

There were 3.8 million searches of ASIC’s professional registers, a 22% decrease from 2015–16.<sup>1</sup>

Customers can search from the ASIC websites [www.asic.gov.au](http://www.asic.gov.au) and [www.moneysmart.gov.au](http://www.moneysmart.gov.au), or use our NZAUCoconnect smartphone app.

In 2016–17, more than 155,000 searches of the Australian registers were accessed by smartphone using NZAUCoconnect.

Searches are also available from the government website [www.data.gov.au](http://www.data.gov.au), which offers free datasets for downloading in bulk online.

ASIC registry datasets for the companies register, the Business Names Register, the Financial Advisers Register and the AFS licensees register are often ranked in the top 20 searches on [www.data.gov.au](http://www.data.gov.au).

Commercial information brokers, listed on the ASIC website, provide searches of ASIC registers, which are often packaged with information from other sources. More than half of all searches are requested through them.

#### Social media

ASIC uses Facebook, Twitter and YouTube social media channels to engage with customers.

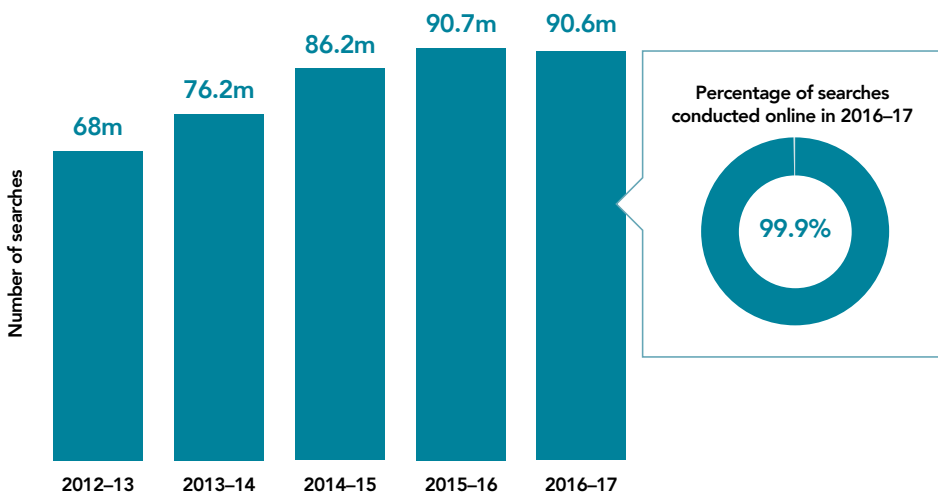
In 2016–17, our ASIC Connect Facebook followers increased to 8,350 (a 30% increase from 2015–16) and our ASIC Connect Twitter followers increased to 16,735 (a 27% increase from 2015–16).

In 2016–17, we worked to tailor our content to the needs of our followers. We used short videos to educate customers and increased our collaboration with government agencies and industry-based organisations.

#### Responding to customer inquiries

The ASIC website is the primary source of information for our registry customers. Our website makes it easy for customers to access commonly used transactions and information about our registers. In 2016–17, there were more than 16.5 million visits to [www.asic.gov.au](http://www.asic.gov.au).

#### Searches of ASIC’s registers



1. The introduction of the Government’s data.gov.au website impacted search volumes through our ASIC Connect Search in 2016-17. ASIC’s professional register data sets are now available through data.gov.au, which is likely to have resulted in customers using the new website as a channel rather than ASIC.

We also respond to customer inquiries through our Customer Contact Centre. In 2016–17, we:

1. responded to 818,928 (answered) calls and online inquiries, with 91% of inquiries answered on the spot
2. used our automated voice services to handle 117,827 additional customer contacts
3. expanded our web chat services and facilitated more than 20,000 web chat sessions with customers for business name and company inquiries.

We also expanded our customer satisfaction surveys about our inquiry channels, with feedback helping to drive improvements in our customer service. In particular, our customers expressed high levels of satisfaction with the web chat service channel.

Like other government agencies and commercial organisations, since early 2017 we have seen a spike in spam emails directed to our customers. We use a range of communication tools to advise our customers on how to respond and minimise impacts.

### 3.3.3 Specific register activity

#### Companies register

Around 2.5 million companies are now registered with ASIC, a 5% increase from 2015–16 and our highest ever number.

This continues the trend of the past decade, in which increasing numbers of companies have been registered, from around 1.57 million companies in 2006–07.

In 2016–17, we registered 249,394 new companies. This reflects an increase of 1% from 2015–16 and steady increases over the last five years. Around 97% of all company registrations were completed online.

Company deregistration continues to increase, with 126,283 companies deregistered in 2016–17, either voluntarily or by ASIC. This is up by 3% from 2015–16.

During 2016–17, the number of companies that entered external administration decreased by around 18.5%. A total of 8,031 companies entered external administration during 2016–17, compared to 9,848 in 2015–16.

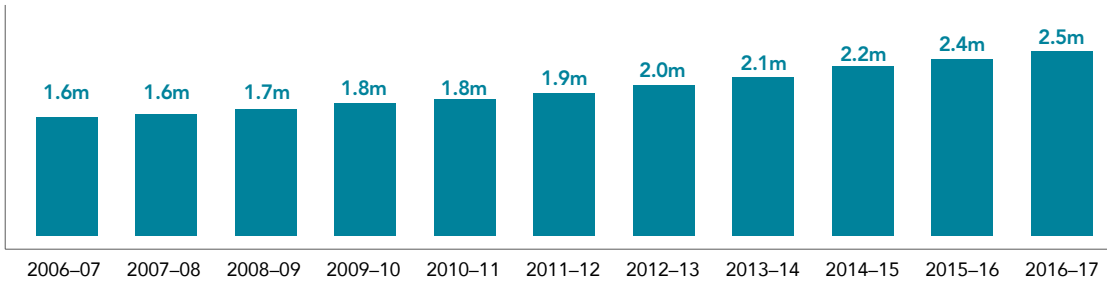
#### Inquiries to Customer Contact Centre, by type

Topic	Number of inquiries	Percentage of inquiries handled by the Customer Contact Centre
Companies <sup>1</sup>	426,795	52%
Business names	249,076	30%
Other <sup>2</sup>	104,346	13%
AFS licences	10,944	1%
Online complaints	8,914	1%
Consumer or investor matters	7,924	<1%
Credit licences	6,134	<1%
SMSF auditors	1,616	<1%
Auditors	1,589	<1%
Liquidators	982	<1%
Managed investment schemes	608	<1%
<b>Total</b>	<b>818,928</b>	<b>100%</b>

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

### 3.3 Efficient registration services continued

#### Number of companies registered with ASIC



#### Business Names Register

There are around 2.19 million business names on the ASIC register, an increase of 6% from 2015-16. During 2016-17, we registered 348,268 new business names, up 3% from 2015-16. 99.9% of all business name registrations were completed online.

We routinely cancel business names if the registration renewal fee is not paid. This ensures a more accurate and current register of business names, and the availability of more names for registration by start-up businesses.

In 2016-17, we cancelled 206,346 business names, 48% fewer than in 2015-16. The higher volume of cancellations in 2015-16 resulted from a special program to clear a backlog of overdue grandfathered business names.

From 1 July 2016, businesses must have an ABN to be eligible to register a business name on Norfolk Island. In 2016-17, there were 76 business names registered with a principal place of business on Norfolk Island.

#### SMSF auditor register

SMSF auditor registration has been mandatory since July 2013. At 30 June 2017, there were 6,341 registered SMSF auditors. During 2016-17, we also registered 78 SMSF auditors and deregistered 407 SMSF auditors.

#### ASIC's published notices website

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

In 2016-17, 18,589 registered users published 28,354 notices on the website.

ASIC published 135,281 notices of intention to deregister a company on the website.

Stakeholder visits to the website reached 1,430,484 in 2016-17, an increase of 30% from 2015-16.

## 3.4 Unclaimed money and managing property vested in ASIC

ASIC is responsible for administering unclaimed money from banking, deposit-taking and life insurance institutions.

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

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

### 3.4.1 Unclaimed money

ASIC reunites people with their unclaimed money. We maintain a register of unclaimed money from banks, credit unions, building

societies, life insurance companies and friendly societies, as well as shares that have not been collected from companies. The public can search our register and make claims to our Unclaimed Money team.

In 2016–17, we received \$79 million in unclaimed money, considerably more than the \$46.4 million we received in 2015–16. This is due to an increase in unclaimed money lodgements for companies.

We paid out a total of \$82 million in claims in 2016–17, compared with \$124.4 million in the previous year. We paid claimants interest (\$3.7 million of the \$82 million) on unclaimed money from 1 July 2013 onwards – at a rate of 2.5% for 2013–14, 2.93% for 2014–15, 1.33% for 2015–16, and 1.31% for 2016–17.

### Amount paid to owners of unclaimed money

Claims by type	2016–17 (\$)			2015–16 (\$) <sup>1</sup>
	Principal	Interest	Total	
Company	31,517,112	1,158,223	32,675,335	32,453,535
Banking	40,562,771	2,303,030	42,865,801	81,775,915
Life insurance	6,135,531	282,929	6,418,460	10,023,803
Deregistered company trust money	325,024	–	325,024	145,729
<b>Total</b>	<b>78,540,438</b>	<b>3,744,182</b>	<b>81,284,620<sup>2</sup></b>	<b>124,398,982</b>

1. Includes principal and interest.
2. In 2015–16, amendments to the unclaimed money provisions in section 69 of the *Banking Act 1959* and section 216 of the *Life Insurance Act 1975* increased the amount of time unclaimed money accounts can remain dormant – from three to seven years. As a result of these legislative amendments, ASIC received fewer claims for banking and life insurance unclaimed money in 2016–17.



### 3.4.2 Managing property vested in ASIC

ASIC administers the property of deregistered companies, including real property, shares, mortgages, caveats, chattels, intellectual property and leases. This property remains vested in ASIC – or in ASIC on behalf of the Commonwealth for trust property – until it is lawfully dealt with, or evidence is provided that the property no longer vests in ASIC for some other reason.

We account for any proceeds on realisation of the property by transferring these – less the expenses incurred in dealing with the property – into the Official Public Account. The proceeds are treated like any other unclaimed money for which we are responsible.

The number of new matters received in 2016–17 decreased to 1,244, from 1,382 in 2015–16. The number of matters finalised decreased

from 1,377 in 2015–16 to 1,254. The following table shows vested properties of deregistered companies by number of cases.

#### Assets of deregistered companies vesting in ASIC

Section 601AD of the Corporations Act provides that, when a company is deregistered, all of its property vests in ASIC. 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 our powers under section 601AE or section 601AF of the Corporations Act. We do not consider it practical to value any identified vested property and, consequently, such property is not recorded or disclosed in these financial statements.

#### Vested properties of deregistered companies (by number of cases)

Claims by type	2016–17	2015–16
Total new matters	1,244	1,382
Total finalised matters	1,254 <sup>1</sup>	1,377
Property disposals		
Transferred	114	195
Sold	5	28
No longer vested <sup>2</sup>	653	866
Other <sup>3</sup>	47	68
Total property disposals	819 <sup>1</sup>	1,157

1. There were fewer property disposals and total finalised matters in 2016–17. ASIC received fewer completed applications for property disposals during 2016–17 and, of those applications received, there were complex matters which meant that we could not complete more property disposals. We also employed an additional temporary staff member in 2015–16, allowing us to complete more proactive property disposals that year.
2. 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.
3. Includes where the vested property interest has been discharged, released, surrendered or withdrawn.

## 3.5 Assessing misconduct and other reports

### 3.5.1 Misconduct reports from the public

ASIC encourages members of the public to report concerns about corporate and financial services to us. We use this information to detect, understand and respond to misconduct.

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

When we do not have enough evidence to formally investigate, or if surveillance of the matter is not a priority use of our resources, we contact the person who reported the matter to us and explain our decision. We keep the information on our databases, and review it if further reports are made, or more evidence becomes available.

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

We continue to publish information sheets to explain our role in responding to concerns that are frequently reported to us. We now have 25 such information sheets, which were read online more than 65,000 times in 2016–17. We also have 16 YouTube video clips, which were viewed more than 15,000 times in 2016–17.

The figure on page 91 shows the total number of reports finalised each year, together with the underlying trend after high-volume matters have been removed.<sup>1</sup>

In 2016–17, we dealt with 9,011 reports of alleged misconduct, 8% fewer than in 2015–16. Excluding high-volume matters, there has been a continued decline in the number of reports since a peak in 2010–11.

There was little change in the relative proportion of types of matters received in 2016–17 from last year. The number of matters about general obligations of licensees decreased.

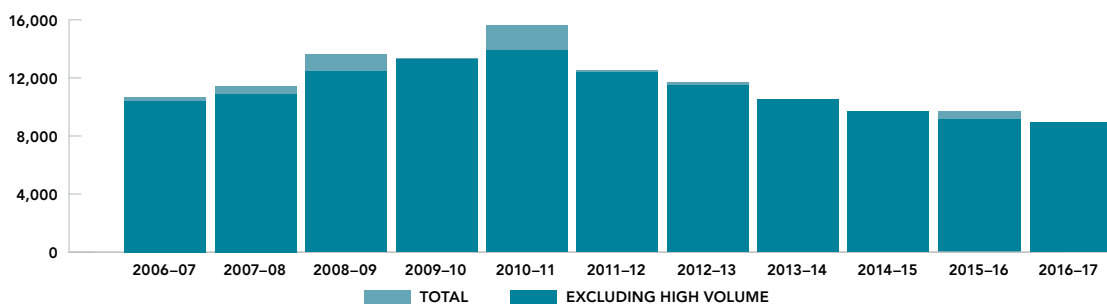
1. High-volume matters are those where we have received at least 100 reports of misconduct about the same entity and the same issue.

## 3.5 Assessing misconduct and other reports continued

### Misconduct reports – by category

Category	2016–17	2015–16
<b>Corporations and corporate governance</b>		
Failure to provide books and records or a report as to affairs to an insolvency practitioner	13%	13%
Insolvency matters	7%	7%
Contractual issues (includes concerns about non-provision of goods and services, quality of goods and services)	3%	3%
Insolvency practitioner misconduct	3%	3%
Other (e.g. directors' duties, internal disputes)	18%	17%
<b>Subtotal</b>	<b>44%</b>	<b>43%</b>
<b>Financial services and retail investors</b>		
Credit	14%	11%
Operating an unregistered managed investment scheme or providing financial services without an AFS licence	6%	5%
Managed investment schemes	3%	2%
Superannuation	2%	2%
Potential scam	1%	1%
Other (e.g. insurance, advice, breach of licence conditions, misleading or deceptive conduct, unconscionable conduct)	16%	22%
<b>Subtotal</b>	<b>42%</b>	<b>43%</b>
Market integrity – including insider trading, continuous disclosure, misleading statements or market manipulation	7%	6%
Registry integrity – including incorrect address recorded on ASIC's register, lodging false documents with ASIC and issues with business names	6%	6%
Other issues	1%	2%
<b>Subtotal</b>	<b>14%</b>	<b>14%</b>
<b>Total</b>	<b>100%</b>	<b>100%</b>

## Misconduct reports – by category



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

Category	2016-17	2015-16
Total misconduct reports finalised	9,011 <sup>2</sup>	9,751
<b>Outcome</b>		
Referred for action by ASIC <sup>3</sup>	25%	25%
Resolved <sup>4</sup>	15%	11%
Analysed and assessed for no further action <sup>5</sup>	46%	49%
No jurisdiction <sup>6</sup>	10%	11%
No breach or offences	4%	4%
<b>Total</b>	<b>100%</b>	<b>100%</b>

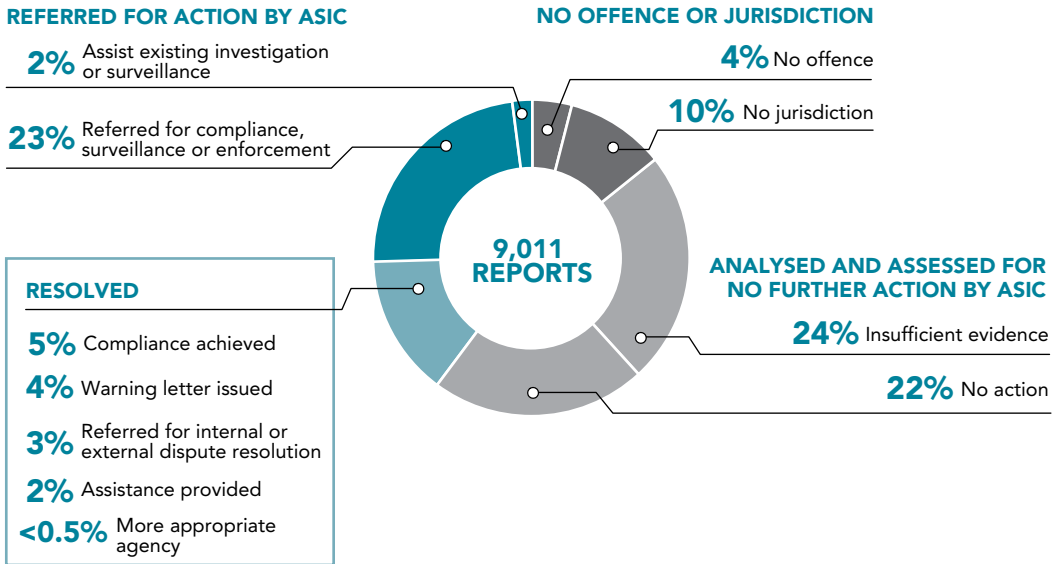
Note: Data rounded.

1. ASIC merges matters where we received reports about the same entity and issue.
2. The number of misconduct reports (excluding high-volume matters) has continued to decline since a peak in 2010-11.
3. 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*.
4. The number of matters resolved 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 about how best to resolve the matter themselves, or ASIC taking action to achieve compliance.
5. Preliminary inquiries made and the information provided analysed and assessed for no further action by ASIC. This may be due to insufficient evidence or another reason, such as another agency or law enforcement body or third party (e.g. a liquidator) already taking action or being better placed to appropriately deal with the underlying issues.
6. Where relevant, ASIC directs reporters to the appropriate agency or solution.

The figure on page 92 provides a more detailed view of how we handle reports of misconduct.

## 3.5 Assessing misconduct and other reports continued

### Misconduct reports – by outcome



### 3.5.2 Breach reports from licensees and auditors

ASIC uses breach reports from licensees and auditors to detect 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.

In their breach report, we expect licensees to tell us:

1. how they identified the breach
2. how long it lasted
3. what steps they have taken to rectify it
4. what steps they have taken, or will take, to ensure compliance in the future.

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

We also receive breach reports from auditors who have reasonable grounds to suspect a breach of the Corporations Act by the company, managed investment scheme or AFS licensee that they are appointed to audit.<sup>1</sup>

In 2016–17, we dealt with:

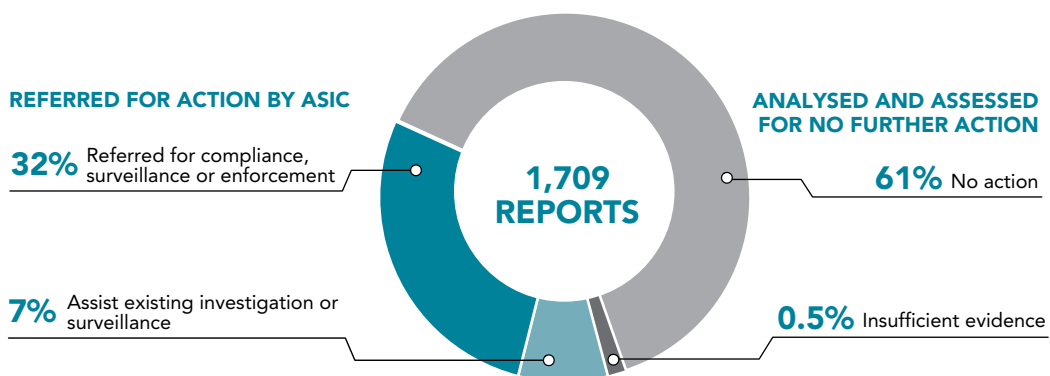
- ◆ 508 auditor breach reports, 5% more than in 2015–16
- ◆ 1,201 breach reports about managed investment schemes and AFS licensees, 2.5% more than in 2015–16.

1. 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.

## Breach reports – by type and outcome

	2016–17	2015–16
<b>Type</b>		
Auditor breach reports	508	482
Breach reports about AFS licensees and managed investment schemes	1,201	1,172
Total breach reports finalised	1,709	1,654
<b>Outcome</b>		
Referred for action by ASIC	39%	36%
Analysed and assessed for no further action	61%	64%
Total	100%	100%

## Breach reports – by outcome



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

Liquidators, administrators and receivers (i.e. external administrators) must 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.

External administrators generally lodge an initial report electronically, which is assessed to determine whether a supplementary report is needed. In many cases, the initial report does not report misconduct and does not require further assessment.

When we request a supplementary report, it will typically set out the results of the external administrator's inquiries and the evidence to

support the alleged offences. In most cases, we can use the supplementary report to determine whether to start a formal investigation.

The number of reports we received from external administrators decreased in 2016–17; however, we received more supplementary reports. In 2016–17, 18% of these were referred for compliance, investigation or surveillance, compared with 19% in 2015–16.

Nearly half of the cases identified as 'analysed and assessed for no further action' were due to insufficient evidence to warrant commencing a formal investigation. These cases are retained for intelligence purposes for possible future use. We requested a further report from the external administrator in one-sixth of such cases.

## 3.5 Assessing misconduct and other reports continued

### Statutory reports – by type and outcome

	2016–17	2015–16
<b>Initial reports from liquidators, administrators and receivers</b>		
Reports alleging misconduct	6,915 <sup>1</sup>	8,258
Reports not alleging misconduct	1,160 <sup>1</sup>	1,693
<b>Initial reports – outcomes</b>		
Supplementary reports requested	12%	11%
Analysed and assessed for no further action	88%	89%
<b>Total</b>	<b>100%</b>	<b>100%</b>
<b>Supplementary reports requested and received by ASIC</b>		
Supplementary reports alleging misconduct	914 <sup>2</sup>	679
<b>Supplementary reports – outcomes</b>		
Referred for action by ASIC	18%	19%
Analysed and assessed for no further action or requested further report	81%	80%
Identified no offences	1%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>
<b>Total statutory reports finalised (initial + supplementary)</b>	<b>8,989<sup>1</sup></b>	<b>10,630</b>

Note: Data rounded.

1. The number of reports lodged in 2016–17 reflects the decrease in the underlying number of insolvency appointments over the period. ASIC reports annually on the detail contained in external administrators' reports and trends in the underlying data. For further detail, see Report 507 *Insolvency statistics: External administrators' reports (July 2015–2016)*.
2. In 2016–17, ASIC assessed 30% more funded supplementary reports than in 2015–16. We also received supplementary reports about each of the entities in several large corporate group collapses.

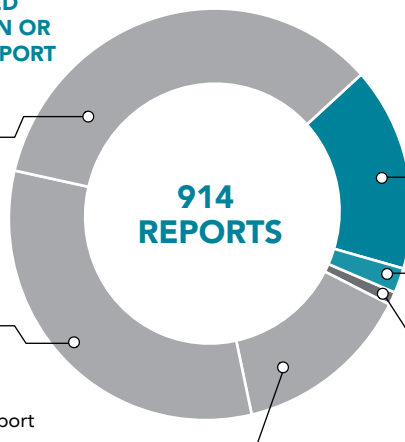
### Supplementary statutory reports – by outcome

#### ANALYSED AND ASSESSED FOR NO FURTHER ACTION OR REQUESTED FURTHER REPORT

35% No action

32% Insufficient evidence

14% Requested further report



#### REFERRED FOR ACTION BY ASIC

16% Referred for compliance, surveillance or enforcement

2% Assist existing investigation or surveillance

#### NO OFFENCE

1% No offence



### 3.5.4 Office of the Whistleblower

ASIC established the Office of the Whistleblower to ensure that whistleblower matters are recorded and actioned appropriately.

We value the information received from employee whistleblowers who often have unique positions within companies that allow them to witness, and provide evidence of, misconduct.

We assess all information we receive; however, not every matter brought to our attention requires regulatory action. Any inquiries we make will primarily focus on breaches that have been disclosed, as opposed to what statutory protections are available to the whistleblower.

ASIC is a partner of the groundbreaking research *Whistle While They Work 2* led by Professor AJ Brown at Griffith University. We support this research project as an extension of our own changes at ASIC to improve how we communicate with whistleblowers and handle their information.

In 2016–17, we dealt with 174 disclosures by whistleblowers. Around 69% of these related to corporations and corporate governance. We also dealt with matters related to credit and financial services (21%), markets (6%) and other issues (4%).

Following preliminary inquiries, approximately 6% of matters were referred for compliance, surveillance or investigation.

Around 94% 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.

### 3.5.5 Office of Small Business

We created an Office of Small Business to ensure that we are doing our best for small business stakeholders. The Office is overseen by Commissioner John Price. It is a virtual team that coordinates our efforts to listen to, promote, protect and regulate Australian small businesses.

The Office of Small Business oversees a proactive campaign by our Small Business Compliance and Deterrence team to identify and remove directors who may be automatically disqualified from managing a company for having a relevant, dishonesty-related criminal conviction. The campaign aims to educate directors and business name holders and level the playing field for small business. If it proves successful, we plan to broaden the campaign to include other states.

During 2016–17, ASIC and the Queensland Police Service collaborated in a joint surveillance to identify and remove criminal syndicate and outlaw motorcycle gang members from managing corporations or having a registered business name.

The operation identified:

- ◆ six people who were current officeholders with relevant criminal convictions and therefore automatically disqualified from managing corporations
- ◆ two people who had registered business names but whose relevant criminal convictions automatically disqualified them from holding a registered business name.

We removed the officeholders from our corporate registers and gave notice that we would cancel the registered business names.

### 3.5.6 Serious Financial Crime Taskforce

ASIC is a member of the Serious Financial Crime Taskforce, along with the ATO, the Australian Criminal Intelligence Commission, the Australian Federal Police, the Attorney-General's Department, AUSTRAC, the Commonwealth Director of Public Prosecutions and the Australian Border Force.

In 2016–17, ASIC contributed material and expertise to the taskforce on matters, including:

- ◆ Panama Papers
- ◆ illegal phoenix activity cases
- ◆ the taskforce's work on gold bullion.

ASIC also contributed to several intelligence assessments to enhance the taskforce's understanding of serious financial crime.

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

### 3.6.1 ASIC Service Charter results

The ASIC Service Charter covers the most common interactions between ASIC and our stakeholders and sets performance targets for these. The following table sets out our performance against the key measures outlined in the Service Charter.

#### ASIC Service Charter performance

Service	Service Charter target	2016–17
<b>When you contact us</b>		
General phone queries	<b>Target: 80%</b> We aim to answer telephone queries on the spot	91.1% calls answered
General email queries	<b>Target: 90%</b> We aim to reply to email queries <sup>1</sup> within three business days	95.7% emails replied to
<b>When you access our registers</b>		
Searching company, business name or other data online	<b>Target: 99.5%</b> We aim to ensure that our online search service is available in standard business hours	99.6% available
Lodging company, business name or other data online	<b>Target: 99.5%</b> We aim to ensure that our customers can lodge registration forms and other information online in standard business hours	99.4% lodged
<b>When you do business with us</b>		
Registering a company or business name online	<b>Target: 90%</b> We aim to register the company or business name within one business day of receiving a complete application <sup>2</sup>	97.3% registered
Registering a company via paper application	<b>Target: 90%</b> We aim to register the company within two business days of receiving a complete application	98.7% registered
Registering a business name via paper application	<b>Target: 90%</b> We aim to register the business name within seven business days of receiving a complete application	100% registered
Updating company, business name or other ASIC register information online	<b>Target: 90%</b> We aim to enter critical information and status changes to the company and business name registers within one business day	98% updated
Updating company, business name or other ASIC register information via paper application	<b>Target: 90%</b> We aim to enter critical information and status changes to company and business name registers within five business days	93.6% updated

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

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

Service	Service Charter target	2016–17
Registering as an auditor	<b>Target: 80%</b> We aim to decide whether to register an auditor within 28 days of receiving a complete application <sup>3</sup>	67% auditors registered <sup>4</sup>
Registering as a liquidator	<b>Target: 80%</b> We aim to decide whether to register a liquidator or official liquidator within 28 days <sup>4</sup>	89% liquidator applications 94% official liquidator applications
Registering a managed investment scheme	<b>Target: 100%</b> By law, we must register a managed investment scheme within 14 days of receiving a complete application, except in certain circumstances	100% registered
Applying for or varying an AFS licence	<b>Target: 70%</b> We aim to decide whether to grant or vary an AFS licence within 60 days	21% licences granted <sup>6</sup> 51% licence variations <sup>6</sup>
	<b>Target: 90%</b> We aim to decide whether to grant or vary an AFS licence within 120 days <sup>5</sup>	38% licences granted <sup>6</sup> 73% licence variations <sup>6</sup>
Applying for or varying a credit licence	<b>Target: 70%</b> We aim to decide whether to grant or vary a credit licence within 60 days	77% licences granted 82% licence variations
	<b>Target: 90%</b> We aim to decide whether to grant or vary a credit licence within 120 days <sup>5</sup>	91% licences granted 90% licence variations
Applying for relief	<b>Target: 70%</b> 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	77% in-principle decisions made

- Applications beyond the 28-day target are generally complex ones, requiring, for example, additional policy work or legal review.
- Performance against this measure was impacted by ASIC's resourcing and an increase in licence applications as a result of the expiry in June 2016 of the transition period for accountants' limited licences.
- Applications beyond the 60-day target are generally complex ones, requiring considerable additional work, although a greater regulatory focus on problematic applications has affected this.
- Performance against this measure was impacted by ASIC's resourcing and a greater focus on regulatory concerns in assessing applications. In 2016–17, our performance was also impacted by the increase in licence applications we received following the expiry in June 2016 of the transition period for accountants' limited licences (as noted in ASIC's 2015–16 Annual Report). We continue to review our Service Charter in terms of sustainable target levels with current resources.

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

Service	Service Charter target	2016–17
	<b>Target: 90%</b> 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	95% in-principle decisions made <sup>7</sup>
Complaints about misconduct by a company or individual	<b>Target: 70%</b> If someone reports alleged misconduct by a company or an individual, ASIC aims to respond within 28 days of receiving all relevant information	70% complaints resolved
<b>When you have complaints about us</b>		
About ASIC officers, services or actions	<b>Target: 70%</b> We aim to acknowledge receipt of complaints within three working days of receipt. We aim to resolve a complaint within 28 days	96% complaints resolved

7. This result includes applications where we did not initially receive all the information we needed to make a decision.

### 3.6.2 Complaint Management Framework

ASIC's Complaint Management Framework was introduced in September 2015, and allows ASIC to effectively manage and respond to complaints about our services, actions, decisions or staff. We are committed to treating complaints seriously, promptly and fairly. We value the feedback we receive, as it enables us to continually improve our processes and the services we provide.

In most cases, we have resolved complaints by providing additional information or further explanation about a decision we made or action we took. When we were wrong or made a mistake, we issued an apology and, if possible, corrected the error.

Our Complaint Management Policy is published on the ASIC website, with instructions for lodging a complaint online and details about how we treat the complaint. We have also established a dedicated complaint telephone line to assist stakeholders.

Our Service Charter measure is to resolve 70% of all complaints within 28 days. In 2016–17, we resolved 96% of complaints in 28 days (see section 3.6.1).

Of the 757 complaints received in 2016–17:

- ◆ 581 (or 77%) related to our registry function, including complaints about our fees, register maintenance, online services and access to information
- ◆ 176 (or 23%) related to our regulatory function, primarily concerning our decisions and actions. For example, dissatisfaction with our decision in response to a report of misconduct, the outcome of an enforcement action, or the timeliness of our regulatory processes.

In 2016–17, we finalised 767 complaints (including some that remained outstanding from 2015–16):

- ◆ 205 complaints (or 27%), were resolved by:
  - correcting information on our website
  - waiving a fee
  - updating information on our registers
  - changing an earlier decision, where appropriate (e.g. decisions relating to fee waivers and refunds, and business name registrations).

When we identified instances of poor or inappropriate service by our staff, we provided feedback and training to the relevant staff member. This included reinforcing the importance of complying with our policies and procedures.

- ◆ In 447 cases (58% of complaints finalised), after further review, we found that the complaint was unsubstantiated. Unsubstantiated complaints included those where:
  - our original decision to not take action following a report of misconduct or refusal to waive or refund a fee was confirmed after review
  - we found, on review, that the relevant legislation or policy had been correctly applied when making our original decision.

- ◆ In 115 cases (15% of complaints finalised), we were unable to take further action. This included circumstances where:
  - the complainant withdrew the complaint
  - the complainant did not respond to a request for further information
  - the matter was outside our jurisdiction.

There were 14 complaints on hand as at 1 July 2017.

## ASIC Complaint Management Framework performance

Complaints Scorecard	2016–17 <sup>1</sup>	1 Sept 2015– 30 June 2016
Total complaints received	757	557
Total complaints finalised	767 <sup>2</sup>	537
Complaints substantiated	205	192
Complaints unsubstantiated	447 <sup>3</sup>	248
No further action required	115	97
<b>Total complaints on hand (1 July 2017)</b>	<b>14</b>	<b>20</b>
Complaints resolved within 28 days (target 70%)	96%	92%

1. The Complaints Scorecard results in 2016–17 are based on the full financial year. In 2015–16, the reporting period was approximately two months shorter.
2. The total number of complaints finalised in 2016–17 includes some that were outstanding from 2015–16.
3. The number of unsubstantiated complaints in 2016–17, as a proportion of complaints finalised, increased by around 12% from 2015–16.

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

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

As Australia's financial services regulator, ASIC assesses applications for AFS licences and credit licences. We also maintain a number of professional registers, including registers of liquidators, company auditors and SMSF auditors.

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

Outcome	2016–17	2015–16	2014–15	2013–14
<b>Licensing</b>				
<b>AFS licences, including limited AFS licences (new and variations)</b>				
Approved	1,159 <sup>1</sup>	930 <sup>1</sup>	833	880
Refused	6	9	16	12
Withdrawn	415	522	394	261
Cancelled/Suspended	228	224	237	266
In progress	534 <sup>1</sup>	1,046 <sup>1</sup>	433	338
<b>Total</b>	<b>2,342</b>	<b>2,731</b>	<b>1,913</b>	<b>1,757</b>
<b>Australian credit licences (new and variations)</b>				
Approved	406	383 <sup>2</sup>	705	532
Refused	0	2	2	12
Withdrawn	243	179	198	162
Cancelled/Suspended	413	316	366	396
In progress	251	270 <sup>2</sup>	151	150
<b>Total</b>	<b>1,313</b>	<b>1,150</b>	<b>1,422</b>	<b>1,252</b>

1. The changes in the number of AFS licence applications approved, and in progress, between 2014–15 and 2016–17 are due to the number of limited AFS licence applications for SMSF advice received from accountants. This followed the Government's decision to repeal the exemption that allowed accountants to give financial advice to SMSFs without an AFS licence, from 1 July 2016.
2. In 2015–16, the number of credit licences approved decreased, and the number of credit licence applications in progress increased. These results are due to ASIC's resources being directed to processing the increase in the number of limited AFS licence applications received in 2015–16.

Outcome	2016–17	2015–16	2014–15	2013–14
<b>Professional registration</b>				
<b>Official liquidators and liquidator registration</b>				
Approved	64	64	58	81 <sup>3</sup>
Refused	1	0	0	1
Withdrawn	7	2	0	2
Cancelled/Suspended	9	38	20	20
In progress	4	7	9	13
<b>Total</b>	<b>85</b>	<b>111</b>	<b>87</b>	<b>117</b>
<b>Registered auditors (including registered company auditors, authorised audit companies and SMSF auditors)</b>				
Approved	178	436 <sup>4</sup>	203	852 <sup>5</sup>
Refused	1	13	3	8
Withdrawn	99	157	89	77
Cancelled/Suspended	626 <sup>6</sup>	468 <sup>6</sup>	731 <sup>6</sup>	285
In progress	31	22	202	N/A <sup>7</sup>
<b>Total</b>	<b>935</b>	<b>1,096</b>	<b>1,228</b>	<b>1,222</b>

3. During 2013–14, the insolvency industry was the subject of proposed changes to the liquidator registration requirements, as set out in the Insolvency Law Reform Bill 2014. The greater number of applications for liquidator registration in 2013–14 was in anticipation of changes to liquidator registration requirements reflected in the Bill.
4. There were 150 SMSF auditors who had their registration cancelled in 2014–15 for failing to comply with audit registration conditions. These SMSF auditors were re-registered in 2015–16 after satisfying the registration requirements.
5. The number of auditor registrations approved in 2013–14 reflects the introduction of the SMSF auditor registration requirement in the SIS Act in 2013.
6. The high number of cancellations and suspensions (almost all cancellations) was the result of a number of factors, including targeted cancellation action by ASIC for failures to lodge annual statements, for failures to comply with auditing standards and for breaches of independence requirements. There were also a number of voluntary cancellations. In 2016–17, of the 626 auditor registrations cancelled, 287 SMSF auditors were removed for failing to lodge their financial statements and 105 SMSF auditors were removed following requests for voluntary cancellation.
7. N/A means not applicable because we did not maintain 'in progress' data until 2014–15.



## 3.7 Regional activities

### Regional commissioners



**Christian Mikula**  
Australian  
Capital  
Territory



**Michael Saadat**  
New South  
Wales



**Duncan Poulson**  
Northern  
Territory



**John Weaver**  
Queensland



**Melissa Smith**  
South  
Australia



**Chris Green**  
Tasmania



**Warren Day**  
Victoria



**Natalie Durr**  
Western  
Australia

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

In 2016–17, our regional commissioners led a range of activities in each state and territory. They supported financial capability initiatives by holding industry and local stakeholder liaison meetings, held ASIC MoneySmart workshops, and supported events to raise funds for local charities.

Some examples of this work are detailed below.

### Australian Capital Territory

- ◆ Hosted a roundtable of state and territory project officers to discuss their experiences when implementing ASIC's MoneySmart Teaching program and further promote financial literacy education.
- ◆ Established a Diverse Learners working group to discuss how to improve resources to meet the needs of students with diverse learning needs.
- ◆ Launched ASIC's First Business app at a Parliamentary breakfast briefing attended by Parliamentarians, advisers and senior representatives from a range of government departments.

### New South Wales

- ◆ Hosted and supported liaison meetings across the fintech, insurance, mortgage and finance broking, and consumer banking stakeholder populations.
- ◆ Supported ASIC's engagement with consumer groups and financial counselling organisations.

### Northern Territory

- ◆ Ran ASIC MoneySmart workshops for Adult Migration Education Program students and 400 Australian Defence Force members about to be deployed to Middle Eastern countries.
- ◆ Hosted a regional liaison meeting at Crocosaurus Cove on insolvency, and a community information session about superannuation.
- ◆ Hosted ASIC's NAIDOC Week event, in collaboration with CPA Australia, with Dr Donna Odegaard AM and Professor Ruth Wallace as guest speakers (see page 115 for more detail).

## Queensland

- ◆ Launched ASIC's MoneySmart Teaching's new financial education tool for primary school students, Knowing, Growing, Showing, at Salisbury State School, Brisbane.
- ◆ Supported numerous events to raise awareness of ASIC's work and identify key issues for stakeholders, including Business Professionals Week in Townsville and Chartered Accountants events in Mackay and Brisbane.

## South Australia

- ◆ Promoted ASIC's MoneySmart at the South Eastern Field Days in Lucindale.
- ◆ Hosted regional liaison meetings across the corporate finance and liquidator stakeholder populations.
- ◆ Ran several workshops and presentations, including community information sessions on safer investing and guidance to accountants who provide advice to SMSFs about recent changes to the law.

## Tasmania

- ◆ Hosted the bi-monthly Tasmanian Insolvency Discussion Group, which comprises insolvency practitioners and lawyers.

- ◆ Held stalls at the 2016 Living Well Retirement Expo and a COTA Tasmania event on World Elder Abuse Awareness Day.
- ◆ Presented at the Governance Institute of Australia forum in Hobart about board and organisational culture and tips and traps for small business.

## Victoria

- ◆ Promoted ASIC's MoneySmart in regional areas, including a MoneySmart stand at the Elmore Field Days near Bendigo in October. 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.
- ◆ Liaised with representatives of state agencies about ASIC's work, including the Victorian Independent Broad-based Anti-Corruption Commission, the Victorian Multicultural Commission and Consumer Affairs Victoria.

## Western Australia

- ◆ Hosted more than 100 members of the Perth business community at our annual Commission WA Stakeholder function.



ASIC promoted our MoneySmart financial capability work at the South Eastern Field Days in Lucindale, South Australia.

### 3.7 Regional activities continued

---



*In March 2017, ASIC launched its new financial education tool for primary school students, Knowing, Growing, Showing at Salisbury State School, Brisbane.*